THE
ALASKA-CANADA BOUNDARY DISPUTE,

Under the Anglo-Russian Treaty of 1825; the Russian-American Alaska Treaty of 1867; and the Anglo-American Conventions of 1892, 1894 and 1897.

AN HISTORICAL AND LEGAL REVIEW.

BY

THOMAS HODGINS, M.A.

ONE OF HIS MAJESTY'S COUNSEL,

AND SOMETIME SCHOLAR IN CIVIL POLITY AND HISTORY IN THE UNIVERSITY OF TORONTO.

"A strip of land, at no point wider than 10 marine leagues running along the Pacific Ocean, from 54° 40' to 60°, was assigned to Russia by the third Article of Russia's Treaty with Great Britain." "It is the same strip of land which the United States acquired in the purchase of Alaska; the same strip of land which gave to British America, lying behind it, a free access to the Ocean."—*Mr. Secretary Blaine to the British Ambassador, 1890.*

"In the interpretation of International Conventions, Arbitration is recognized by the Signatory Powers as the most effective, and at the same time the most equitable, means of settling Disputes which Diplomacy has failed to settle."—*Hague Arbitration Treaty, 1899.*

"There is an International Law by which every controversy between Nations may be adjudged and determined."—*United States Argument in the Behring Sea Arbitration, 1893.*

(From the Contemporary Review.)

SECOND EDITION.

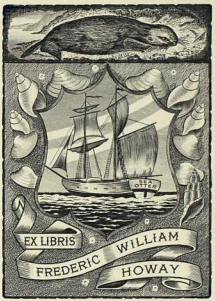
TORONTO:

WM. TYRRELL AND CO., 8 KING ST. WEST.

WM. BRIGGS, 29 RICHMOND ST. WEST.

1903.

HR
5049.2
H599



The F. W. Howay and R. L. Reid
Collection of Canadiana
The University of British Columbia

THE
ALASKA-CANADA BOUNDARY DISPUTE,

Under the Anglo-Russian Treaty of 1825; the Russian-American Alaska Treaty of 1867; and the Anglo-American Conventions of 1892, 1894 and 1897.

AN HISTORICAL AND LEGAL REVIEW.

BY

THOMAS HODGINS, M.A.

ONE OF HIS MAJESTY'S COUNSEL,

AND SOMETIME SCHOLAR IN CIVIL POLITY AND HISTORY IN THE UNIVERSITY OF TORONTO.

"A strip of land, at no point wider than 10 marine leagues running along the Pacific Ocean, from 54° 40′ to 60°, was assigned to Russia by the third Article of Russia's Treaty with Great Britain." "It is the same strip of land which the United States acquired in the purchase of Alaska: the same strip of land which gave to British America, lying behind it, a free access to the Ocean."—*Mr. Secretary Blaine to the British Ambassador, 1890.*

"In the interpretation of International Conventions, Arbitration is recognized by the Signatory Powers as the most effective, and at the same time the most equitable, means of settling Disputes which Diplomacy has failed to settle."—*Hague Arbitration Treaty, 1899.*

"There is an International Law by which every controversy between Nations may be adjudged and determined."—*United States Argument in the Behring Sea Arbitration, 1893.*

(From the Contemporary Review.)

SECOND EDITION.

TORONTO:
WM. TYRRELL AND CO., 8 KING ST. WEST.
WM. BRIGGS, 29 RICHMOND ST. WEST.

1903.

PRINTED BY
ROBT. G. McLEAN,
32-34 LOMBARD STREET, TORONTO.

152,224
HR
F5049.2
H599

MAP SHOWING THE DIFFERENT LINES OF BOUNDARY CLAIMED BY THE UNITED STATES AND CANADA ABOUT LYNN CANAL.

The numerals (1), (2), and (3) above Lynn Canal indicate the Provisional Boundary lines arranged between the United States and Great Britain in October, 1899. They are about 20 miles from tide-water, and bar Canada's territorial rights along the upper shores of Lynn Canal, and injuriously affect her privileges of passage and coasting trade within what are claimed as the upper, or British, territorial waters, and to and from the Pacific Ocean.

THE

ALASKA-CANADA BOUNDARY DISPUTE.

The admission of British Columbia into the Dominion in 1871, made Canada a party to the Alaska boundary dispute; and ever since 1872 urgent and almost yearly requests have been made by the British and Canadian Governments to the Government of the United States for an "expeditious settlement" of the disputed line of demarcation between that Western Province and the Territory of Alaska. The passive resistance of the United States to these requests is inexplicable, unless on the unattractive assumption that the unsanctioned occupation by their Government of disputed British-Canadian territory, and the national insistence in defending that occupation, must ultimately, as in former boundary disputes, assure a diplomatic triumph over Great Britain, and secure to the Republic a further cession of Canadian territory for the enlargement of Alaska. The diplomatic disasters through which Canada has lost some of the best agricultural portions of her original heritage* explain why Canadians now look with intense anxiety for the just settlement of the Alaska boundary controversy; for, as has been said by Sir Charles Dilke in his Problems of Greater Britain, "It is a fact that British Diplomacy has cost Canada dear."

Ex-President Cleveland, an authority on the diplomatic policy of the United States, has lately furnished in the Century Magazine, what may be prophetic of that policy in the Alaska case:—

One or the other of two national neighbours claims that their boundary line should be defined or rectified. If this is questioned, a season of diplomatic untruthfulness and finesse sometimes intervenes, for the sake of appearances. Developments soon follow, however, that expose a grim determination, behind fine phrases of diplomacy, and in the end the weaker nation frequently awakens to the fact that it must either accede to an ultimatum dictated by its stronger adversary, or look in the face of a despoliation of its territory; and, if such a stage is reached, superior strength and fighting ability, instead of suggesting magnanimity, are graspingly used to enforce extreme demands, if not to consumate extensive spoliation.

*See British and American Diplomacy Affecting Canada, 1782-1899. Toronto, 1900.

And he added:—

While on this point we are reminded of the methods of the shrewd sharp trader who demands exorbitant terms, and with professions of amicable consideration invites negotiation, looking for a result abundantly profitable in the large range for dicker which he has created—a well-known specialty of his countrymen.

The Anglo-Russian Treaty of 1825, which described the now disputed boundary line of demarcation in Alaska, was the final settlement of a keen diplomatic controversy between Great Britain and the United States on the one side, and Russia on the other, over a Russian Ukase of 1821, claiming maritime sovereignty over 100 miles of ocean in Behring Sea. (This Ukase was suddenly revived by the United States in 1886, and under it about 20 British ships were confiscated or driven away, and some of their crews imprisoned and fined; but these proceedings the Behring Sea Arbitration of 1893 decided were violations of the Law of Nations).

The Treaty also settled the long pending controversy about the territorial boundaries. As stated by Mr. Justice Harlan, of the Supreme Court, in the Behring Sea Arbitration:—

The evidence is overwhelming that the positions taken by the United States and Great Britain were substantially alike, namely, that Russia claimed more territory on the north-west coast of America than she had title to, either by discovery, or occupancy.

During the negotiations for the Treaty of 1825, Russia, while admitting that she had no establishments on the southerly portion of the coast, contended that "during the hunting and fishing seasons the coast and adjacent waters were exploited by the Russian-American Company, the only method of occupation which those latitudes were susceptible of;" adding, "We limit our requirements to a mere strip of the continent; and so that no objection be raised, we guarantee the free navigation of the rivers." The expressions used by Count Nesselrode, the Russian Minister of Foreign Affairs, in describing the strip of coast, were "étroite lisière sur la côte;" "d'une simple lisière du continent;" "d'un médiocre espace de terre ferme." The free navigation of the waters in the strip of coast was proffered by Count Nesselrode, thus: "La Russie leur assuré de libres débouchés;" and finally by the Russian Plenipotentiaries in these words:—

His Imperial Majesty's Plenipotentiaries, foreseeing the case where in the strip or border of coast belonging to Russia, waters (fleuves) should be found, by means of which the British establishments should be made to have free intercourse with the Ocean, were eager to offer, as a persuasive stipulation, the free navigation of those waters. (The words in the Treaty are "all rivers and streams.")

The British instructions to the Minister at St. Petersburg were as follows:—

In fixing the course of the eastern boundary of the strip of land to be occupied by Russia on the coast, the seaward base of the mountains is assumed as that limit. But we have experience that other mountains on the other side of the American continent, which had been assumed in former treaties as lines of boundary, were incorrectly laid down on the maps; and this inaccuracy has given rise to very troublesome discussions. It is therefore necessary that some other security should be taken that the line of demarcation to be drawn parallel to the coast as far as Mount St. Elias is not carried too far inland. This should be done by a proviso that the line should in no case, i.e., not in that of the mountains (which appear by the map also to border the coast turning out to be far removed from it), be carried further to the east than a specified number of leagues from the sea. The utmost extent which His Majesty's Government would be disposed to concede would be a distance of ten leagues; but it would be desirable if your Excellency were enabled to obtain a still more narrow limitation.

The Russian contre projet omitted the mountain sea-base line, and proposed that the strip or border of coast "n'aura point en largeur sur le continent plus de 10 lieues marines à partir du bord de la mer." The British Foreign Secretary replied, "We cannot agree to this change;" adding:—

To avoid the chance of this inconvenience, we propose to qualify the general proposition that the mountains shall be the boundary with the condition, if those mountains should not be found to extend beyond ten leagues from the coast.

The following Articles, and the despatch of the British Minister to the Foreign Secretary stating that "The line of demarcation along the strip of land assigned to Russia is laid down in the Convention agreeably to your directions," shew that the British conditions as to the inland limits of the boundary line, were accepted by Russia, and incorporated into the Treaty:—

III. The line of demarcation between the possessions of the High Contracting Parties upon the coast of the continent, and the islands of North America to the north-west, shall be drawn in the manner following: Commencing from the southernmost part of the island called Prince of Wales Island, which point lies in the parallel of 54° 40′, north latitude and between the 131st and the 133rd degrees of west longitude (meridian of Greenwich), the said line shall ascend to the north along the channel called Portland Channel, as far as the point of the continent where it strikes the 56th degree of north latitude; from the last-mentioned point the line of demarcation shall follow the summit of the mountains situated parallel to the coast, as far as the point of intersection of the 141st degree of west longi-

tude (of the same meridian); and finally, from the said point of intersection, the said meridian line of the 141st degree, in its prolongation as far as the Frozen Ocean, shall form the limit between the Russian and British possessions on the continent of America to the north-west.

IV. With reference to the line of demarcation laid down in the preceding article, it is understood, first, that the island called Prince of Wales Island shall belong wholly to Russia; second, that wherever the summit of the mountains, which extend in a direction parallel to the coast from the 56th degree of north latitude to the point of intersection of the 141st degree of west longitude, shall prove to be of a distance of more than ten marine leagues from the Ocean, the limit between the British possessions and the strip of coast (la lisière de côte), which is to belong to Russia as above mentioned, shall be formed by a line parallel to the windings of the coast, and which shall never exceed the distance of ten marine leagues therefrom (et qui ne pourra jamais en être éloignée que de 10 lieues marines).

VI. It is understood that the subjects of His Britannic Majesty, from whatever quarter they may arrive, whether from the Ocean, or from the interior of the Continent, shall, for ever, enjoy the right of navigating freely, and without any hindrance whatever, all the rivers and streams which, in their course towards the Pacific Ocean, may cross the line (traverseront la ligne) of demarcation upon the strip of coast described in Article III of the present Convention.

Articles III and IV were incorporated into the Russian Treaty of 1867, by which Alaska was ceded to the United States.

And here should be noted the change of expression from "Sea" in the draft projets, to "Ocean" in the Treaty. In the British draft the words were, depuis la mer; and in the Russian, du bord de la mer; in the Treaty they are, 10 lieues marines de l'Ocean,—a more accurate expression. The reason for the change may be found in the argument of Mr. Wheaton before the Supreme Court of the United States: "The sea, technically so termed, includes ports and havens, rivers and creeks, as well as the sea-coasts." And Mr. Justice Story in another case held that only the unenclosed waters on the sea coast outside the fauces terræ, were high seas (altum mare, or la haut mer), or open ocean. The change of expression, therefore, made the inland distance of the Treaty line free of any possible doubt; and proves that the line of demarcation of the Russian strip of coast was to be 10 marine leagues from the coast-line of the Pacific Ocean, and not from the upper shores of inlets, bays, or other arms of the sea.

The following commentary in a Despatch, written by Mr. Secretary Blaine to the British Ambassador in 1890, is a diplomatic

admission, on behalf of the United States, of "the spirit, intent and meaning" of this Treaty:—

It will be observed that Article III expressly delimits the boundary between British America and the Russian possessions. The delimitation is in minute detail from 54° 40′ to the northern terminus of the coast. The evident design of Article IV was to make certain and definite the boundary line along the strip of coast, should there be any doubt as to that line as laid down in Article III. It provided that the boundary line, following the windings of the coast, should never be more than ten marine leagues therefrom.

And his commentary on Article VI supports the British claim:—

Nothing is clearer than the reason for this. A strip of land, at no point wider than ten marine leagues running along the Pacific Ocean, from 54° 40′ to 60°, was assigned to Russia by the third article. Directly to the east of this strip of land, or as it might be said, behind it, lay the British possessions. To shut out the inhabitants of the British possessions from the sea by this strip of land, would have been not only unreasonable, but intolerable, to Great Britain. Russia promptly conceded the privilege, and gave to Great Britain the right of navigating all rivers crossing that strip of land from 54° 40′ to the point of intersection with the 141st degree of longitude. Without this concession the Treaty could not have been made. It is the same strip of land which the United States acquired in the purchase of Alaska; the same strip of land which gave to British-America, lying behind it, a free access to the Ocean.

Senator Sumner, in the debate on the Alaska Treaty of 1867, described it as "a margin of the mainland, fronting on the Ocean, 30 miles broad and 300 miles long, to Mount St. Elias." And Senator Washburn admitted that Great Britain had a Treaty with Russia, "giving her subjects, for ever, the free navigation of the rivers of Russian-America."

The recent contention of the United States, as stated in the National Geographic Magazine by Mr. Ex-Secretary Foster, is that "Russia was to have a continuous strip of territory on the mainland around all the inlets or arms of the sea;" and that the boundary line was not to cross, as claimed by Great Britain, such inlets or arms of the sea at the distance of 10 marine leagues from the coast-line of the Pacific Ocean. And he supports his contention by the argument ab inconvenienti, that—

The purpose for which the strip was established would be defeated if it was to be broken in any part of its course by inlets, or arms of the sea, extending into British territory. With the strip of territory so established, all the interior waters of the Ocean, above its southern limit, became Russian, and were to be inaccessible to British ships and traders, except by express license.

In these constructions of the Treaty, the Ex-Secretary dissents from the expressed opinions of the late Mr. Secretary Blaine, and Senators Sumner and Washburn.

Great Britain and Canada also dissent from this "rounding" theory, and contend that the terms used, the restricted inland distance of the mountain summits, together with the expression ne pourra jamais, which imports an imperative negative and veto on any theorizing as to the inland locus of the line separating the territories of the two nations, clearly indicate that the Russian territory was to be, in the words of the late Mr. Secretary Blaine, "a strip of land at no point wider than 10 marine leagues, running along the Pacific Ocean." And that the Treaty line was to cross inlets and arms of the sea, at the 10 marine league distance, is clear from the Russian "persuasive stipulation," as well as from the expression "cross the line" in the VIth Article; otherwise the Russian concession of free navigation of all the rivers and streams which the boundary line should cross, would be meaningless.

The practical effect of the claim of "a continuous strip of territory around all the arms or inlets of the sea," would be to nullify the above concession, and also the Russian pledge of free navigation with libres débouchés assurés through the inlets, or other arms of the sea, along the Alaskan strip of coast. Taku Inlet is one-fifth of a mile wide at its ocean-mouth, and extends inland for about 23 miles. The United States claim the whole inlet, and ten marine leagues inland, instead of seven miles. Lynn Canal has three ocean-mouths (owing to two islands) of four and three-quarters, one and three-quarters, and one and one-half miles wide, respectively, and extends inland for about 70 miles; the United States claim the whole canal, and also ten marine leagues of inland territory. Glacier Bay is three and one-half miles wide, and extends inland for about 45 miles from the ocean. The United States claim the whole bay, and also 10 marine leagues of inland territory. The 10 marine leagues are equal to 30 marine miles; and the upper waters, beyond that distance from the Pacific Ocean, are claimed by Great Britain and Canada as British territorial waters. The British territory and inland waters thus claimed by the United States, east of the Treaty strip of coast, is about 320 miles from north to south, and from 14 to 70 miles wide. The United States seek to bar Great Britain's access to the Pacific Ocean, and her coasting trade through the British portion of these inlets and arms of the sea, guaranteed to her by the Treaty of 1825. By the Law of Nations all the above are territorial waters, and have all the legal incidents which pertain to land territory,

except that their waters are subject to what is defined as the "imperfect right of free navigation."

Another practical effect of this "rounding" theory would make those inlets or arms of the sea, assume a Janus-faced, or, more properly, an amphibious, quality. By International Law they are the same as land; but by importing the "rounding" theory into the Treaty, they become ocean, and the lisière overlaps on British soil.

By another strange discordance the United States concede that the international boundary line crosses certain territorial waters, geographically designated "rivers and streams;" but deny that it crosses certain other territorial waters geographically designated "inlets, bays and canals,"—although as to their territorial sovereignty International law treats both classes as though they were land. The existence of such inlets, bays and canals cannot therefore authorize variations in the measurement of the inland width of the lisière de côte. All such territorial waters are expressly within the terms of the Behring Sea Regulations, which prohibit seal-hunting within "a zone of 60 miles around the Pribilof Islands, inclusive of the territorial waters."

But the British contention may be further tested by the acknowledged authorities on International Law. From the many judicial authorities on the law, the following may be cited from the judgments, in the Keyn case. Mr. Justice Brett (afterwards Lord Esher) said:—

By the law of nations,—made by the tacit consent of substantially all nations,—the open sea, within three miles of the coast, is a part of the territory of the adjacent nation, as much, and as completely, as if it were the land territory of such nation.

And Chief Justice Cockburn also said:—

If an offence was committed in a bay or gulf, inter fauces terræ, the common law could deal with it, because the parts of the sea, so circumstanced, would be within the body of the adjacent county or counties.

Wheaton on International law thus states the doctrine:—

The maritime territory of every State extends to the ports, harbours, bays, mouths of rivers, and adjacent parts of the sea, enclosed by headlands belonging to the same State. The general usage of nations superadds to this extent of territorial jurisdiction a distance of a marine league, or as far as a cannon shot will reach from the shore, along all the coast of the State. . . . The sea-coast does not present a straight and regular line; it is on the contrary almost always interseeted by bays, capes, etc. If the maritime domain must always be measured from every one of these points, great incon-

venience would result. It has therefore been agreed to draw an imaginary line from one promontory to another, for the place of departure of the cannon shot.

An illustration of this doctrine of International law was given by Mr. Justice Story: "Where there are islands enclosing a harbour, in the manner in which Boston Harbour is enclosed, with such narrow straits between them, the whole of its waters must be considered as within the body of the county. Islands so situated must be considered the opposite shores in the sense of the adjoining land down to a line running across." And, "in the sense of the common law, such waters seem to be within the fauces terrae, where the main ocean terminates." And Daniel Webster argued that, by the common law, ports and harbours are within the body of the county, consequently not part of the high seas; and a navigable arm of the sea, therefore, is no part of the high seas, which is the open ocean, outside the fauces terrae. And the term "coast" has been thus interpreted by another authority: "In general, the coast-line follows the shore of the sea, but it crosses each inlet by an assumed straight line from headland to headland."

These rules of International Law as to the sea-mouths of inlets, have been incorporated into the municipal law of the United States. Some of their State laws enact:

The territorial limit of this Commonwealth extends to one marine league from its shore at low-water mark. When an inlet or arm of the sea does not exceed two marine leagues in width, between its headlands, a straight line, from one headland to the other, is equivalent to the shore line.

These laws have been upheld by their Supreme Court; and in giving judgment the Court held that,—

As between nations, the minimum limit of the territorial jurisdiction of a nation over tide-waters is a marine league from its coasts; and bays wholly within the territory of a nation, which do not exceed two marine leagues, or six geographical miles, in width at the mouth, are within the limit, and are part of the territory of the nation in which they lie.

Senator Morgan, in the Behring Sea case, stated that the claim of territorial waters over an area of the sea that is clearly demarked by land boundaries, though not entirely enclosed by the land, is dominion, or ownership of the land beneath those waters, and is clearly sufficient to support the municipal jurisdiction of the government.

The historic evolution of the limit of shore-defence is thus given in Bluntschli's Law of Nations:—

The sovereignty of States over the sea extended originally to a stone's throw from the coast; later to an arrow's shot; firearms were then invented, and by rapid progress we have arrived at the far-shooting of the cannon of the present age. But we still preserve the principle: Terræ dominium finitur, ubi finitur armorum vis.

But while the United States have sought to hold Great Britain bound by the six mile sea-mouth in Treaty and other disputes, they have claimed and exercised the rights of sovereignty over bays and inlets around their coast of much wider sea-mouths. In 1793 they claimed that Delaware Bay, having a sea-mouth of 10.5 miles from headland to headland, widening to 25 miles inland, was part of the maritime territory of the United States; and that the capture of a British ship by a French frigate "within its capes before she had reached the sea," was a violation of the territory and sovereignty of the United States. From 1789, Congress has assumed that Chesapeake Bay, having a sea-mouth of 12.7 miles from headland to headland, and extending inland about 200 miles, was part of the territory, and within the acknowledged jurisdiction, of the United States.

Senator Seward during a debate in the Senate in 1852 declared that the contention of the United States that only bays six miles wide, or less, at the mouth, could be considered as territorial waters, proved too much, for it would divest the United States of Boston Harbour, Long Island Sound, Delaware Bay, Chesapeake Bay, Albemarle Sound, and others.

This six miles width, however, has been varied in some cases by Treaties, which make the sea-mouth ten nautical miles, such as the Anglo-French Treaty of 1839, the Anglo-German Treaty of 1866, and the unratified Anglo-American Treaty of 1888. In the Netherlands Manual of International Law it is said:—

The littoral sea, or territorial water, is reckoned to begin from a straight line drawn between the headlands, shoals or islands, which form the mouth, or entrance, of the closed bay or river, and between which the breadth is not more than ten sea miles.

These authorities shew that landward of the coast-line of the ocean, though indented by, and inclusive of, rivers, inlets, or arms of the sea, of the mouth width of six miles, is the territory of the nation which is sovereign of the coast, to the defined inland limit of its dominium eminens. It must therefore be conceded that, as inlets and land are the same in International Law as to sovereignty, the Alaska boundary line must cross each at the ten marine league distance from the coast-line of the Pacific Ocean.

An American apologist has lately asserted that "no strenuous protest" was made by Canada; and he attempts to excuse the United States trespass on British-Canadian territory by suggesting that the United States may reply: "For some twenty-five years out of the thirty which have elapsed since our purchase of Alaska, it was not worth your while to make any serious effort towards a permanent boundary settlement." The history of the urgent and persistent appeals of the British and Canadian Governments to induce the Government of the United States to settle the boundary, will prove the falsity of the suggested excuse, and may recall a previously cited Presidential commentary on diplomatic policy.

The Treaty ceding Alaska to the United States was signed on the 30th March, 1867; possession was obtained on the 18th October of the same year, and the necessary legislation to give effect to the Treaty was enacted by Congress on the 27th July, 1868. Canada became territorially a party to the boundary dispute on the 20th July, 1871.

(1) On the 12th March, 1872, attention was called by Canada "to the necessity of some action being taken at an early date to have the boundary line properly defined." To this Mr. Secretary Fish replied on the 14th November, 1872, "that he was perfectly satisfied of the expediency of such a measure, but he feared that Congress might not be willing to grant the necessary funds."

(2) On the 27th January, 1873, Canada agreed to pay one-half of the British expenditure in marking the boundary.

(3) On the 12th February, 1873, in response to another appeal, Mr. Secretary Fish "doubted whether Congress would ever be induced to vote the amount necessary to lay down the boundary completely, and hardly the amount required to determine the suggested points."

(4) On the 23rd May, 1873, the United States officials in Alaska forbad to British subjects the free navigation of the Stikene and Yukon rivers, guaranteed to them by the Russian Treaty of 1825, and the Washington Treaty of 1871; and gave notice that "no foreign bottom should be allowed to carry freight through American territory on the Stikene river." The Canadian Government protested, and requested that Treaty rights should be observed.

(5) On the 16th January, 1874, the Canadian authorities represented the urgency of having the boundary established, as it seriously affected vital questions bearing upon navigation and commerce, and that "an alleged conflict of authority had arisen."

(6) In 1875 certain British settlers laid out a town, claimed by them to be on Canadian territory, but the United States officials claimed that it was within their territory. The difficulty was discussed with Mr. Secretary Fish, who asked the British Minister what he thought could be done to settle the question of jurisdiction. His reply was "that the occurrence went to prove the wisdom of the recommendation of Her Majesty's Government, made over two years before, that no time should be lost in laying down the boundary between the two territories." Mr. Fish "feared that even for a partial survey it would be difficult to obtain the necessary grant during the next session of Congress," and suggested that "the settlers should be called upon to suspend operations until the question of territory should be decided,"—now a long and wearisome suspense.

(7) On the 23rd November, 1875, the Canadian Government again pressed for "an expeditious settlement of the boundary," and offered concerted measures for fixing the line on the Stikene river, where the town had been laid out; but Mr. Fish "declared his conviction that it would be useless to apply to Congress for any amount whatever for such purposes."

(8) In September, 1876, one Martin, a Canadian prisoner (with a gaol record in both countries), who was being conveyed down the Stikene river, made an assualt with a gun on his guards, but was overpowered, brought to Victoria, tried and convicted. Mr. Secretary Fish demanded his release, alleging that "a violation of the sovereignty of the United States had been committed;" and although in the opinion of the Canadian Minister of Justice "there was no evidence to shew in which of the two countries the act was commtted," on the advice of the Colonial Office, he was released and allowed to return to the United States, "an action very gratifying to this (U.S.) Government." And it was then clearly shewn that "the uncertainty attending the question was not attributable to the Canadian Government, which had made earnest, though hitherto unsuccessful, efforts to arrange for a joint commission to mark the limit at the Stikene."

(9) During the same month, a Canadian merchant was notified to remove his goods from his store, which he claimed was within Canadian territory, or pay United States Customs' duties, the American official insisting that it was "within the jurisdiction of the United States." The store was afterwards, on a survey, found to be seven miles within Canada.

(10) The same year the Secretary of the Treasury intimated that immediately after the opening of navigation in the spring, his officers

should treat certain localities as United States territory, by taking proceedings against Canadian settlers, who might remain in such localities, for the collection of United States Custom duties on goods in their possession. The Canadian Government represented these facts to the British Government, "so that the rights of British subjects, as they now exist, may be maintained inviolate pending a determination of the boundary line by the joint authority of the two nations;" that "the Dominion Government had repeatedly taken urgent action to have the boundary defined; and that it was wholly the fault of the United States Government that it had not been so determined;" adding:—

It seems very remarkable that while the United States Government should have hitherto refused, or neglected, to take proper steps to define the boundary, they should now seek to establish it in this manner, in accordance with their own views, without any reference to the British authorities, who are equally interested in the just settlement of the international boundary.

(11) In March, 1877, an urgent representation was made to the United States that it was "most desirable to decide where the jurisdiction of the United States ended, and that of British Columbia began." Mr. Secretary Fish's only reply was that "the attention of Congress had been requested to the matter."

(12) During the same month the Canadian Government again protested against the action of the United States in treating certain localities as being within United States' territory, and urged that British settlers should not be interfered with; and advised the Foreign Office that if a conventional, instead of the treaty, boundary was proposed, it would not be unfair to conclude that the United States, which had hitherto declined our proposals for a true settlement of the boundary, "would redouble its pressure for the removal of British traders from places believed to be within our territory, and continue its declinature to investigate the settlement of the boundary."

(13) On the 1st October, 1877, the attention of Mr. Secretary Evarts was called to "the unsatisfactory state of uncertainty as to the exact boundary between Alaska and Canada;" but he only returned the old stereotyped reply that the subject "would again be brought to the attention of Congress."

(14) On the 6th December, 1877, the Canadian Government again complained of the attempt of the United States' officials to collect Customs duties from British settlers; and protested that the Treasury order was a direction to the officials "to assume that to be Alaskan

territory which had hitherto been tacitly assumed to be Canadian soil, and which the Canadian Government believed could be proved to be so under the Russian Treaty of 1825."

(15) On the 24th December, 1877, the Canadian Government proposed that a survey made at its expense on the Stikene River, which had ascertained the points "ten marine leagues from the coast," should be accepted by both nations as the boundary line on that river. Mr. Secretary Evarts on the 9th March, 1878, agreed to this, on behalf of the United States, "on the understanding that the provisional arrangement in regard to the Alaska boundary, should not be held to affect the Treaty rights of either party."

Subsequent correspondence up to the Treaty-Convention of 1892, was much to the same effect. But the above facts seem to indicate that there had been no definite Cabinet policy on the part of the United States Government on the Alaska question, and that each department was allowed to act on its own initiative.

Mr. Secretary Fish's despatch on the Martin case in 1877, may be cited as a rebuke to the ex parte action of his Government as set out in the correspondence quoted above:—

The absence of a line defined and marked on the surface of the earth, as that of the limit, or boundary, between two nations, cannot confer upon either a jurisdiction beyond the point where such line should, in fact, be. That is the boundary which the Treaty makes the boundary; surveys make it certain, and patent, on the ground, but do not alter rights, or change rightful jurisdiction. It may be inconvenient, or difficult, in a particular case to ascertain whether the spot on which some occurrence happened, is, or is not, beyond the boundary line; but this is a question of fact, upon the decision of which the right to jurisdiction must depend.

And the remarks of the author of a work on American Diplomacy are a corollary to that rebuke:—

It is not competent for one of the contracting parties to import into a Treaty a construction based upon an ex parte interpretation of its text, which is not accepted by the other party.

Some years earlier the United States acknowledged that "a generous spirit of amity" had guided Great Britain in the following declaration:—

It is, therefore, the wish of Her Majesty's Government neither to concede, nor, for the present, to enforce any rights which are, in their nature, open to any serious objection on the part of the United States.

Mr. Secretary Marcy once outlined the true international doctrine respecting Disputed Territory as follows:—

When a dispute as to territorial limits arises between two nations the ordinary course is to leave the territory claimed by them, respectively, in the same condition (or as nearly so as possible), in which it was when the difficulty occurred, until an amicable arrangement can be made in regard to conflicting pretensions to it. It has not been the intention of the United States to deviate from this course; nor has any notice been given by [the other nation] that she proposed to assume jurisdiction over it, or to change the possession as it was held at the conclusion of the Treaty, between the two nations.

It has been further contended on behalf of the United States that because Great Britain accepted in the Treaty of 1825, a time limitation of trading in the Russian inlets, she has, therefore, now no claim to the upper portions of those inlets. The Article is as follows:—

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

The effect of this Article was to suspend the navigation laws of each nation, and to give mutual rights of fishing and trading within their respective territorial waters on the north-west coast of America, for the limited period of ten years.

But when this and Article VI are read together, it will be apparent that it was not Great Britain's, but Russia's, rights in the territorial waters along the north-west coast, and also in the upper, or British portions of the territorial waters east of the boundary line of the lisière, or strip of coast, that were subjected to the time limitation. And although Great Britain was conceded a similar limited right in the Russian territorial waters along the ocean-coast, Russia, by Article VI, granted to Great Britain a perpetual "right of navigating, freely and without any hindrance whatever, all the rivers and streams which, in their course towards the Pacific Ocean, may cross the line of demarcation upon the strip of coast described in Article III." No corresponding perpetual right to navigate the upper, or British portion of such territorial waters, inland of the boundary line of the Russian strip of coast, was granted by Great Britain to Russia. And the United States, as the assignee-sovereign of Russia under the Treaty of 1867, acquired the sovereignty of Alaska, subject to the above Article, except in so far as it has since been varied by the grant to the United States, in the Treaty of Washington, of the right to

navigate the British portions of the three rivers, Yukon, Porcupine and Stikene, "for the purposes of commerce."

Senator Sumner thus tersely summarized the British rights on the Alaskan coast:—

We have three different stipulations on the part of Russia: one, opening seas, gulfs, and havens on the Russian coast to British subjects for fishing and trading with the natives; the second, making Sitka a free port to British subjects, (both for ten years); and the third, making the British rivers, which flow through the Russian possessions, forever free to British navigation.

Some waiver is also claimed by reason of a certain lease of the coast and interior country "eastward of a certain supposed line," made, in 1839, by the Russian American Company to the Hudson's Bay Company "for commercial purposes," and in settlement of its claims for damages. But as the latter subject-company was in no sense the representative of the British Crown, it could not effect the sovereign, or territorial, rights of Great Britain within the disputed territory.

As to the claim of paper-traced boundary lines, the late Mr. Secretary Bayard has thus discredited them:—

The line traced on the Coast Survey Map of Alaska, is as evidently conjectural and theoretical as was the mountain summit traced by Vancouver. It disregards the mountain topography of the country, and traces a line on paper about thirty miles distant from the general contour of the coast, with no salient landmarks or points of latitude or longitude to determine its position at any point. It is in fact such a line as it is next to impossible to survey through a mountainous region, and its actual location there by a surveying commission would be nearly as much a matter of conjecture as tracing it on paper with a pair of dividers.

Perhaps much of this passive resistance of the United States to the urgent appeals and protests of Great Britain and Canada, may be traced to the old leaven of the political motives of both Russia and the United States, in arranging the cession of Alaska. In Mr. Ex-Secretary Foster's Century of American Diplomacy, it is stated:—

Russia indicated a willingness [1845 to 1849,] to give us its American possessions if we would adhere to the claim of 54° 40′ on the Pacific, and exclude Great Britain from that Ocean on the American continent. . . . Mr. Seward stated, soon after the cession was perfected, that his object in acquiring Alaska was to prevent its purchase by England, thereby preventing the extension of England's coast line on the Pacific.

And Senator Sumner, in his speech on the Alaska Treaty before the Senate, said that the motive of the United States for the acquisition

of Alaska might be found in a desire to anticipate the imagined schemes, or necessities, of Great Britain, as it had been sometimes said that Great Britain desired to buy, if Russia would sell.

There is, however, some hope, that the recent Treaty-Conventions made between the United States and Great Britain have re-affirmed, and restored to its original international force, the boundary line of 1825, and thereby freed it of all previous contentions as to waiver, or acquiescence in wrongful occupation of territory, by either nation; and that the dispute may yet be settled by friendly diplomacy or arbitration.

By a Treaty-Convention of the 22nd July, 1892, approved by the Senate on the 25th of the same month, reciting that the United States and Great Britain—

Being equally desirous to provide for the removal of all possible cause of difference between their respective Governments in regard to the delimitation of the boundary line between the United States and Her Majesty's possessions in North America, in respect to such portions of the said boundary as may not in fact have been permanently fixed in virtue of the Treaties heretofore concluded,

the Convention proceeds:—

The High Contracting Parties agree that a co-incident or joint survey (as may in practice be found more convenient), shall be made of the territory adjacent to that part of the boundary line of the United States of America and the Dominion of Canada, dividing the Territory of Alaska from the Province of British Columbia and the North-West Territory of Canada, from the latitude of 54° 40′ north (Prince of Wales Island), to the point where the said boundary line encounters the 141st degree of longitude westward from the meridian of Greenwich (Mount St. Elias), by Commissions to be appointed severally by the High Contracting Parties, with a view to the ascertainment of the facts and data necessary to the permanent delimitation of the said boundary line, in accordance with the spirit and intent of the existing Treaties in regard to it, between Great Britain and Russia, and between the United States and Russia.

The High Contracting Parties agree that as soon as practicable, after the Report or Reports of the Commissions shall have been received, they will proceed to consider and establish the boundary line in question.

By a subsequent Convention the above was re-affirmed, and the time for making the Reports was extended to the 31st December, 1895. The joint Reports were submitted to the respective Governments on that date, but as yet no proceeding to establish the boundary line has been considered.

These Conventions are new Treaty-compacts between the United States and Great Britain, adopting and re-affirming the boundary line

of 1825; and they are also international acknowledgments that there is still an unsettled boundary line between Alaska and Canada. They must also be read as admissions by the United States that there were no intervening territorial rights, or equities, as to settlements made, or towns located, by the United States, within the disputed territory, down to 1895, claimable against Great Britain under any rule of International law, or by reason of any alleged acquiescence in occupation, or settlements, or waiver of the original Treaty line of 1825, by either Great Britain or Canada. And here it may be proper to observe that the jurisprudence of both nations favors the conclusive legal doctrine applicable to similar agreements between individuals.

Any aggressive exercise of jurisdiction by either government within the disputed territory, since these Conventions, would be an international offence, and therefore a breach of international good faith.

On the 30th of January, 1897, another Treaty-Convention between the two Governments was signed for the appointment of Commissioners to make the survey of the 141st degree of west longitude, with a conditional right to deflect slightly, in case the summit of Mount St. Elias did not lie on the said 141st meridian; but it has not yet been proclaimed.

Prior to this latter Convention the town of Forty-mile had been laid out by the United States on the Alaska side, as was supposed, of the 141st parallel of west longitude. A joint survey, made since this Convention, proved that the town was locally within Canadian territory; and the United States thereupon conceded that it was "subject to the jurisdiction and laws of the Dominion."

To give effect to the conciliatory, and almost yearly, efforts of Great Britain and Canada, High Commissioners were appointed in 1898, inter alia, to establish a boundary line by a friendly adjustment, or to refer the settlement of the disputed boundary line of 1825 to Arbitration. Here unfortunately "diplomatic finesse," with no result except "damaging and dangerous delay," and indicating "a grim determination, behind fine phrases of diplomacy, to enforce extreme demands, if not to consumate extensive spoliation," so graphically described by Ex-President Cleveland, became the policy of the High Commissioners of the United States. Though Great Britain was entitled by the Treaty-Convention of 1892, to hold the United States bound by their re-affirmance of the boundary line of 1825, she made a generous and conciliatory offer to waive, for the advantage of the United States, the unconditional terms of that Convention, and to concede to the United States the benefit of the fifty-year occupation.

or settlement, conditions, imposed by the United States on Great Britain in the Venezuelan Arbitration. The British conciliatory offer was nominally accepted, but was met by a contrecoup, which practically nullified the fifty-year limitation, by proposing,—in an automatic phrase drafted in the chancellerie of diplomatic finesse,—as a condition of arbitration, that "all towns and settlements at tide-water, settled under the authority of the United States, at the date of this Treaty, shall remain within the Territory of the United States,"—in effect a realization of Ex-President Cleveland's prediction of "extensive spoliation," and a reversal of the Forty-mile town case just referred to.

The proposition may be cited as a sample of the superb daring of American diplomacy. The most exhaustive eclectic in diplomatic finesse would vainly search for precedents of a similar contrecoup in previous diplomatic protocols.

Lord Clarendon once said in a debate on the Oregon question:—

If the United States did consent to negotiate, it would seem that it could only be upon the basis that England was unconditionally to surrender whatever might be claimed by the United States.

Ex-President Cleveland has aptly illustrated how aggressive occupations of another nation's territory affect international diplomacy:—

An extension of settlements in the disputed territory would necessarily complicate the situation, and furnish a convenient pretext for the refusal of any concession, respecting the territory containing such settlements.

And again:—

It is uncharitable to see, in reference to possession, a hint of the industrious manner in which [a nation] had attempted to improve its position by permitting colonization, and other acts of possession, since the boundary dispute began.

And, in commenting upon a contention that there should be no arbitration in a late case, because a large part of the disputed territory had been occupied by the subjects of the contending nation, he said that such a contention may well be suspected of weakness, when its supporters are unwilling to subject it and their case to the test of an impartial Arbitration.

The condition in affect proposed that the United States should withdraw from their Treaty-compact of 1892, and that Great Britain should abandon all the sovereign rights, or territorial claims, and compensation therefor, which she might be able to establish before the Arbitral tribunal, respecting "towns and settlements at tide-water settled

[even wrongfully on British territory] under the authority of the United States," up to the future date of the proposed Arbitration.

The proposal was entirely inapplicable to the case of tide-water towns or settlements located by the United States along the Pacific coast, or to those along the tide-water shores of the rivers, or inlets, within the ten marine leagues' strip of coast, described in the Treaties of 1825 and 1867. It could only be necessary for determining the fate of towns and settlements located by the United States on the tide-water shores, or inland waters, on the British side of the Treaty line; and the High Commissioners, in proposing it, evidently assumed that International Law would warrant the Arbitrators in deciding that such towns and settlements had been wrongfully settled by the United States on British territory. Constructively, it proposed a condonation of the unlawful occupation of British Territory, and the violation of British sovereignty by, and a consequent cession, without compensation, of a portion of the territorial domain of Great Britain in Canada to, the United States.

The British Commissioners declined to consent to such "a marked and important departure from the rules of the Venezuelan Boundary reference," or "that an effect should be given to the occupation by the United States of land in British territory, which reason, justice and the equities of the case do not require." The dona ferentes proposal was thereupon jettisoned; but Arbitration unfortunately suffered shipwreck, and all that survived was a tabula ex naufragio of protocol sorrows.

And here it may not be unreasonable to surmise how the United States would have treated such a proposal, had towns and settlements been located by Canada on the United States side of the Treaty line; and had Great Britain imposed as a condition of arbitration, that such violation of United States sovereignty should be condoned and that the towns and settlements so wrongfully located, should be declared to be the territory of Great Britain, without compensation.

The United States have acquired their present great territorial domain partly by Revolution, and partly by the voluntary gift of Canadian territory from Great Britain;* by purchase from France, Spain and Russia; and by conquests from Mexico and Spain. Under what guileless title should be placed their unsanctioned appropriation of the Canadian Naboth's vineyard, on the British side of the boundary line? Perhaps as an American sequel to the Fashoda incident.

*The gift was that part of old French Canada, now the States of Ohio, Indiana, Illinois, Michigan, Wisconsin, and Minnesota, comprising about 300,000 square miles of the Canadian territory ceded by France to Great Britain in 1763.

For it is now established, beyond question, that during the time Great Britain and Canada were urgently pressing for an expeditious settlement of the boundary line, and protesting against the irritating treatment of British settlers on Canadian lands, the United States were making grants of land and otherwise exercising the powers of sovereignty, within the disputed territory claimed by Great Britain.

As yet, however, there has been no political claim by the executive or legislative departments of the United States indicating through what named localities, or particular meridians, the boundary line between Alaska and Canada is claimed to run (except as to one locality named in two legislative Acts of 1900, and 1901), which under a decision of their Supreme Court in 1829, would be binding on their Courts, although not on the Courts of a disputing government.

If the British contention as to the boundary line shall be ultimately sustained by International Law, and the judgment of an Arbitral tribunal, the United States cannot invoke, in support of their present occupation of what shall be found to have been British territory since 1825, any of the rules of that law which are applicable to military occupation, by right of war; or to insurgent occupation, by right of revolution; nor can the doctrine of mistake of title avail, for the British claim was early known, and had the support of conclusive American precedents.

Questions affecting the civil status and citizenship of persons born on, or married, or taking oaths of citizenship, within, such territory; questions affecting the transfer or descent of property, and affecting titles to land, or personal property, sold or acquired under judicial sales, or forfeiture laws; questions affecting the administration of civil and criminal jurisprudence, and the imprisonment or execution of criminals; and questions affecting the exercise of legislative and delegated powers of sovereignty in official appointments and the incorporation of municipal and trading corporations, and the laws affecting the civil rights, and public relations, and land titles, of the inhabitants of the territory which shall be adjudged to belong to the British Crown, must arise respecting private rights and titles which cannot be quieted by any International Treaty, and may lead to prolonged and expensive litigation; and also questions respecting public grants, and sovereignty, which Great Britain, in view of the continued protests made, and passively slighted, cannot justly confirm.

Citizenship is determined by birth on the soil. The only exception to the universality of this rule was made in the cases of children born in Oregon during its joint occupation by the United States and Great Britain, under the Treaty of 1818. The Courts held that

between 1818 and 1846, children born there of British parents were British subjects; and that children born there of American parents were citizens of the United States.

Executive and Legislative Sovereignty and Judicial power over territory are incident to the national ownership of the soil, and are only to be exercised within the territorial limits which circumscribe the sovereign power from which they are derived. The Supreme Court of the United States has so decided; and has also furnished precedents affecting the rights of property within a similarly disputed territory. While Spain was sovereign of Florida, and prior to her treaty with the United States in 1795, her Government had made grants of land within a certain disputed territory, which grants were subsequently impeached. In giving judgment, Chief Justice Marshall said:—

There was no cession of territory. The jurisdiction of Spain was not claimed or occupied by force of arms against an adversary power; but it was a naked possession under a misapprehension of right. In such a case, the United States, within whose sovereignty the land was in fact situated, was not bound to recognize the grants of titles by the Spanish Government. We think the Treaty settling the boundary an unequivocal acknowledgment that the occupation of the territory, now acknowledged to be United States territory, was wrongful. It follows that the Spanish grants can have therefore no intrinsic validity.

And in construing the Treaty by which Great Britain had ceded the Floridas to Spain, without any description of boundaries, he added:—

Great Britain could not, without breach of faith, cede to Spain what she had previously acknowledged to be the territory of the United States. No general words in a Treaty ought to be so construed. We think that Spain ought to have so understood the cession, and must have so understood it, as being only to the extent that Great Britain might rightfully cede.

These remarks are equally applicable to the Russian-American Treaty of 1867, ceding Alaska to the United States.

The same Court has also held that grants made by Spain of lands in Louisiana, after its cession to France in 1800, but which France did not impeach or annul during its sovereignty, or prior to the purchase of that Province from France by the United States in 1803, were void; although Spain, during that interval had remained in undisturbed possession as the de-facto government;—the Court holding that until actual delivery of possession to France, Spain's powers of sovereignty had ceased, except such as were necessary for the protection of the social and commercial purposes of the inhabitants.

As is stated in Hall's International Law:—

To infringe the rights of others remains legally wrong, however slight in some respects may be the moral impropriety of the action. If a State commits a trespass upon its neighbour's property, which may, or may not be, morally justified, it violates the law as distinctly, though not so noxiously, as a neighbour would violate it by making a track through a neighbour's field to obtain access to a high road.

The moral accountability of the Government of a nation to a kindred nation necessarily involves the moral duty of imposing a reasonable restraint on its political actions, and of so acting in its international relations with such kindred nation as it would reasonably expect such kindred nation to act towards it. President Woolsey has tersely stated one of the rules: "A State is a moral person capable of obligations, as well as rights, and no acts of its own can annihilate its obligations to another." And Senator Summer in supporting the Alaska Treaty of 1867 used words specially pertinent to the Anglo-American Treaty of 1892:—

It is with nations as with individuals: a bargain once made must be kept. I am satisfied that the dishonour of this Treaty, after what has passed, would be a serious responsibility for our country. As an international question our act would be tried by the public opinion of the world.

These principles of national responsibility logically affirm the general rule that the Government of a nation is morally bound by the national honour of its sovereignty not to aggressively occupy territory the title to which is disputed, with some show of Treaty right, by another nation. A passive resistance to, or a positive refusal of, a reference of the disputed claim to what Ex-President Cleveland designates as "the honourable rest and justice found in Arbitration,—the refuge which civilization has builded for the nations of the earth, and from which the ministries of peace issue their decrees," would warrant the judgment of the tribunal of nations that the government so resisting, or refusing, was attempting a denial of international justice, and was thereby degrading its national honour.

From the foregoing it is clear that the Congress and Statesmen of the United States have incurred a grave international responsibility by their passive resistance to the urgent efforts of Great Britain and Canada since 1872, to agree upon a fair adjustment of this boundary dispute, and the ignoring of which fair adjustment, from session to session, has given Canadians, as one of their leading newspapers admits, "a just right to complain."

Some writers in the United States advise against submitting the boundary dispute to Arbitration, because the United States "have nothing to gain and everything to lose;" others because "an adverse decision would greatly lessen for the United States the present and the future value of the Alaska lisière"—a morality which may be illustrated by the maxim, nous avons l'avantage profitons en. And a writer in an English periodical, whose notions of international justice seem equally tainted, has said:—

In asking America to submit the whole question to arbitration, with evenly balanced chances of success or failure, we are asking her to take chances which no democratic Government can afford to take.

One fair inference from these avowals is that international justice and national rectitude are alien principles of action to democratic Governments. Another logical sequence is that a democratic Government may be the party litigant before itself, as judge and jury, and on its own view of its one-sided and untested evidence, may adjudicate against the territorial rights of an unwarned, because a monarchial, though friendly, Government. The mere mention of such inferences should ensure their universal repudiation; for the people of the United States have not, even in their demagogic outbursts against England, lapsed from the principles of international justice and national rectitude which form the warp and web of their political responsibility to other nations, and which have long been consecrated by the homage rendered to Christian ethics in their churches, and enforced by the teachings of moral and political science in their colleges.

Enough has been shewn—by the facts adduced, the doctrines of International law illustrated, the legal difficulties foreshadowed, the discordant interpretations of the Treaty of 1825, the implied admission of the violation of British sovereignty in the proposed condition for Arbitration, and the ever present fact that for nearly thirty-six years neither the United States nor Great Britain can, without the possibility of future challenge, enforce laws, or quiet rights of property, or indicate to their citizens, or subjects, the actual localities where the territorial sovereignty over Alaska ends, and that over Canada begins, within the Disputed Territory,—to convince all fair-minded Statesmen that both nations, in loyality to the principles of international justice, and national rectitude, and for the profitable and safe pursuit of the commercial enterprises of the inhabitants, and the industrious development of the natural resources of this disputed territory, should agree upon some means of obtaining a final settlement, by the reference of this International Boundary Dispute,

to a just and impartial Arbitration, and thereby get rid of the international dislocation, and legal chaos, which overshadow the political rights and business interests of the inhabitants.

In the Behring Sea case the United States conclusively shewed that "there is an International Law by which every controversy between nations may be adjudged and determined;" that its rules are moral rules, dictated by the general standard of natural justice, upon which all civilized nations are agreed; and that,—though there are differences in the moral instincts, or convictions, of people of different nations, and no enactments in the ordinary sense of the term, for all members of the society of nations, nor indeed regulating the larger part of the affairs of ordinary life,—there are always existing laws by which every controversy, national or individual, may be determined.

The United States have made themselves the champions of, and have declared their national faith in, "the honourable rest and justice found in International Arbitration." Their Congress has invited negotiations from "any government with which the United States has, or may have, diplomatic relations, to the end that any differences, or disputes, arising between their two governments which cannot be adjusted by diplomatic agency, may be referred to Arbitration, and be peaceably adjusted by such means." Great Britain has responded that "Her Majesty's Government will lend their ready co-operation to the Government of the United States upon the basis of the foregoing invitation." At the Hague Peace Conference they pledged their nation "to use their best efforts to secure a pacific settlement of International differences;" and joined with Great Britain and other nations in affirming that, "In questions of a legal nature, and especially in the interpretation of International Conventions, Arbitration is recognized by the Signatory Powers as the most effective, and at the same time the most equitable, means of settling disputes which Diplomacy has failed to settle." Diplomacy has failed to settle this boundary controversy, because it proposed what Ex-President Cleveland has denounced in another case as "extensive spoliation."

After urging Great Britain into Arbitration over the Alabama claims, and the Behring Sea fisheries; and especially after driving her into Arbitration over the Venezuelan Boundary Dispute (which in no way affected their territorial or national interests), will the United States now refuse to be faithful to their own precedents, or to give effect to their compact with Great Britain and kindred nations, as expressed in the Hague Peace Convention?