

GREAT BRITAIN AND THE EVOLUTION
OF THE WESTERN PART OF
THE INTERNATIONAL BOUNDARY OF CANADA

By James Osborne McCabe

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GREAT BRITAIN AND THE EVOLUTION OF THE WESTERN PART OF
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THE OREGON CONTROVERSY

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THE OREGON CONTROVERSY

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INTRODUCTION

The Oregon Question concerned the sovereignty of the vast region west of the Rockies between 42° N. L. and 54° 40' N. L., an area of some 500,000 square miles. Russia and Spain were originally involved in the controversy but by 1825 the issue was narrowed to one between the United States and Great Britain. Spain's exclusive claims were limited by the Nootka Sound Convention of 1790 and what was left of them after that date was transferred to the United States in 1819. In 1825 Great Britain made a treaty with Russia whereby the parallel of 54° 40' was established as the boundary between the territories of these two countries on the Pacific Coast.

The dispute between the United States and Great Britain was not so easily settled. Britain, which maintained that both the United States and herself had rights in Oregon, based her claims on the Nootka Sound dispute and subsequent Convention of 1790 with Spain, the explorations of Captain Cook in 1778, of Captain Vancouver in 1792, of Alexander Mackenzie and others, the occupation and settlement of the territory by the British North-West Company. The United States, on the other hand, based their claim on the discovery of the mouth of the Columbia River by Captain Gray in 1792, the cession of Louisiana by France in 1803, the explorations of Lewis and Clark in 1804-1806, the transfer to the United States of the Spanish title in 1819, the establishment of Fort Astoria at the mouth of the Columbia by the American Pacific Fur Company in 1811, the restoration of Astoria after the War of 1812, and the contiguity of their western possessions to Oregon south of the 49th parallel.

A/

A treaty between the two was negotiated in 1818, but it effected only a temporary settlement. Nine years later, after more than one unsuccessful attempt at adjustment by negotiation, it was agreed to throw open to the citizens of both powers all territory west of the Rocky Mountains which was claimed by both.

The next fifteen years saw the Oregon Question thrust into the background, but from the initiation of the Webster-Ashburton negotiations of 1842 until the Oregon Treaty of 1846 there was constant negotiation. The terms of the Treaty, itself a "triumph of reason and goodwill," proved to be insufficiently clear in their attempt to define the boundary line west of the mainland on the 49th parallel, and out of this developed a new dispute - the Water Boundary or San Juan Controversy - which gave trouble until it was settled by arbitration in 1872.

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CHAPTER I

THE NOOTKA SOUND CONVENTION: 1790

Although the Oregon area did not assume international importance until 1790, the coast of this region had had geographical importance for nearly two centuries and had been touched by several famous navigators. Sir Francis Drake, for instance, seems to have reached the forty-eighth parallel in 1579, while in 1592 Juan de Fuca, a Greek, got as far north as 47°. The first Spanish explorers had touched the North West Pacific in 1542, but it was not until the 1770's that Spanish visits became more or less regular. Juan Joseph Perez Hernandez was sent northward from Mexico in 1774 and he claimed to have anchored at 49° 30', the latitude of Nootka Sound, a point whose name later achieved considerable fame. ⁽¹⁾ In the following year Bruno de Hezeta was sent also from Mexico. He found the mouth of the Columbia and, while he approached the coast near the entrance of the Strait of Juan de Fuca, he made no landing there. He did, however, claim to have made landings at three distinct points between 47° and 58°.

The name 'Oregon', which was generally applied at least after 1822 to the whole territory in dispute between Great Britain and the United States, that is, to the whole territory west of the Rocky Mountains between 42° and 54° 40', appears first in the 'Travels' of Jonathan Carver, published in 1778. Carver used the name to refer to the 'Great River of the West' whose source he had hoped to discover in an attempt/

1. "A strong presumption exists that Perez actually anchored much farther south." H. R. Wagner, 'The Cartography of the North West Coast of America to 1801,' p. 173, I, 2 vols., Berkeley, 1937. This excellent work brings up to date the findings of R. Greenhow in his 'History of Oregon and California,' Washington, 1844.

(2)

attempt to cross the continent in 1774.

In 1776 Captain Cook undertook, under Government auspices, to conduct an expedition to discover the North-West Passage. His instructions ordered him to touch the coast of 'New Albion' (the name given to the north west coast by Drake), situated about the forty-fifth parallel, and to proceed northward to 65°. He was particularly warned against touching any Spanish dominions and interfering with any settlers on the north west coast. (2) Cook was to take possession for Great Britain of all convenient stations not already discovered; he was to distribute among the natives such things as would prove his having visited them; inscriptions signifying that possession had been taken of them were to be posted on uninhabited places.

On 12th July, 1776, Cook set sail from Plymouth; on 7th March, 1778, he sighted land near 44°; a fortnight later he reached the forty-eighth parallel and turned southward, examining the coast along the next degree of latitude in the hope of discovering the strait which de Fuca had calculated to lie between 47° and 48°. Failing in this, he entered Friendly Cove (Nootka), in 49° 30', and began to trade with the natives. Later he sailed to 59°, a point farther north than any ever reached by Spanish navigators; he saw Mount St. Elias (described by Bering, a Dane in Russian employ who visited the region in 1741), and examined the coast between 59° and 54°. On 9th August, 1778, Cook reached 65° 46', which he took to be the western extremity of the North American continent. Cook's journals, with his maps and charts, were not/

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1. 'Travels,' London, 1778. An estimate of the value of Carver's Journal appears in an article by E. G. Bourne in the 'American Historical Review,' XI, 287-302.
 2. J. Cook, 'A Voyage to the Pacific Ocean,' London, 1785. The Admiralty's instructions to Cook appear in the Introduction, pp. xxxi-xxxv. His account of his visit to Nootka is to be found in Vol. II, Book IV, Chapters I, II.

not published till 1784-85. Their appearance made public the possibilities of the north west coast and, as early as 1785, an English commercial company sent a ship to establish a post for "securing the trade of the continent and islands adjacent."

In the years immediately following the publication of Cook's journals, English ships frequently visited Nootka and strengthened the British claim by developing the resources of the country. Captain John Meares, an English mariner, visited Nootka in 1786 and returned thence in May, 1788, with two ships, the 'Felice' and the 'Iphigenia.'⁽¹⁾ These ships were purely English, owned by Daniel Beale of Canton, although they sailed under Portuguese colours in order to evade payment of the high port charges demanded by the Chinese from all but Portuguese vessels.

Meares received from a native Indian chief, Maquilla, the grant of a small piece of land on which to build a house and, in return, handed over two pistols. The English later contended that Meares thereby bought a title to the land.⁽²⁾ Meares proceeded to erect his house, a structure of two storeys, and threw up a breastwork to include a considerable area. He maintained that he unfurled the Union Jack also, but other witnesses asserted that the Portuguese/

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1. Accounts of Meares's voyage appear in his 'Narrative' and in his 'Memorial.' As the former was written first and the latter written later to convince the Cabinet of the justice of his cause, the 'Narrative' appears to be the more trustworthy. The best account of the whole controversy is that of W. R. Manning, 'The Nootka Sound Controversy,' in the American Historical Association's Annual Report for 1904, pp. 281-478. Where no other is mentioned, this is the authority used by the present writer.
 2. Manning says that there is no mention of the title in Meares's account, and he concludes therefore that Meares did not purchase with the intention of acquiring a title. At best it is doubtful if Meares sought to establish a permanent settlement (pp. 295-96). See also, in this connection, J. H. Rose, 'Pitt and National Revival,' London, 1923.

(1)

Portuguese flag was flown.

On 24th September, Meares left the north-west coast for China on the 'Felice' after leaving instructions for the other ships to continue coastal trading. His intention was, so he alleged, to return with more settlers.

True enough, when in Macao he entered into partnership with Etches and Company of London, an organisation formed to plant a colony at Nootka, received a licence for five years from the English South Seas Company to trade north of 45°, and sent off Captain Colnett with two good ships, a newly-purchased one, the 'Argonaut,' and the 'Princess Royal.' Colnett was also to control the operations of the 'Iphigenia' and the 'North West America,' both still in American waters. These ships, which were definitely British, had on board a number of Chinamen, which Professor Rose considers as proof that the occupation of Nootka was to be permanent. Colnett's instructions, dated 17th April, 1789, directed him to form a treaty with the native chiefs, to monopolise the trade of the region, and to establish a factory attractive/

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1. It is impossible to determine which account was correct, for Meares was a notorious liar and the other witnesses were biassed either against Meares or in favour of Spain. The latter's admission that a flag was flown rather substantiates Meares's story because his instructions to the captain of the 'North West America' (a little ship he built at Nootka) were that no flag was to be unfurled unless on taking possession of new land.

Judge F. W. Howay has, in 'The Dixon-Meares Controversy,' p. 22, London, 1929, examined the accounts of Captains Dixon and Meares, and he concludes that "he [Meares] made many statements, important and unimportant, without any knowledge of the facts, with a reckless disregard of the truth or with knowledge of their untruth; that in the discussion of the price of sea-otter skins (which was to him the subject of importance) he has omitted material factors, falsified documents; and that, in consequence, he is not entitled to have credence placed in his unsupported testimony. This opinion has been shown to be in accord with that of his contemporaries."

attractive to the Indians - "a solid establishment and not one to be abandoned at pleasure."

Meanwhile, the Spaniards, who looked upon Nootka as part of California and had made no effort to establish a permanent post there before they heard of the Russian and English activities in the region, were not inactive. Estevan Jose Martinez, in command of the frigate, 'Princesa,' was sent by the Viceroy of Mexico in 1788 to examine the position, to forestall the Russians by occupying Nootka, and to warn off intruders. (1) Since the royal sanction had not arrived when he left, it cannot be maintained that the Spanish Government sanctioned, at least formally, Martinez's expedition or his orders to seize British vessels. He was instructed to set up a permanent establishment, to prove politely to the English, Americans and Russians that they had no claim to the region, to land missionaries and colonists, to survey the coast from San Francisco to Nootka.

The Spanish claims to the north west coast rested upon the four bulls of Pope Alexander VI of 1493 and the Treaty of Tordesillas of 1494, dividing the New World between Spain and Portugal, as well as upon the later discoveries of Perez and Hezeta. The accounts of these voyages, however, had not been published when Cook sailed, a fact which detracts considerably from the validity of the Spanish claim based upon them. The Spanish Government were very much aware that Perez claimed to have landed at Nootka four years before Cook, and throughout the dispute they acted upon the conviction that their/

1. Dr. Manning contends that there was no intention to interfere with the English, but H. R. Wagner does not agree and argues that the Viceroy must have noted Cook's remarks on the potentialities of the region so far as the fur trade was concerned. See Wagner, op. cit., I, 215.

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their claim was irrefutable. Besides her claim by discovery, Spain had a right by virtue of the contiguity of her Mexican dominions. It was the threat to her title at Nootka from English, Russians and Americans that prompted the steps she took in 1788. Her agents were conversant with the terms of the royal decrees of November, 1692, and October, 1776, which enjoined upon all Spanish viceroys, governors, and commandants to prevent foreign ships from navigating the South Seas without permission.

Martinez landed at Nootka Sound on 5th May, 1789, and finding no visible sign of a previous establishment, he was consequently justified in taking possession for Spain and in maintaining his position by force. ⁽¹⁾ Professor Rose does not agree that there were no signs of Meares's establishment, arguing that the reverse is antecedently probable and is asserted in Meares's 'Memorial.' Martinez (according to Dr. Manning) found only a Portuguese ship, the 'Iphigenia,' under a Portuguese captain with Portuguese instructions, flying the Portuguese flag and, though its crew was English, ⁽²⁾ furnished with a Portuguese passport.

Martinez demanded to see the captain's instructions, and found that they advised resistance to force by force. He affected to discover in them an excess of all reason and right if they were the instructions of a private individual. He at once ordered the seizure of the 'Iphigenia' and the 'North West America,' though upon their agreeing to return to China both were later released.

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1. Manning, op. cit., p. 314.
 2. Nominally, Don Viana was captain with the English Captain Douglas as super-cargo on the 'Iphigenia.' The instructions were written by a Portuguese, Juan Carvalho. The seizure was the result of a faulty translation of the instructions. "The whole episode to this point seems to have been a series of blunders and would not merit careful consideration had not the consequences been so serious for the home governments."

On 24th June, basing his action upon the Bull of Alexander VI and the discovery of Perez, Martinez took formal possession of Nootka Sound for Spain.

Colnett arrived at Nootka on the 'Argonaut' on 2nd July, 1789. He intended to establish a factory, build a fort, and plant a colony at Nootka. Martinez reminded him of Spain's claim but permitted him to land.

Resulting mainly from misunderstandings caused by an inaccurate interpreter, a quarrel developed between Martinez and Colnett, as a consequence of which the English captain and his ship were seized. The Spaniard feared that if Colnett were allowed to go he would establish a post elsewhere and armed force would be necessary to dislodge him. On 13th July, when the 'Princess Royal' arrived, she also was captured on the flimsy pretext that she might carry word of the 'Argonaut's' seizure before the arrival of reinforcements for Martinez. The ships were conducted to San Blas where they arrived in August. (1)

On 10th February, 1790, the Marquis del Campo, Spanish representative at London, wrote to the Duke of Leeds, Secretary for Foreign Affairs, explaining the circumstances of the incident at Nootka and requesting punishment of the English officers who had encroached upon what was exclusively Spanish territory. Pitt, whose mouthpiece Leeds was, had no intention of doing that. (2) Britain's answer was surprising to Spain, the Spanish Government never having anticipated the haughty reply/

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1. Manning's account is derived from the following sources:
 1. Martinez's letter to Viceroy at the end of the affair.
 2. Colnett's letter three months later.
 3. Colnett's account in his 'Voyages,' written nine years later.
 4. The letters of Duffin (second in command) in Meares's 'Memorial.'
 5. The letter of Gray and Ingraham, American captains at Nootka during the quarrel, to Quadra, sent by Spain in 1792 to negotiate with Vancouver. See Greenhow, op. cit., Appendix, letter of 3rd August, 1792.
 2. Rose, op. cit., p. 566.

reply of 26th February written by Leeds from the original draft in Pitt's handwriting. Britain insisted upon satisfaction and demanded restoration of the captured vessels. The Spanish Prime Minister, Count Floridablanca, was alarmed, and after intimating to Anthony Merry, English chargé at Madrid, that Britain apparently wanted war, he gave orders for Spain to arm.

Del Campo was instructed to inform Leeds that the Viceroy of Mexico had liberated the captive British sailors who had probably acted in ignorance of Spain's exclusive sovereignty founded on treaty, ancient laws and discovery. Spain was prepared to be magnanimous about the sailors' mistake, and she declared the matter closed.

Leeds replied that del Campo's answer was unacceptable, and he took particular exception to the statement that restitution was made on the ground of a supposed ignorance of the extent of the property of Spain whereas there was a British title based on Meares's purchase and the unfurling of the Union Jack. Great Britain cannot admit the existence of a Spanish claim, distinctly asserted in the answer, to exclusive rights of sovereignty, navigation and commerce in the South Seas. She demands, therefore, the restitution of the captured vessels, together with indemnification to the individuals concerned in the ships, and "above all", an adequate reparation to His Majesty for the injury to British ships sailing under the protection of the British flag in a part of the world where British subjects have "an unquestionable Right to a free Enjoyment of the Benefits of Commerce, Navigation and Fishery, and also to the possession of such Establishments as they may form, with the consent of the Natives, in Places unoccupied by other European Nations."⁽¹⁾ Leeds's reply/

1. F.O. 72/17.

reply is valuable as a declaration of Great Britain's position on the question of the rights of colonisation, and Professor Rose sees in it the 'charter' of the future colony of British Columbia. (1)

When Meares returned to England to exaggerate still further, for the Cabinet's benefit, his earlier highly coloured statement, it was decided to demand immediate satisfaction. An Order-in-Council was passed on 3rd May, 1790, for fitting out a considerable fleet because of preparations in Spanish ports. (2) At the same time Leeds assured Merry that the King wanted peace and that if he was satisfied that Spain reciprocated England was prepared to disarm. (3)

As an earnest of their pacific intentions, the Government sent Alleyne Fitzherbert to Madrid early in May, his mission being to prevent war. (4) Yet Britain began to arm, even the Opposition agreeing that the insult to the British flag and the confiscation of British goods demanded adequate satisfaction. (5)

Leeds amplified his instructions to Fitzherbert by a despatch of 16th May, and this time the tone is rather more temperate. Adequate reparation is still demanded, but His Majesty's Government do not wish to go into the question of abstract right, unless the Court of Spain renders it unavoidable. A modus operandi for the future which will do justice to the rights and interests of both parties and remove occasions of misunderstanding is necessary; then follows/

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1. Manning, op. cit., p. 377. The Memorial to Merry appears in F.O. 72/17.
 2. Flint to Merry, 3rd May, in F.O. 72/17.
 3. Leeds to Merry, 'Secret and Confidential,' 4th May, 1790, in F.O. 72/17.
 4. The text of his instructions appears in F.O. 72/17, dated 7th May. Till his advent Merry was in charge at Madrid.
 5. Parliamentary History, XXVIII; and Annual Register, XXII, 285.

follows the statement of the English conception of what constitutes a title to sovereignty; "only where they have actual occupation is their title good."⁽¹⁾

Fitzherbert presented his terms on 13th June, but five days later they were rejected and modified terms of adjustment suggested by Spain. England refused to accept these unless Spain agreed to give satisfaction amounting to admission that she had no exclusive sovereignty over Nootka, no proof of which could be adduced. Floridablanca did agree, however, to give satisfaction for the seizure of the ships at Nootka.⁽²⁾ Great Britain reiterated her contention that discovery alone, not followed by actual occupation and establishment,⁽³⁾ gave no right to exclude other nations.

A number of circumstances hastened a settlement of the Nootka Sound Controversy. When Spain attempted to secure assurances from her allies that they would help her in the event of war, she had no success. In England there was discontent at the slow progress of negotiations and the prolonged maintenance of an expensive armament. Moreover, at this time the ambition of Catherine the Great, who had recently made peace with Sweden and was closely pressing the Turks, threatened Europe and "in this fact we find the last, and perhaps most cogent, reason why Pitt and his colleagues resolved to have done with the Spanish dispute before the Eastern Question came to a crisis."⁽⁴⁾

On 2nd October, therefore, Leeds sent two drafts of a treaty to Fitzherbert, one providing for a definite territorial demarcation, ten days being allowed for acceptance or/

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1. This letter is accompanied by Meares's 'Memorial' and thirteen other enclosures relating to the controversy.
 2. Manning, op. cit., p. 402.
 3. F.O. 72/18.
 4. Rose, op. cit., p. 582.

or rejection. After that time the British Ambassador was to leave Madrid. Floridablanca's immediate reaction to this made war appear imminent. However, knowing that no assistance was forthcoming from his allies, he sought to have the terms modified. Fitzherbert agreed to minor modifications, and the Convention was signed on 28th October, 1790. ⁽¹⁾ Thus ended the Nootka Sound Controversy, the first episode in the development of the Oregon Question.

We shall find that, in subsequent negotiations over the Oregon Question, the Nootka Sound Convention is frequently mentioned and its terms are appealed to by both sides to prove their cases. It will be well, therefore, to consider the conclusions to be drawn from the dispute and from the terms of the convention.

1. Since Great Britain dictated the terms of the convention it is true to say that her aims were achieved. ⁽²⁾ First of all, she wanted recognition by Spain of the more modern, British, conception of what constituted a title to sovereignty. Her efforts did not extend to obtaining new lands. Discovery alone was insufficient to establish a title, but must be followed by occupation and settlement. It was ridiculous for Spain to maintain that by virtue of the papal award of 1493 - an award from a source whose powers Great Britain had not admitted for nearly three hundred years - she could prohibit alien settlements in the South Seas.

2. Britain sought not to replace Spain's claims to exclusive sovereignty by her own, but to obtain the admission that she had an equal claim; hence, the convention established a form of joint sovereignty. It was as though Pitt

1. See Appendix for the convention.

2. A comparison of the terms of the final settlement with those of Leeds's memorial of 16th May, 1790, and of 17th August (F.O. 72/17) proves this conclusively.

Pitt had said to Spain: "You have rights and we have rights on the north-west coast of America; neither of us has a clear, exclusive title; let us, therefore, open the whole area to the activities of our seamen, and may the better side win!"

By agreeing to grant satisfaction for wrongs done to Meares and Colnett, Spain was recognising the right of Meares and Colnett to be at Nootka. Spain, therefore, recognised that she had no exclusive claim; that made the way clear for Pitt's policy of leaving the whole area open to the enterprise of both English and Spaniards.

The matter of satisfaction seems to argue that Spain admitted England's claims. In essence, it was a recognition - perhaps a negative one - of England's sovereignty. If Spain challenged England's position why did she agree to pay compensation? The Spanish Court steadfastly refused, as long as possible, to grant satisfaction for the injury done to Colnett and Meares, in defence of the principle involved. Spain, however, by the very act of restitution, was repudiating the action of her servants at Nootka. Her grant of satisfaction was tantamount to recognition of the right of British seamen to be at Nootka. Floridablanca knew that.

Pitt purposely made no effort to suggest limits to the jurisdiction of the respective countries because he had confidence in the ability of his compatriots to combat Spanish competition successfully. At the same time, in view of what he considered to be an approaching struggle with Russia, and in view of the uncertainty regarding the attitude of France, he wished to avoid excessive severity in dealing with Spain. The latter, therefore, relinquished her title to exclusive sovereignty, navigation, and commerce, but the convention avoided the question of title, and Britain did not/

not ipso facto obtain such a title. Pitt was satisfied; "the terms (he said) will be found to secure all that we could demand in justice, or had any reason to desire." (1)

3. But for Britain's activity (owing to Pitt's foresight), the north-west coast would have been divided between Spain and Russia, and even the United States might have been excluded from the position there which they eventually attained.

The question of rights did not enter into the convention, though in the negotiations mention was of necessity made of the subject. Spain had priority in discovery and exploration if we ignore the claims of Drake, but this advantage was nullified by her neglect to publish the results of her exploration. Britain did not make this mistake and the establishment of her legal right by publication of her results outweighed the Spanish right by discovery and exploration alone.

The English were the first to develop the trade of the area besides being the first to make actual establishments there. Even if Nootka was abandoned in 1789, (2) it was to be made a permanent settlement in the following spring. If the signs of settlement were absent when the Spaniards arrived just before the return of the English - a point upon which no one can speak with certainty - this would counterbalance the British claim of prior settlement in the autumn of 1788. So far as title by occupation is concerned, there is no doubt that the British claim was much more valid than the Spanish.

It should be mentioned in this connection that the/

1. Pretyman MSS., quoted by Rose, op. cit., p. 584.
2. Professor Rose and Dr. Manning disagree on this point.

the Spaniards ultimately withdrew from Nootka, their reasons for doing so appearing in a translation of a letter, dated 12th April, 1793, by Count Revilla-Gigedo, in the British Embassy Archives in Madrid. Nootka is expensive to maintain, it is not so useful as almost any other establishment in California, and its occupation is a pretext for trouble with England. "A free and entire cession" to the British would be a sop to them inasmuch as they desire to hoist the Union Jack at Nootka, "being rather incited by motives of vainglory than by any solid reasons for the profits from the fur trade which are problematical in the extreme." (1) This memorandum was followed by an Anglo-Spanish convention of January, 1794, which provided that the subjects of both nations could make temporary use of Nootka but that "neither the one nor the other of the two parties shall make any permanent establishment in the said port or claim there any right of sovereignty or territorial dominion to the exclusion of the other." This, it will be seen, confirmed the agreement made in 1790 and recognised the existence of claims on both sides. (2)

The Nootka Sound Controversy, therefore, did much to clarify one aspect of the greater and later Oregon dispute; the claims of the British to the north-west coast, or to parts of it at least, were brought out. These claims rested upon the voyage of Drake to 'New Albion', the discoveries and surveys of/

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1. A copy of the letter appears in F.O. 5/1470, the title being 'Proposal for the free surrender of Nutka to the English.' Captain Vancouver and Don Juan Francisco de Bodega y Quadra had met at Nootka in 1792 to execute Article 1 of the Nootka Sound Convention, but they had failed to agree. The Convention of 1794 arranged for the appointment of officers by both sides, "Her Britannic and His Catholick Majesties being desirous to remove and obviate all doubt and difficulty relative to the execution of the first Article of the Convention [of 1790.] The terms were duly carried out at Nootka on 28th March, 1795, by commissioners representing both countries.
 2. The Convention of 1794 was not published until 1842, and it was never used by either side in the diplomatic arguments over the Oregon Question.

of Captain Cook, and most important of all, the attempts of the British to occupy and develop the country. Meares's establishment at Nootka was the first actual establishment in that region and, though abandoned shortly afterwards, the intention was to erect a permanent post there. The expedition of Meares, it can be argued, was a national undertaking inasmuch as his licence to trade at Nootka had been issued with the sanction of the Government: his ship flew the British flag (this fact is, of course, debatable); he made a trade agreement at Port Cox with a native chief by which a monopoly over trade was secured for the English; Meares certainly instructed the captain of the 'North West America' to hoist the British colours over all newly discovered land; he himself took possession of the Straits of Juan de Fuca in the name of the King with the forms that had been adopted by preceding navigators on similar occasions. (1)

1. Manning, op. cit., p. 293.

CHAPTER II

THE CHOICE OF THE 49th PARALLEL

1. Establishment of British and American Claims.

In accordance with the terms of the Nootka Sound Convention, Captain George Vancouver, who had served with Cook, was sent out by Britain in 1792 to determine what lands and buildings were to be restored by Spain and the amount of indemnity to be paid by her to Britain. He was instructed also to survey the coast from 35° N. to 60° N. A belief still prevailed that the Straits of Anian connected the Pacific with the Atlantic, and it was hoped that a water passage would be found connecting the Canadas with the Western Sea. Vancouver actually found evidence of an opening but, unfortunately for England, he came to the conclusion that the opening was of insufficient importance for commercial purposes. (1)

At this point the Americans enter the controversy. (2) In the same year, Captain Robert Gray in the American ship, 'Columbia,' arrived in the northern Pacific, and on 17th May, 1792, just two weeks after Vancouver, crossed the bar of a river and explored the estuary for nearly twenty miles. He named the river after his ship. Vancouver subsequently left his lieutenant, Broughton, to explore the Columbia for over a hundred miles more, formally taking possession of the land in the name of Great Britain.

In 1793 a British fur trader, Alexander Mackenzie, ascended/

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1. G. Vancouver, 'A Voyage of Discovery to the North Pacific Ocean and Round the World,' London, 1798.
 2. Two Americans had been members of Cook's crew.

ascended the Peace River to the Rocky Mountains and crossed to the Pacific Ocean, touching the coast at latitude 52° 20' N. He was the first white man to reach the Pacific by an overland route. (1) Another Scots fur-trader, Duncan McGillivray, ascended the North Saskatchewan River and, by means of Howse Pass and the Blaeberry River, crossed the Rockies. He was the first white man to discover the upper waters of the Columbia River. In 1807-1808 Simon Fraser passed down the river which bears his name to its mouth near the modern city of Vancouver.

The United States' claims were strengthened in 1803 by the cession by France to the United States of the large and ill-defined province of Louisiana. The western and northern boundaries of this territory never having been determined the Americans naturally extended them as far as possible. They argued that Louisiana extended to the Pacific and insisted consequently that they were now the successors to the French claim to that region. The United States later consistently advanced this Louisiana Purchase as a connecting-link in their claim to the Oregon Territory. (2)

The United States bought Louisiana from France with the same extent it had when Spain retroceded it to France/

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1. See A. Mackenzie, 'Voyages from Montreal,' London, 1801, for an account of the journey.
 2. This view is now quite discredited, and W. I. Marshall, an American authority, reviewing the arguments in his book, 'The Acquisition of Oregon,' concludes: "I think whoever will read carefully the whole of the negotiations preceding the treaty in so far as they relate to the questions of territory ceded, and limits defined, and compensation to be paid, and will examine with care the instructions given to our negotiators in '26-'27 will be satisfied that in the opinion of Monroe and J.Q. Adams, who certainly ought to know the truth about the matter better than any one else, no part of Oregon was included in the Louisiana Purchase." I, 154, Seattle, 1911.

France in 1800. It was distinctly asserted by Marbois, the negotiator of the Treaty representing Napoleon, that the French never owned any part of North America west of the (1) Rocky Mountains.

In the following year, 1804, President Jefferson commissioned two explorers, Captains Lewis and Clark, to explore the Missouri River to its source and to seek a water-communication to the Pacific. They were successful, crossing the Rockies and descending by the Snake and Columbia Rivers to the Pacific. They took formal possession at the mouth of the Columbia of land which Vancouver had claimed a dozen years previously. By virtue, therefore, of Gray's discovery of the mouth of the Columbia, of the exploration of its source and branches by Lewis and Clark, and of the cession of Louisiana to the United States, the American Government felt that they had established a claim to the area west of the Rockies, extending from the northern boundary of California (about 42° N.) at least to the latitude of the most northern tributary of the Columbia.

The British claim so far (by 1805) was also rather strong. Great Britain set store by Cook's priority of discovery, followed by the explorations of Captain Vancouver, joint occupation with Spain as the outcome of the Nootka Convention, and the explorations of traders like Mackenzie and McGillivray. To strengthen this claim, the North West Company of Montreal were preparing to extend operations beyond the Rockies and were establishing trading-posts/

1. J. J. Anderson, 'Did the Louisiana Purchase Extend to the Pacific?' p. 3, New York, 1882. Greenhow also, writing in 1844, refused to base any American claim to land west of the Rockies upon the Louisiana Purchase. There is a considerable literature on the subject of the Purchase, a transaction having little or no bearing on the Oregon Question but which, owing to ignorance or to a generally accepted false conception of its value, exerted influence upon many who upheld the United States' claims in Oregon.

posts or 'forts' throughout the region. Fort Fraser in latitude 54° N., established by the Company in 1806, was the first civilised settlement on the mainland north of latitude 42°. Other posts of the North West Company were Fort Kootenai at the head-waters of the Columbia (1807), Kullyspill House (1809), Saleesh House (1809), and Spokane House (1810).⁽¹⁾

The boundary line between British and United States' territory on the American continent had never satisfactorily and fully been agreed upon. The Treaty of 1783 provided for a line of demarcation starting in "the northwest angle of Nova Scotia " to the northwest corner of the Lake of the Woods " and from thence on a due west course to the river Mississippi " It was erroneously believed in 1783 (the negotiators used Mitchell's Map, which they interpreted incorrectly) that this line due west would intersect the great river. Shortly after 1783 the error was discovered, and Article 4 of the Jay Treaty of 1794 sought to rectify the position by providing for a joint survey to establish the line accurately. This, however, was never undertaken.

Article 5 of the Hawkesbury-King Convention of May, 1803, moved one step further by arranging that the line of boundary should be the "shortest line" that could be drawn between the north-westernmost point of the Lake of the Woods and "the nearest source of the Mississippi "

In the meantime, on 30th April, 1803, the cession of Louisiana had been concluded and, since Article 5 of the Hawkesbury-King Convention seemed to compromise the whole northern boundary of Louisiana, the Senate refused to accept/

1. See Map in Appendix. For the history of this association see G. C. Davidson, 'The North West Company,' Berkeley, California, 1919.

accept this article. The British Government rejected any other settlement and would not agree to the amended treaty.

In 1807 negotiations were renewed in London, Messrs. Monroe and Pinkney representing the United States and Lords Holland and Auckland representing Great Britain. The latter proposed a boundary line along the 49th parallel from the Lake of the Woods, "as far as their said respective territories extend in that quarter," though this was not to be construed as extending west of the Rocky Mountains. The American negotiators accepted this line but the proposal was never presented to the Senate because Britain refused to give satisfaction on the collateral problem of impressment.

During the first years of the 19th century, therefore, a new 'cloud in the west' was gathering and threatening to precipitate trouble at a most unpropitious moment when Anglo-American relations were not good. The war with Napoleon, which produced the ^{French} Berlin Decrees and ^{British} Orders-in-Council, produced also great difficulties for neutrals. In exercising the right of search British officials searched neutral American ships for British deserters even though these had become American citizens according to United States' law. Unpleasant incidents arose from this, notably the 'Chesapeake' affair in 1807. The Orders-in-Council and the Continental System dealt a severe blow to American export trade and shipping, the Orders-in-Council particularly, because of British supremacy on the seas. President Jefferson was faced with the alternatives of alliance with one of the belligerents or strict neutrality. He chose the latter. The freedom of French harbours to American privateers, the prevalence of pro-French sympathies in the southern states, and/

and American acquiescence in Napoleon's seizure of United States' vessels all embittered English feeling. The inevitable war which followed in 1812 produced surprises and disappointments for both sides; the failure of the Americans to take Canada, a series of United States' naval successes, the terrible destruction of the mercantile marine of the two countries, the disasters on land suffered by both sides.

2. Astoria.

The first United States' establishment in Oregon was that of the Missouri Fur Company on the Snake River in 1810; it was abandoned, however, and does not enter into the dispute. Nevertheless, in March, 1811, Mr. J. J. Astor, a naturalised American, and his Pacific Fur Company built Fort Astoria at the mouth of the Columbia near where Lewis and Clark had taken formal possession for the United States. Astor had nine partners with him in the company, six of them Scots who had formerly served with the North West Company. (1) Astor had evidently forestalled the British Company for, in the very next month, the astronomer of the latter, David Thompson, visited the mouth of the Columbia with a view to establishing a settlement there. The presence of the Americans was a severe disappointment to him.

Both sides were therefore cognisant of the vital importance of the Columbia River. In the struggle for control of the valuable fur trade of the region, possession of the river was essential. Its discovery by the American, Gray, and its subsequent survey by the Englishman, Vancouver, meant that/

1. T. Twiss, 'The Oregon Question Examined,' p. 277, London, 1846.

that both countries knew of its value. It was the only navigable river in the region, while the extent of its penetration of the interior, its flat, level banks which fitted it admirably for colonisation, made its possession particularly desirable. It is to be remembered that the idea was current at that time that the cession of the mouth of a river gave a title to all territory washed by its banks; moreover, the establishment of a settlement at such a strategic point could be used to assert a claim by right of occupation.

Word of the outbreak of the War of 1812 reached Astoria in June, 1812, and when the British North-West Company offered to buy out the American Pacific Fur Company, the partners of the latter, most of whom were British subjects, realising their isolation, transferred their effects to the British company for \$50,000. Most of the employees of the American Company entered the service of the North-West Company at the time of the transfer.

The Admiralty, also, were evidently not unaware of the importance of Astoria for, in December of the next year, the sloop, 'Raccoon,' under Captain Black, entered the Columbia for the purpose of destroying Astoria. This being unnecessary because of its purchase, Black hoisted the Union Jack and renamed the post Fort George.

Nor was Astoria forgotten in the Foreign Office when peace came to be discussed. A memorandum in the Public Record Office headed, 'A Compressed View of the Points to be Discussed in Treating with the United States of America,' dated 4th July, 1814, and addressed to Lord Castlereagh, the Foreign Secretary, advises that a treaty should be made with Russia/

Russia to make her territory on the Pacific coast convenient to her Asiatic possessions and the "most advantageous part" of the coast would be reserved to Great Britain from 58 degrees to the Columbia at 46 degrees." (1) It may be argued from this that the British Government tacitly recognised some justice in the American claim to the north-west coast at least south of the Columbia River. At the same time, it may be taken as the initial assertion of the British proposition for the line of the Columbia as boundary between the possessions of the United States and those of Great Britain on the coast.

That this plan was the direct outcome of Alexander Mackenzie's advice contained in his book (2) is obvious from the latter part of the same memorandum. A line of internal communication was to be drawn across the continent to protect and develop commerce, while a colony was to be established at Nootka Sound at the extreme western end of the line. A note in the Foreign Office records of a week later suggests that Mackenzie's assistance might be sought in founding the colony. Mackenzie's actual words are: "By supposing a line from the Atlantic, East, to the Pacific, West, in the parallel of forty-five degrees of north latitude, it will, I think, nearly describe the British territories in North America. For I am of the opinion that the extent of the country to the South of this line, which we have a right to claim, is equal to that to the north of it, which may be claimed by/

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1. In F.O. 5/103. It is quoted by Miss K. Judson in an article, 'The British Side of the Restoration of Astoria,' in the 'Oregon Historical Quarterly,' XI, 248. Miss Judson attributes this memorandum to Pitt; but Pitt died in 1806. It is the work of Lord Bathurst who had control of the War Office which supervised colonial affairs in 1814.
 2. Mackenzie, op. cit., p. 16.

by other powers” By opening up intercourse between the Atlantic and Pacific Oceans and forming establishments throughout the interior, along the coasts and at both extremes, the entire command of the fur trade of North America, at least north of 48°, with the exception of the slight part (1) held by the Russians, would be in British hands.

In the light of these British ambitions one understands why the possession of Astoria and the Pacific north-west coast became a matter of discussion during the negotiations at Ghent which followed the War of 1812. Article 1 of the Treaty signed on 24th December, 1814, attempted to dispose of the matter by providing that "all territories, places and possessions whatsoever taken by either party from the other during the war, or which may be taken after the signing of this treaty, excepting only the islands hereinafter mentioned [in the Bay of Passamaquoddy] shall be restored without delay."

This clause created a situation upon which the United States could be depended to seize. Accordingly, on 18th July, 1815, the Secretary of State, J. Monroe, raised the matter of the restoration of Astoria to the British charge in Washington, Anthony St. J. Baker, basing a demand upon the above article. The subject took Baker by surprise, but he suggested that the possible reason for the delay in restoration was the absence of any person at Astoria by whom or to whom restoration could be made. At the same time, Baker professed himself to be ignorant of any transaction between the two Governments which recognised the claim of the/

1. Mackenz ie, op. cit., pp. 397-411. Mackenzie had written to the Board of Trade on 10th March, 1808, suggesting a line of forts across the continent to secure the boundary line he advocated. See B.T.S., XX, 470, in the Public Record Office, quoted by G.C.Davidson, op. cit. pp. 123-4.

the United States to any part of the coast of the Pacific Ocean. (1) Monroe suggested the despatch of a letter from Baker to the British commander in the Pacific authorising restoration, but Baker replied that he had no instructions from his Government and suggested that, if such instructions existed, they would be in the hands of Rear-Admiral Dixon (in command in the Pacific). At the same time, the British representative wrote to Dixon, reminding him that the United States' claim rested solely on the Treaty of Ghent and that Great Britain had never recognised any American title. (2) Unfortunately, no instructions were sent to Baker governing this matter, and this gave rise to the United States' argument that the British silence constituted tacit recognition of their title. Moreover, in the formal document of restoration there is no adequate qualification of the restoration.

For over two years the Astoria issue was allowed to remain unsettled by the United States. Two reasons for this suggest themselves: if there was co-operation between the United States' Government and Astor, it is probable that the former were awaiting Astor's decision to resume operations on the north-west coast. (3) Possibly also, the reason adduced/

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1. Baker's account of his interview is in his despatch to Castlereagh, F.O. 5/102. Monroe's letter (copy) and a copy of Baker's to Rear-Admiral Dixon are enclosed.
 2. See the despatch in F.O. 5/107. The British explanation why Astoria was not specifically mentioned in the Treaty of Ghent was that "requiring from the Americans any recognition or guaranty of His Majesty's rights thereto might tend to cast doubts upon a Title which was already sufficiently clear and incontrovertible." See the statement of S, McGillivray, partner of the North-West Company, March, 1815, drawn up in Washington. McGillivray quotes Bathurst to the above effect, declaring that it was never Lord Bathurst's intention when framing Article 1 to restore Astoria. The statement appears in F.O. 5/123 and there is a copy also in C.O. 6/6.
 3. J. Schafer, 'The British Attitude to the Oregon Question,' p. 281, in the American Historical Review, XVI, 273-299.

adduced by Baker, that there was no one there to whom restoration could be made, carried weight with the American Government. Britain's attitude was one of delay and neglect governed by two circumstances: Astoria was remote; it seemed of small immediate import.

In 1817, however, the Secretary of State, John Quincy Adams, determined that the United States should gain control of as much of North America as possible and seeing Britain as an impediment to his plans, was under the impression that England was avoiding the Astoria issue purposely and intended to treat the restoration of the post much as she had treated her undertaking to restore the frontier posts after the Treaty of 1783, that is, by alleging American neglect to implement certain terms of the Treaty of Ghent she would evade fulfilment of other obligations imposed upon her by the Treaty. (1) Adams determined to take steps to prevent such an eventuality. Accordingly he arranged for sending off a sloop, the 'Ontario,' ostensibly for the southern Pacific but actually to the Columbia River. (2)

Sir Charles Bagot, British Minister in Washington, reported the matter to the home government immediately and also took the precaution of writing to Sir John Sherbrooke, Governor of Upper Canada, advising him to put the North West Company on their guard. (3) A despatch in cipher to the Foreign/

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1. Adams's diary reveals his antipathy to Great Britain; thus he wrote to Gallatin and Rush, American representatives in the negotiations of 1818, on 28th July, 1818, as follows: "From the earnestness with which the British government now return to the object of fixing the boundary, there is reason to believe that they have some other purpose connected with it, which they do not now avow, but which, in their estimation, gives it an importance not belonging to it, considered in itself." American State Papers, IV, 377, quoted in Schafer, op. cit., footnote, 285.
 2. Intimated by Bagot on 7th November, 1817, in F.O. 5/125.
 3. Bagot wrote later that, owing to the severity of the winter in Canada, Sherbrooke could not send word in time to anticipate the 'Ontario.' F.O. 5/130.

Foreign Office, dated 24th December, from Bagot announced that, in reply to his request for information on the subject, Adams had stated that the 'Ontario's' mission was not to form a settlement. Despite this assurance, one of the partners of the North West Company, Simon McGillivray, wrote to Bagot intimating that word had reached him, presumably through the fur-traders, that Fort George (Astoria) was to be seized. To clarify matters Bagot asked Adams for a conference on the subject when he was told that the sloop was not sent to interfere with the Company's trade; it was dispatched because Baker in 1815 had explained that no restoration had been made owing to the absence of an American to receive Astoria and an Englishman to restore it. At the same time Adams declared that it would not be worth while for Britain to quarrel over such a remote land. Suspecting the matter had a deeper significance, Bagot composed a formal note demanding an explanation and outlining the basis of the British claim. (1)

The Foreign Secretary, Lord Castlereagh, after having seen Richard Rush, the United States' Minister in London, who said he was unacquainted with the grounds of the British claim to Astoria, (2) instructed Bagot on 4th February, 1818, to advance his view that there was no doubt that, by the terms of the Treaty of Ghent, the United States were entitled to return to the state of possession of 1812; the settlement of Astoria would be restored, but he was to deny the validity of the American title to the land. (3) Bagot was/

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1. F.O. 5/125.
 2. R. Rush, 'Residence at the Court of London,' 2 vols., Philadelphia, 1845, I, 107.
 3. This was executed verbally and therefore rightly ignored by the United States. Unfortunately also the reservation denying the American title was not included in the formal act of retrocession. See the terms of retrocession in the Appendix. It is difficult to understand Castlereagh's contention. The settlement at Astoria had been sold by the American Pacific Fur Company to the British North West Company, and Castlereagh was agreeing to nullify a perfectly normal and legal transaction. Yet he asserted the British right of domain upon which Astoria was deemed to be an encroachment.

was to assure Adams that no time would be lost in making the transfer in order to obviate any unpleasant collision. (1) At the same time, he was to inform the United States' Government that His Majesty's Government deprecated the step taken by the Americans in commissioning the 'Ontario' without first communicating with their representative in Washington. (2)

The present, continued the Foreign Secretary, was a suitable time to settle the northern boundary of the United States, for it is always easier to come to an arrangement on such subjects when the territory in dispute is little known or little cultivated. Bagot was to propose the extension of the arrangement - arbitration - provided in Articles 4, 5, and 6 of the Treaty of Ghent for settling the boundary between Canada and the United States.

With these instructions Castlereagh enclosed a despatch of the same date marked, 'Separate and Confidential,' the purpose of which was to amplify the public despatch. In it he suggested the division of the boundary settlement into two parts; from the Lake of the Woods to the Mississippi; from the Mississippi westwards. (3) Bagot was to settle the dispute over the Columbia River first, however. Castlereagh presses the 'reasonableness' of arbitration as a method of settling differences, pointing out that the Americans themselves demanded such a mode of adjustment for the slave question.

Lord Castlereagh is to be commended for his foresight in realising the necessity for immediate settlement of the boundary dispute; as events proved, the earliest settlement/

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1. An American historian has admitted that in the visit of the 'Ontario' "there is an exhibition of devious winding, political manoeuvres by John Quincy Adams which we would rather hide." K. Judson, op. cit., p. 243.
 2. F.O. 5/129.
 3. Idem.

settlement would be the best one from the British viewpoint. His policy, had it succeeded, would have secured for Great Britain a line several degrees of latitude south of that ultimately accepted in 1846. His method of fixing a boundary line between the United States and British North America was to establish first the points at either end of the line and then trust to the intermediate part being in England's favour. In other words, "he regarded the coveted position in the Mississippi as a political fulcrum, in which, by the dexterous use of the commercial lever, every portion of the territory north of a right line extending to the Pacific might be quietly lifted into the British sphere of control." (1)

The British interpretation of the Treaty of 1783 was that Britain was to have access to the Mississippi and, that being so, the fairest line would be that agreed upon by the Hawkesbury-King negotiators in 1803. (2) The source of the Mississippi lay in latitude 42° 38'. (3) At the other end of the line Castlereagh hoped to establish as starting point the mouth of the Columbia in 46° 20'. Probably this explains the equanimity with which he viewed the American occupation of Astoria. Unfortunately for his plans, the United States refused the offer of arbitration knowing well that he would suggest as arbiter the Russian Tsar, whose favourite he was; they agreed, however, to take back Astoria. (4)

This/

1. Schafer, op. cit., p. 285.
2. Castlereagh's words make it clear that he expected the Mississippi to be the eastern starting-point of the line of boundary. F.O. 5/129, 'Separate and Confidential.'
3. The United States' position was that the Treaty of Utrecht had established latitude 49° as the northern boundary of Louisiana which, since the purchase of that province in 1803, had been in American hands. How the American stand was based on a conventional but erroneous foundation is explained below.
4. Cf. F.O. 5/129 and Schafer, op. cit., p. 285. Bagot's account of the reception of this despatch by Adams is reported in his despatch to Castlereagh, 2nd June, 1818, in F.O. 5/132.

This 'Confidential' despatch of 4th February, 1818, initiated the British policy of conciliation in the Oregon controversy. Great Britain was recognising the existence of some sort of American claim to Astoria, and Castlereagh hoped that the arbitrating commissioners would assign a frontier which would 'part' accommodate the United States. (1)

3. The Significance of the Restoration of Astoria.

The actual retrocession of Astoria was made on 6th October, 1818. The restoration was a mistake which surrendered a position that could be retrieved only by war. The original British intention had evidently been not to surrender the fort, and Bagot acted throughout, until his instructions were changed, as though there was no possibility of retrocession. Moreover, he was instructed to advise the North West Company to anticipate the voyage of the 'Ontario.' The English negotiators of the Treaty of Ghent were quite convinced that Article 1 of the Treaty did not comprehend the retrocession of the post. Bold handling of the situation in the face of the vigorous policy of Mr. Adams was required, but Lord Castlereagh's general policy did not allow this. His aim was to avoid all 'tendencious discussion' and to sow the seeds of friendship. He had long felt that more friendly relations between the two countries were of far more importance to Britain than any brilliant diplomatic victory. (2) The Foreign Secretary believed that a display of friendship and evidence of a desire to appreciate the American point of view would go far towards breaking down the/

1. F.O. 5/129.

2. C. K. Webster, 'The Foreign Policy of Castlereagh,' p. 453, London, 1925; cf. R. Rush, 'Residence at the Court of London,' 2 vols., London, 1845, II, 2.

(1)
 the strong American anti-British prejudice. To this desire
 for peace and goodwill Fort George or Astoria was sacrificed;
 possession of the post gave the United States a claim they
 could not otherwise have sustained; it furnished them with a
 diplomatic success - minor though it appeared at that time -
 which fortified them in future negotiations with Great Britain. (2)

The arguments against restoration greatly out-
 weighed those in favour of it. The expedition of the Pacific
 Fur Company was not a national undertaking inasmuch as it had
 no governmental sanction and of the ten partners six were
 Britons who, in the event of war, were guaranteed protection
 as British subjects. The post, which was not even a military
 fort, was the saleable property of a private fur company, and
 the great evil of the retrocession, therefore, from a British
 point of view, was that it amounted to recognition of a
national American claim. That the erection of a stockade or
 trading station by private traders, and its retention for a
 few months until its free sale, could be claimed to give, years
 after it had been abandoned, the sovereignty of a country
 nearly twice as large as France, seems ridiculous. (3) Astoria
 was an isolated post, whereas the British North West Company
 had a number of posts in the region of the Columbia River.
 Greenhow reveals that Astor made no bid for Government approval
 of his enterprise until 1813, and then it was refused. (4)

Actually/

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1. Adams did not correctly divine the real nature of Castle-
 reagh's policy, which he described as "wavering and un-
 steady," "willing to wound and yet afraid to strike." See
 H. W. V. Temperley, 'Life of Canning,' London, 1905, p. 178.
 2. Castlereagh's instructions to Stratford Canning of 20th
 July, 1820, when Canning was appointed to Washington, ill-
 illustrate the consistency with which the Foreign Secretary
 sought to keep peace with the United States. "The mainten-
 ance of peace was to be my principal care, and with this in
 view it was desirable that I should be rather observant
 than active, slow to take offence, and in the management of
 current affairs more tolerant of adverse pretensions than
 ready to push my claims to an extreme." S. Lane-Poole,
 'Life of Stratford Canning,' London, 1888, p. 297.
 3. Cf. 'Edinburgh Review,' IX, 259.
 4. Greenhow, op. cit., Appendix, 'Relative to Astoria.'

Actually, he invited the North West Company without success to assume a one-third interest in his enterprise. This proves conclusively that his undertaking was that of a private individual.

One is forced to conclude that from the utilitarian as well as the legal aspect the transfer of Astoria was a mistake. In the first place, once the United States possessed the fort, they were in no hurry to settle the boundary and, as we shall see more clearly later, time was on the side of the Americans. The earlier the settlement, the more territory west of the Rockies would Britain acquire. Again, it was most inconsistent of the Government to assure the North West Company several times prior to 1815 that Astoria was British property and then to return it to the United States. (1)

The British claim to Oregon had a twofold basis - by right of discovery and by right of occupation; on the other hand, the claim of the United States, before the restoration of Astoria, was confined to discovery and their negligible claim as heirs to the French in Louisiana. By international law discovery must be followed by a formal act of taking possession and, within a reasonable time, occupation and settlement. Possession of Astoria gave the Americans this additional claim by right of occupation. The actual instructions of the managing director of the North West Company in London to the Company's agents on the Columbia River governing the retrocession of Astoria contain these words: "I understand the orders to be to give up the actual ground possessed by the Americans before our occupation but not to relinquish the Trade/

1. See the statement of Simon McGillivray in F.O. 5/125 and C.O. 6/6. McGillivray was one of the partners of the Company.

Trade or to abandon the Country." (1) The agents were to deliver up Astoria "without however admitting the right of that [United States'] government to the possession in question." This reservation seems never to have been made, and later efforts of British diplomacy to prove its existence in English records were rightly met by the Americans with the answer that private documents did not concern them; all that mattered was the actual declaration of retrocession.

It was, however, in its effect upon future negotiations that the restoration of Astoria was most seriously felt. George Canning was the first British statesman to realise correctly the future importance of the north-west coast and, during the negotiations with the United States in 1824 and 1826, he found his hands tied by the effect of the restoration of the post, a concession which he denounced in the strongest terms. (2) He even contemplated surrendering the British position on the north-west coast because of the unfortunate retrocession. All subsequent British negotiators found their efforts similarly affected, and one described the act of retrocession as the only case in which any person acting with the authority of the United States' Government formally occupied any part of Oregon.

1. Greenhow, op. cit., p. 310.
 2. "I do not hesitate to say that our decision on that occasion was absolutely unjustifiable. Compare the Bill of Sale by which the settlement or blockhouse of Astoria was made over for a valuable consideration by a company half British and half American to a wholly British company, with the first article of the Treaty of Ghent stipulating the restoration of places taken in war, and read Lord Bathurst's despatch directing the surrender to the Yankees" See E. J. Stapleton, 'Some Official Correspondence of George Canning,' 2 vols., London, 1887, II, 71.

4. The Negotiations of 1818.

Though the Treaty of Ghent had successfully disposed of some of the difficulties in the way of Anglo-American friendship there remained many outstanding matters of difference between the two countries; the Fisheries, the renewal of the subsisting treaty of commerce, the problem of the slaves withdrawn from the United States in 1814, the intercourse between the United States and British North American and West Indian colonies, the delineation of the boundary west of the Lake of the Woods and, of course, the question of title on the Pacific north-west coast. The United States were particularly keen to adjust these matters of dispute, and on their initiative arrangements were made in the autumn of 1818 for the meeting of British and American plenipotentiaries. The Secretary of State, John Quincy Adams, hoped to induce Spain to transfer to his Government her claims north of a specified boundary line, and Britain, he hoped, might accept the 49th parallel as her boundary right to the Pacific Ocean.

The British representatives, Frederick J. Robinson and Henry Goulburn, were instructed by the Foreign Secretary to seek solution of the Columbia River difficulty by amicable discussion, but if that method failed they were to propose arbitration along the lines laid down in the Treaty of Ghent.⁽¹⁾

The American diplomatists, Richard Rush and Albert Gallatin, were disinclined from the very outset to accept arbitration because they desired to keep their interests altogether free from European interference; moreover, the difficulty/

1. Castlereagh's instructions to Messrs. Robinson and Goulburn, dated 24th August, 1818, are to be found in F.O. 5/138.

difficulty of securing an impartial arbiter was great. The Americans contented themselves, therefore, in the early stages of the negotiations with a recital of the bases of their claims on the north-west coast.

At the fifth conference of the plenipotentiaries, Britain took a step forward by proposing that the region between 45° N. and 49° N. should be free and open to both countries, neither exercising sovereign authority therein; this should be supplemented by the concession of free British navigation of the Mississippi. The latter proposal was summarily rejected, ⁽¹⁾ and in reply to the former project, Messrs. Rush and Gallatin asserted that they could not open to joint occupation an area to which they did not recognise any British claim, while they pointed out that, since the boundary line west of the Lake of the Woods was to be along the 49th parallel (by another article proposed by Castlereagh), they could not consent to make 'common stock' of any territory south of latitude 49° and west of the Rocky Mountains. They pointed out quite correctly that they could hardly be expected to throw open to joint occupation only the area south of 49° when they had for a number of years been trading north of that parallel.

Additional conferences served only to convince the British commissioners that the full American pretensions were so utterly inconsistent with the principles upon which they conceived the subject to stand that it was impossible at that time permanently to define any boundary in the region under discussion. They decided to accede, therefore, to the American/

1. Robinson and Goulburn to Castlereagh, No. 7, 13th October, 1818, in F.O. 5/138.

proposal that "any country west of the Rocky Mountains claimed by either country shall, with its harbours, bays be free and open for ten years to the vessels, citizens, and subjects of the two powers." They argued that this arrangement removed the prospect of immediate collision while, at the same time, it did not preclude further discussion of a basis of permanent settlement. It was, in short, an agreement that reserved to Great Britain every advantage of actual possession. (1)

We may now sum up the results of the settlement of 1818 and attempt to estimate its relation to the subject as a whole. By acquiescing in the United States' refusal to give access to the Mississippi, and by accepting the 49th parallel as the line of demarcation east of the Rockies, Great Britain was thus early departing from her plan of a short time before. (2)

It is true that she was demanding the line of 1807, but this line was prejudicing the British claim west of the Rockies by encouraging the American contention based on contiguity, that is, the argument that United States' territory east of the Rockies extended north to the parallel of 49°, and once they had settled west of the Mountains up to this parallel (and the agreement of 1818 allowed such settlement) they could with confidence, claiming contiguity, urge the final adoption of that parallel as boundary line right to the Pacific.

The satisfaction with which the British plenipotentiaries viewed the settlement they had made was quite justifiable so far as the immediate effects of the arrangement/

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1. Robinson and Goulburn to Castlegeagh, No. 9, 20th October, 1818, in F.O. 5/138. See Appendix for the terms of the Convention of 1818.
 2. Supra, pp. 22-23.

ment were concerned. The Convention ostensibly laid the whole area open to the commerce of both nations, but this apparent equality was only superficial, inasmuch as the British companies were building up a monopoly of the fur trade and were gradually becoming powerful enough to exclude foreign opposition. This, in turn, also had a bad effect, for it did not take into account the possibilities of future American opposition and competition. (1) The longer the arrangement of 1818 lasted, the greater would be the attraction to the Americans of the British fur trade interests, and ways and means would be adopted to undermine them. Once that time arrived, the Americans would become as thoroughly established as the English, and an adjustment of the boundary consonant with British hopes would become increasingly difficult. (2) It must be remembered that American expansion westward was still limited to the territory east of the Rocky Mountains and that vast area would have to be settled and built up before the eyes of United States' settlers could look beyond the mountains.

The Treaty of 1818 gave validity to the conventional, though erroneous idea, that the Treaty of Utrecht had established the 49th parallel as the northern boundary of the United/

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1. By 1818 the Americans had as much of the fur trade as the British. Their influence was, however, only temporary, for after the amalgamation of the North-West and Hudson's Bay Companies in 1821, control of the trade was regained by the British, and by 1827 the Hudson's Bay Company had established a virtual monopoly. See an article by F. W. Howay in the Canadian Historical Review, IV, pp. 26-44.
 2. Professor Schafer says of the Convention of 1818 that "in both particulars the immediate advantage of the Treaty lay with Britain Since their [the British] possession of Oregon could thereafter not affect the country east of Oregon toward the Mississippi the American government was deprived of the most urgent reason for wishing to dislodge the British from the Columbia." Op. cit., p. 287. Unfortunately the immediate advantage, so far as Great Britain was concerned, was negligible and not to be compared with the ultimate advantage.

United States west of the Lake of the Woods. The Treaty sounded the death-knell, therefore, of the British plan, and of the policy of pioneers like Mackenzie and David Thompson, who had envisaged the forty-fifth parallel as boundary over that area. Mackenzie had engaged Thompson in 1797 for the North-West Company, and Thompson's survey had established that the source of the Mississippi was in $47^{\circ} 38'$. A boundary line somewhat south of this was Mackenzie's demand because it was necessary for the retention of certain posts of the Company which were situated below 49° ; moreover, it would be valuable in finally securing a favourable line on the west side of the Rockies.

5. The 49th Parallel as Boundary.

It may be said here that the tacit acceptance of the 49th parallel as a boundary by both parties, eventually right to the Pacific, was the result of an interesting misunderstanding. The Treaty of Utrecht had appointed no limits between English and French territory in North America, but Article 10 provided for the appointment of commissioners by the powers concerned to settle the boundary. The Hudson's Bay Company during the negotiations had approached the British Government to secure a line running from Cape Perdrix on the coast of Labrador to $58^{\circ} 30'$, and running thence north-westward to Lake Mistassni (the source of Rupert's River) in western Quebec, and thence through that lake. (1)

In 1714 the Company suggested extension of this line/

1. David Mills, 'Report on the Boundaries of Ontario,' p. 157, Toronto, 1877. Cf. C. O. Paullin in the Canadian Historical Review, IV, 127-131.

line, "from the said lake a line to run south-westward into 49 degrees north latitude and that that latitude be the limit." ⁽¹⁾ This constitutes the first mention of the 49th parallel in connection with the international boundary.

In 1719 commissioners were appointed in accordance with the tenth article of the Treaty of Utrecht. The Company wrote to the Lords of Trade and Plantations suggesting exclusion of the French from north of 49° 57'. This was duly carried out, the commissioners being instructed "that where the said line shall cut the 49th degree of north latitude, another line shall begin and be extended westward upon the 49th degree of northern latitude." The efforts of the commissioners proved unavailing, however, and no agreement was reached.

These negotiations led cartographers and historians erroneously to imagine that a settlement of the boundary had been effected. Thus, Thomas Salmon in 1738, ⁽²⁾ and William Douglass in 1749, ⁽³⁾ in defining the limits of the Hudson's Bay Company's territory, have the boundary line extended in detail along the 49th parallel and "thence due west indefinitely." The cartographers Huske ⁽⁴⁾ and Sayer, ⁽⁵⁾ in company with others, have made the same error, extending the boundary line right to the Pacific.

No accurate survey was made until 1797-8, when David/

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1. Mills, p. 158, quoted by Paullin.
 2. T. Salmon, 'Modern History,' IV, 349, London, 1738.
 3. W. Douglass, 'A Summary, Historical and Political,' I, 278, London, 1749.
 4. 'New and Accurate Map of North America,' London, 1755.
 5. 'Accurate Map of North America,' London, 1763.

David Thompson, astronomer of the North-West Company, explored and surveyed the region between the Rockies and Hudson Bay north to Lake Athabaska and south to the Missouri River. (1)

The results of this survey were made known to the world by Mackenzie's 'Voyages' in 1801. Thompson did not write his 'Narrative' until 1850.

No attempt at final demarcation of the line was made in 1763 or 1783, but during the Jay Treaty negotiations Britain sought to secure Grand Portage (between Lake Superior and the navigable part of Pigeon River), and offered two alternative lines. One would have moved the American frontier of Western Canada south to the latitude of the present city of Duluth, (2) while the other would have given Great Britain a wedge along the south bank of the Mississippi. Had either of these been adopted, the United States could never have obtained the 49th parallel.

In 1804 when the United States had acquired Louisiana, the Secretary of State, Madison, wrote to Monroe, at that time Ambassador to Great Britain, to the following effect: "There is reason to believe that the boundary between Louisiana and the British territories north of it was actually fixed by commissioners appointed under the Treaty of Utrecht, and that this boundary was to run from the Lake of the Woods westwardly in latitude 49°." (3)

The boundary west of Lake of the Woods had, as we have seen, never been finally defined, but the ever alert American diplomatists would very promptly seize upon the apparently/

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1. D. Tyrrell, 'David Thompson,' London, 1922.
 2. S. F. Bemis, American Historical Review, XXVII, 465.
 3. American State Papers, 'Foreign Relations,' III, 90, quoted by Paullin.

apparently favourable cartographical circumstances, and would expand and develop them till they had convinced even themselves that their claim was exclusive. Thus, in 1806 Jefferson asserted that the 49th parallel was the legitimate boundary of Louisiana. No doubt the fact that the Hudson's Bay Company had, during a hundred years, never claimed below 49° was an excellent, if negative, argument for the American position; yet the failure of the British Government to be properly informed upon the whole issue and the apathy with which they viewed the development of the United States' claim hardly inspired confident hopes for the future conduct of the boundary difficulty.

It is clear then that Britain's first decision to limit her claims east of the Rockies was made as early as 1719. Later, at the end of the century, she saw the mistake of thus restricting her claims and accepted Mackenzie's advice that she should attempt to secure a line west of Lake of the Woods that would throw the source of the Missouri into British territory. The Americans showed in 1818 that they would never accept this line and Britain fell back, therefore, upon her earlier line - the 49th parallel. ⁽¹⁾

1. Paullin, op. cit., p. 131.

CHAPTER III

SPASMODIC NEGOTIATIONS: 1819-1827

1. The Florida Treaty.

On 22nd February, 1819, Spain concluded with the United States the Florida Treaty, whereby she surrendered to the Americans all her claims and pretensions to the north-west coast of America. Thus, the earliest of the four arrivals on the Pacific north-west scene was first to retire.

British policy had always been directed towards allowing East Florida to remain in the hands of a comparatively weak power like Spain; this was to balance the proximity of the United States to the British West Indies. In furtherance of his policy of peace with the United States, however, Castlereagh had tended to reverse this policy and was prepared to induce Spain to arrange with the American Government a frontier in keeping with the latter's pretensions.

On a very flimsy pretext, General Jackson invaded East Florida in 1818, and in the initial operations two British settlers were killed. The Secretary of State, J. Q. Adams, condoned this, and, in spite of Monroe's denunciation, the deed went unpunished and Jackson remained in command. Public opinion in England was greatly incensed over the whole episode, and press and Parliament were almost unanimous in their demand for securing redress by war. According to Rush, Castlereagh alone prevented such a calamity.

The United States and Spain were able, in consequence of the disturbed nature of Anglo-American relations to make the Treaty of 1819, the terms of which went further to consolidate the United States' claim to the Oregon territory/

tory by making the Americans heirs to Spain in respect of title. Whatever doubts they might have had concerning their title were now dispelled for the Americans, and the signing of the Florida Treaty initiated a period of agitation in official as well as unofficial spheres in the United States. So far, only spasmodic attention had been paid to the Columbia River territory in Congress, but the western fur traders were finding the Hudson's Bay Company's stranglehold on the trade of the Columbia irksome, and this feeling soon had its reaction in Congress. In the House of Representatives in December, 1820, Mr. Floyd of Virginia suggested an inquiry into the conduct of the American settlement on the Pacific, with a view to establishing the expediency of occupying the Columbia River area. A committee was appointed to consider the matter, and its report contained some striking conclusions. It was said that, by virtue of the Louisiana Purchase, of the Florida Treaty, and of discoveries and settlements by American citizens, the United States' claim from latitude 42° to latitude 53° was unassailable. The trade of this area was very valuable, and the committee advised the establishment of trading-posts at salient points to encourage American immigration. (1)

Stratford Canning, British representative in Washington, became alarmed at this report, (2) and when a bill was introduced on 25th January, 1821, providing for the settlement of the Oregon territory, he decided to broach the matter to Mr. Adams and remind him of Great Britain's claim/

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1. Greenhow, op. cit., Chapter XVI, pp. 331 -354.
 2. Several circumstances concurred to increase the alarm. The mention in Congress by a member with official connections that the United States' Government intended to establish settlements beyond the Rockies, in conjunction with an article on the subject in the 'National Intelligencer' (the semi-official organ of the President), made the matter serious. Canning's despatch, No. 3, 28th January, 1821, in F.O. 5/157, reflects his state of mind.

claim to the Columbia River region, and how much the proposed measure might prove at variance with the Convention of 1818. Canning had had considerable success in his relations with Adams up to this point and he was totally unprepared, therefore, for the most determined and acrimonious tone in which the Secretary replied. The territory, Adams said, belonged to the United States, and they could make there what settlements they wished. Canning reminded him of the British claim and of the circumstances attending the restoration of Astoria in 1818, but Adams raised objections on these points and advised him to raise the matter in the form of a note.

Canning again reviewed his instructions and, finding that he had none bearing directly on the subject, he consulted those of his predecessors in Washington. Two of these seemed important - Castlereagh's despatch of 4th February, 1818, to Bagot,⁽¹⁾ and the latter's answer. In the light of these Canning concluded that it seemed to follow that his first duty was to keep the question as much as possible on its current footing. He seemed to consider erroneously that any United States' settlement in Oregon was a breach of Article 3 of the Convention of 1818, and he was of the opinion that, if the report of the committee on the occupation of the Columbia River district was repudiated by the Government, then the repudiation should be public. If, on the other hand, the American Cabinet intended to give official sanction to the report and was going to follow it with an establishment on the Columbia, the least it might have done was to have communicated its intention to him at a second meeting. Adams scored when he retorted that it would/

1. Supra, p. 27.

would be time enough to protest when actual violation of the Convention occurred. Canning's answer was the query - What would the United States' Government do if Great Britain sent an expedition to Oregon? The Secretary of State evaded the question by describing it as 'captious.'⁽¹⁾

Castlereagh realised that Stratford Canning had misinterpreted Article 3 of the Convention of 1818 to mean that it forbade either party's making settlements in Oregon for ten years and, in his reply,⁽²⁾ after paying due notice to the Ambassador's zeal, he advised him to let the matter drop and not to resume discussion of it without special instructions. Castlereagh pointed out that British rights were not affected by the 1818 agreement and that the third article merely conceded mutual right of intercourse with the settlements of either state. "The rights of both parties were saved for subsequent adjustment, but no attempt was made either to determine those rights, to define what might be regarded as the existing state of occupation, or to preclude either party from forming new settlements"

There was, of course, nothing in the Convention of 1818 to preclude the United States from establishing in Oregon an American counterpart of the Hudson's Bay Company, nor were they debarred from erecting there a number of 'forts' or trading-posts in the manner of the British Company. They might even have established United States' courts conducted in accordance with American law for American citizens in Oregon without in any way infringing the terms of the Convention. Until there were appreciable numbers of Americans in the disputed territory, and until the area directly east of/

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1. A résumé of Canning's conversation with Adams appears in Canning's despatch in F.O. 5/157.
 2. 10th April, 1821, in F.O. 5/156.

of the Rockies was settled by Americans, the policy of the United States' Government was to take no official step that might effect a breach of the spirit of the Convention, which had aimed primarily at preventing the development of disputes in Oregon.

Events proved Stratford Canning's anxiety and activity unnecessary, for the Bill of 1820 failed to pass Congress. Castlereagh, who realised that Canning's demands upon Secretary Adams were embarrassing to the latter, was able to give correct advice in the circumstances because he was aware that the United States' Government were unlikely to give the bill their support, and that, if it did succeed in passing through Congress, the British Government must wait to see the manner in which its terms were executed before taking action. Though attempts to hasten judgment of the dispute, by means of the introduction of similar bills in Congress, became a matter of annual recurrence in the next fifteen years, they never succeeded in disturbing the peaceful relations between the two countries, and successive Governments, British and American, elected to take no notice of them. So far as Great Britain was concerned, the Foreign Office continued to follow the policy initiated by Lord Castlereagh. Full reports of the debates, many of which were decidedly anti-British, were sent home by successive ambassadors at Washington, and the Foreign Office reply was always based upon Castlereagh's despatch to Stratford Canning
(1)
of 10th April, 1821.

The/

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1. Even when it was proposed that Oregon should be made into a 'territory' of the United States, as, for instance, in February, 1822, Canning was advised to adhere to the Instruction of the previous April, and he was told that it was unlikely that "the Cabinet would eventually decide on departing from the policy" initiated by Lord Castlereagh. See Bathurst to Stratford Canning, 8th March, 1822, in F.O. 5/166. Cf. Addington to Foreign Office, 28/12/24 in F.O. 5/186 or Palmerston to Fox, 2/5/38, in F.O. 5/321.

The truth is that the two countries were drawing more and more closely together and, though trouble-makers on both sides continued to clamour, the two Governments were anxious to put aside all tendentious issues and to develop their common interests in closer amity. ⁽¹⁾ This of course affected the Oregon controversy, retarding its solution, which was a British loss and an American gain. Settlement of the question was not considered, and Britain, since she had the advantage of sharing possession, was quite ready to acquiesce in delay.

Ever since the Treaty of Ghent enlightened opinion in England had recognised the advantages of American friendship and had hoped for a close alliance. ⁽²⁾ There were several reasons for this. Great Britain's position as a commercial and industrial nation caused her to turn more and more to the western hemisphere. An island at the centre of the world, expanding at a tremendous rate, ⁽³⁾ must have new markets: her industrial pre-eminence gave Britain access to world-wide markets. World-wide markets necessitated a world-wide diplomacy. Furthermore, her position in Canada and the West Indies made her an American power. In the British press and in parliamentary speeches the new attitude was revealed, and the former annoyance at American independence gave place ⁽⁴⁾ to a desire for friendship with the United States. The commercial/

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1. Mention of this appears in a confidential despatch from Stratford Canning of 27th April, 1821, wherein the writer reports the substance of a conversation with Mr. Adams. Remembering the recent clash between the two, Adams expressed the hope that nothing would occur for a long time to weaken their mutual dispositions of peace, and his offer to take any steps calculated to "draw closer the amicable relations of the two countries" was very welcome.
 2. See G. M. Trevelyan, 'History of England,' p. 662, London, 1926, and also Webster, op. cit., passim.
 3. Her exports in 1807 were over thirty times what they were in 1701.
 4. Later the pendulum swung in the opposite direction.

commercial classes were buying seats in Parliament and their interests in colonial and maritime questions far outweighed (1) European considerations.

2. Russian Intervention.

During the early development of the new friendly atmosphere, an act of a third power directed against the common interests of the two countries helped to forward, temporarily at least, the friendship and furnished an opportunity for co-operation between the two. This was the promulgation of a Russian ukase in September, 1821, which forbade all foreign vessels, not only to land on the coasts and islands between Bering Strait and latitude 51°, but also to approach them within (2) one hundred Italian miles, under penalty of confiscation.

Sir Charles Bagot, now Minister in St. Petersburg, requested of Count Nesselrode, the Russian Foreign Minister, an explanation of the Russian pretensions. He was informed that the primary aim of the ukase was to abolish the 'commerce interlope' of the Americans in sea-otter skins. No question was raised by Bagot at the interview as to why Russia extended her claim as far south as 51° North. Since the United States' claim was now deemed by the Americans to extend at least as far north as the source of the Columbia River in the fifty-first parallel, the ukase was considered by the British Government to be tantamount to a contemptuous dismissal of British (3) claims. Unfortunately, however, for the success of the scheme/

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1. Webster, op. cit., p. 21.
 2. It is unnecessary to examine the validity of the Russian claim here. It is sufficient to note that it was based primarily on the voyage in 1741 of Vitus Bering and his lieutenant, Tcherikoff, who had discovered land in 55° 41'.
 3. Bagot's account of his interview with Nesselrode appears in F.O. 65(Russia)/129.

scheme, the clause of ^kukase forbidding foreign trade in the area mentioned deeply concerned Great Britain and the United States, and the latter, having in view a joint policy, were prepared to come to an understanding with the British Government on that point.

Mr. Adams suggested this to Stratford Canning in May, 1823, and the latter communicated the proposal to the new Foreign Secretary, George Canning, who had succeeded Castlereagh in the previous autumn. (1) Before this despatch arrived, however, the Foreign Secretary, at the instance of the Russian Ambassador, Count Lieven, had instructed Bagot to negotiate a settlement with Russia. (2)

When Bagot broached the subject to Henry Middleton, United States' Minister in St. Petersburg, who was awaiting instructions to negotiate jointly with Great Britain, he was greatly perturbed to learn that Middleton and Nesselrode (3) had had several talks on the subject of the Russian ukase. Bagot suggested a convention with a view to establishing either joint occupation or a definite line of demarcation. During the discussions with Nesselrode, Bagot received private instructions in cipher from Canning, intimating that the fifty-seventh parallel would be a suitable line of frontier between British and Russian territory, and warning/

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1. See F.O. 5/176, No. 47. In view of the subsequent American claims in Oregon, a significant sentence appears in this despatch: "He [Adams] added that the United States had no territorial claims of their own as high as the 51st of latitude." Yet in 1845 Adams was a vigorous 'Fifty-Four Forty' man.
 2. F.O. 65/138.
 3. Middleton was originally instructed to propose to Russia the division of the whole north-west coast with her. Bagot felt that the United States were guilty of duplicity in the negotiations. See his despatches to the Foreign Office dated 17th and 28th February, 1824. He wrote in a despatch of 29th October, 1823; "..... in regard to the Americans, any fixed boundary may be better than none; and the adjourned question of the Columbia River would be ended." In F.O. 65/139.

warning against a settlement for a limited period as keep-
ing alive a subject of jealousy and contest. (1)

In October, 1823, Bagot reported that Middleton had received his instructions and claimed for his country equal rights with Britain and Russia up to latitude 61°, besides an absolute right to any division of it. The United States acknowledged that no country had an absolute sole claim but maintained that they, as heirs to Spain, (2) had the best claim.

Since this went rather further than expected in Britain, Bagot wrote home for fresh instructions and was rewarded with a long despatch. (3) Britain was quite prepared to make a joint arrangement on maritime affairs but not on the territorial question. Russia might have either Britain or the United States as neighbours on the north-west coast - not both - and in view of the Convention of 1818, there was no cogent reason why a tripartite agreement should be entered into. "To have thrown that convention loose would have wantonly to have added to the embarrassments of the question, which, so far as we were at that moment concerned, had reference only to Russia. But independently of these considerations, there was betrayed on the part of the United States a secret partiality for the/

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1. 25th July, 1823, in F.O. 65/138. It is evident from this that Canning condemned the Convention of 1818 with the United States, for it was the only agreement to joint occupation with an expirable period into which Britain had entered.
 2. 17th October, 1823, No. 48, F.O. 65/138. An account of the Russo-British negotiations is omitted from this essay except in their bearing upon the American claim because the finally established 'international' line of boundary concerned only Great Britain and the United States. Mention of the negotiations on the maritime claim of the ukase of 1821 is also omitted, that part being, unless in a very minor sense, irrelevant to the main issue.
 3. 15th January, 1824, in F.O. 65/147.

the Russian side of the question, ill-adapted for the purpose of joint occupation." (1) The United States proposed that the 55th parallel should be the boundary line between British and Russian territory, and latitude 51° that between British and American territory. (2)

The answer to this proposal was conveyed verbally to Mr. Rush, as a marginal note in Canning's handwriting explains, but a written record was kept for use in future negotiations. Canning explained to Rush that Russia and Britain disputed a small area in North America - less than one degree of latitude separating the settlements of the two countries. United States' intervention was therefore unnecessary, especially since the Americans put forward no claim (here Canning interposed the sarcastic "I understand") to actual occupation of the area in dispute between England and Russia. The southernmost Russian post lay in latitude 57°, yet Rush's memorandum suggested latitude 55° as the line of demarcation between Russian and British territory. "It can hardly be apprehended that the United States, having themselves no interest in the question, would wish to interfere in it for the express purpose of suggesting to Russia an extension which she cannot want, and of retrenching from Great Britain a space of which she is already in possession." Great Britain, he quite correctly pointed out, did not interfere in the negotiations between Spain and the United States in 1819, although/

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1. A. G. Stapleton, 'Political Life of George Canning,' III, 118, 3 vols. London, 1831.
 2. This proposal was made in a memorandum from Rush to Canning who answered it on 29th January, 1824. The answer is in F.O. 5/194, and it explains Britain's position with regard to the suggestion of tripartite negotiations.

although she had an interest in them.

Canning went on to examine Rush's proposed boundary arrangement and noted that it excluded Britain from the Columbia, "this essential requisite to the prosperity of the colony." He affected to discover in the American proposition - possibly correctly - a previous understanding between the United States and Russia, or, what was more likely, a disposition on the part of the Americans to promote Russian interests where they clashed with those of Great Britain. This confirmed the wisdom of Canning's opposition to a joint agreement by the three powers, an opposition which had been greatly strengthened by the famous Message of President Monroe of December, 1823. The Message was inspired by the maritime pretensions of the Russian ukase (as well as by other causes irrelevant to the present subject) besides the American desire to confine within the narrowest possible limits the British claim to Oregon.

Canning's aims at this period are admirably summed up in a letter from Stratford Canning, dated 28th December, 1823, to be found among the Stratford Canning papers in the Public Record Office. It was proposed:

- (1) to obtain by separate negotiation a disavowal by Russia of her twofold, obnoxious pretension;
- (2) to settle with the United States' plenipotentiaries in London a suitable boundary west of the Rockies (in which sense the Anglo-American and the Anglo-Russian negotiations of 1824 were inter-dependent);
- (3) to settle the Russian boundary separately.

"Is it not principally by contracting our claws to the North that we may hope to obtain a permanent share/

share in the possession of the great outlet of the Columbia?" The reasoning here appears to be that ultimately the United States would agree to an approximately equal division of territory with Great Britain, and the lower the Anglo-Russian boundary, therefore, the less there would be to divide equally between Britain and the United States. That would mean a more southern boundary and, since the chief British aim was to safeguard commercial interest by obtaining the Columbia River, the British Government might hope for a line of demarcation along that river. (1)

Bagot was unable to conclude an agreement with Russia, and it was left to his successor at St. Petersburg, Stratford Canning, to do so. (2) The latter ultimately succeeded in his object on 28th February, 1825, the United States having previously made a convention with Russia governing the terms of the ukase of 1821. The convention between Britain and Russia established the parallel of 54° 40' as the line of boundary west of the Rockies for the territories of the two countries. The Hudson's Bay Company had been consulted in 1824, and they had advised the Government to close with the Russian offer. (3) Canning prophesied that "we shall have a squabble with the Yankees yet in and about those regions/

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1. Enclosed with this letter is a project by Stratford Canning which suggests that the region between 42° and 61° might be open to the subjects of the three powers; that Russia should extend south to 57° with the right to fish and trade down to 55°; that Britain should have from the mouth of the Columbia to the 57th parallel; that the United States should hold from 42° north to the Columbia River with trading rights up to 57°.
 2. See Bagot's last despatch in F.O. 65/143.
 3. Canning to Bagot, 24th April, 1824, quoted in J. Bagot, 'George Canning and His Friends,' London, 1909, p. 265. In drawing up the terms of the convention, "I pressed into my service another hand (that of Lord St. Helens) [Alleyne Fitzherbert, Supra, p. 9] which has not lost its cunning altogether, though thirty-five years have passed since it settled the dispute of Nootka It has been submitted to both the furry and the finny tribes - the Enderleys, the Pellys, and the Barons."

regions. But Russia will be out of it, which is as well for herself as for us - indeed better." (1)

Thus Russia, which might have been a formidable, if uncomfortable, ally of the United States, was dismissed from the contest for possession of Oregon, and the only danger remaining to Britain was that, somehow or other, the United States, her remaining opponent, might obtain 54° 40' as the northern boundary and so exclude Britain from the Pacific completely.

3. Anglo-American Negotiations of 1824.

In July and August, 1823, the American Minister at London, Richard Rush, was instructed by Secretary Adams to treat with Canning upon a number of differences between their respective countries, notably the suppression of the slave trade, commercial intercourse between the United States and the British North American colonies, the fisheries, the completion of the boundary line between the United States and British North America, the debatable questions of maritime law, the Russian ukase of 1821. (2) The Foreign Secretary welcomed the American overtures, and he expressed his hope that " after a lapse the irritation was forgotten, the force of blood would again prevail, and the daughter and mother stand together against the world." (3) He demonstrated his view of the importance of the negotiations by choosing as his representatives William Huskisson, President of the Board of Trade, and Stratford Canning, experienced and successful diplomatist.

When the western boundary line came up for discussion/

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1. Canning to Bagot, 29th July, 1824, J. Bagot, op. cit., 266.
 2. R. Rush, op. cit., II, 85.
 3. Report of speech at Liverpool in 'Morning Chronicle,' on 22nd September, 1823.

discussion the Americans laid claim to all lands watered by the Columbia, arguing that it is a canon of international law that discovery of the mouth of a river carries with it the title to the whole interior watered by the river and its tributaries. Their claim therefore extended as far north as latitude 51°. Huskisson felt constrained to deny the validity of such a claim, whereupon Rush suggested that the whole area should be left open for ten years, provided that during that period Great Britain should make no settlement between the parallels of 51° and 55°, while the United States would agree to make none north of 51°. Had this proposal been accepted, the Americans would have been able to settle south of 51° and, by prohibiting British settlers from entering the same area, they would have been able to put forward the accepted principle of international law that settlement must accompany discovery to give effect to a title. In other words, acceptance would have been tantamount to complete surrender of the British title to the region between latitudes 42° and 51°.

On 31st May, 1824, Canning answered the reports of the British representatives and in the same letter laid down for the first time a well-defined permanent British policy on the Oregon controversy, a policy the points of which remained the basis of all British negotiations almost till the day of final settlement. (1)

Much as Great Britain desires to improve and cherish her good relations with the United States, begins the Foreign Secretary, it cannot be expected that from mere feelings of goodwill and complaisance she should surrender substantial claims, or make important concessions, without receiving/

1. Copies of the letter appear in F.O. 5/191 and F.O. 5/194. Copies of the plenipotentiaries' reports and of Canning's instructions appear in F.O. 5/191.

receiving reasonable equivalents. He professes a "cordial disposition" to complete the boundary line right to the Pacific, though Rush's offer, in view of its reserved pretensions, is to be summarily rejected.

The keynote to Canning's policy is that Great Britain is prepared to treat on the basis of reciprocal concession and convenience because the region is one of growing importance. If Great Britain agrees to the American suggestion to abstain from forming settlements south of 51°, she will be giving up an area within which lies Nootka, and Canning asks under what pretence can the United States ask Britain to give up her claim to a part of the coast for which, when Spain attempted to exclude her in 1790, she successfully upheld her right after running the risk of war. The Columbia, he goes on, is the only great navigable river in the Oregon territory and the whole region is dotted with the posts of the Hudson's Bay Company. The river was surveyed by British officers at the expense of the British Government many years before the citizens of the United States were active there.

The United States' title to Oregon, argues the Foreign Secretary, is weak, resting on any one, but never all, of the following bases:-

- A. The purchase of Louisiana.
- B. The Florida Treaty of 1819 with Spain.
- C. The discoveries and acts of settlement of the Americans themselves.

But these three titles are incompatible one with another, and the United States can base a claim on one only of the three - not on the three together. The recent Message of the/

the President (the Monroe 'Doctrine' pronouncement) contains a principle which Britain rejects "in the most unequivocal manner," inasmuch as Great Britain claims the right to colonise where she will.

Canning then proceeds to examine and dispose of the United States' claims piecemeal:-

A. By the Louisiana Purchase.

The United States imagine that by the purchase of Louisiana they acquired possession of the vast region to which the French had applied the name. The French right was based on the voyages of French-Canadians who followed the course of the Mississippi, forming establishments at convenient intervals along its banks, or explored the forests in its neighbourhood. Louisiana therefore could only have been co-extensive with the Mississippi and its tributaries. Even that is a very generous estimate because the sources of some of the tributaries rise within acknowledged British territory. (1)

B. By the Treaty of 1819.

Since Spain had no settlement north of San Francisco, her title can be based on discovery only. But Britain can contest priority of discovery with Spain because as early as 1579 [Canning, in error, says 1573] English ships went north of San Francisco, and Drake, after receiving/

1. As a matter of fact, both Jefferson and Marbois, who negotiated the transfer, denied that Oregon was included in the cession. In 1712 Louis XIV granted to Antoine Crozat the exclusive right to trade in the region "drained by the waters entering, directly or indirectly, into the Mississippi." Since no tributary of the great river crosses the Rocky Mountains, it cannot be claimed that the grant included Oregon. Crozat's grant, with Illinois, was returned to the Crown in 1717 and the territory remained a French province till 1763, when it was ceded to Spain. Spain retroceded it in 1800, and three years later it was given to the United States.

receiving the voluntary submission of the natives, called the region 'New Albion'. Canning continues not wholly correctly: "All question of title derived from Spanish discoveries to the north of San Francisco was, however, set at rest by the Treaty concluded with Spain in October, 1790." If the United States are determined to assume the Spanish title they must be bound by the restrictions and modifications pertaining to that title.

C. By American Discovery and Settlement.

The American is inferior to the British claim even if discovery is considered independently of settlement. The casual arrival of Gray's ship on an intermediate point of the coast, other parts of which on both sides, if not indeed the particular spot so visited, had been long before known and frequented, can hardly be set against the "expensive and laborious surveys" executed at the charge of the British Government in the years 1777 and 1778.

Regarding the claim based on occupation, continues Canning, there are two distinct branches of inquiry:-

(a) To what extent can the two parties make good their claims to specific areas? The United States have never formed an establishment west of the Rockies, except Astoria, and it was sold to the North-West Company. After peace was signed this post was given back nominally - on a liberal construction of the first article of the Treaty of Ghent. The Hudson's Bay Company still hold that post; the Americans are not there and evidently therefore have no use for it. Indeed, there was a complete network of Hudson's Bay Company establishments connecting the north-west coast with Canada down to 48° or 47°.

(b) Does/

(b) Does territorial possession when vested in one exclude the other? It is impossible to determine precisely a line of demarcation between the territories of the two countries calculated on the basis of their respective claims by right of discovery and occupancy; for an amicable arrangement compromise is essential.

The British plenipotentiaries were accordingly instructed by Canning to propose that the boundary should run along the 49th parallel to the Rocky Mountains, thence by the main northeastern branch of the Columbia into the Columbia itself and thence on to the Pacific. (1)

Britain was thus giving up all her claim to the area between 42° N. and the Columbia, Canning explained, but he conceived that she would obtain a satisfactory return for these concessions by securing the only points of substantial interest to England, that is, the undisturbed possession of the whole country on the right bank of the Upper Columbia, and a free issue for its produce by the channel of that river. In executing their instructions the commissioners were to take great care to provide effectually for this object. If necessary, Britain would not oppose free access, over a number of years, by citizens of each part of the territory to the other part. Thus, for example, the Hudson's Bay Company might be allowed to retain their posts south of the Columbia for the period agreed upon. If the comprehensive proposition just outlined were not entertained, then Great Britain would stand by the Convention of 1818 rather than consider the surrender of "our just claims."

On 29th July, 1824, the British representatives reported the tenor of Rush's reception of the proposition. (2)

Rush/

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1. No. 3, F.O. 5/191. The "main northeastern branch" of the Columbia was called in maps of the period "McGillivray's River," though in present day maps the Columbia is deemed to extend beyond the 51st parallel. See Map in Appendix.
 2. In same, No. 91

Rush was unable to mention a single district west of the Rockies occupied by the United States but at the same time he was obstinate in his defence of the American claim to all land between the parallels of latitude covering the mouth of the Columbia and its tributaries. The farthest he would recede from his position was to agree to accept the 49th parallel instead of the 51st as the northern boundary. Huskisson and Stratford Canning, the English plenipotentiaries, felt it necessary to reject this offer as wholly inconsistent with equity and the 'fair expectations' of Great Britain. The Americans were reminded that the posts of the Hudson's Bay Company already extended more than a degree to the south of the 49th parallel, that the Columbia and the streams falling into it from the north and east (the only outlets for British merchandise) had been habitually navigated by the agents of the Company.

Unfortunately, the positions of the respective negotiators proved to be irreconcilable, and the negotiations were abandoned without result.

4. The Influence of Canning.

Owing largely to Canning Britain's position had been clarified. Her claim west of the Rockies now was for the line of the Columbia and she had therefore given up all between the river and latitude 42°. Her proposal reveals her desire for compromise and her eagerness to settle a question which might prove a source of irritation. At the same time, it is to be noted that the line proposed by Canning would have secured all that was necessary to preserve British interests. Canning's offer was eminently fair to the American claim at that period. Though it was not he who/

who initiated the negotiation of 1824, he plainly saw the necessity for an early settlement; and he made a dignified stand against extreme American pretensions. Before estimating his influence on the conduct of the Oregon controversy, the progress of the question up to the time of his death must be reviewed.

Congress always sought to keep the north-west dispute alive, and in December, 1824, a bill passed the House of Representatives by 113 to 57 votes for the occupation of the Columbia River area. H. U. Addington, who was at that time British representative in Washington, saw a threat to British interests in this vote and, in spite of the fact that it was in no way a breach of the Convention of 1818, he felt constrained to do all he could to ensure its being
(1)
thrown out by the Senate.

Canning, disappointed at the failure of the negotiations in 1824, was resolved to reopen discussion at the first favourable opportunity, and he proceeded to gather data for a fresh attempt at settlement. The agitation in the United States in favour of occupying the disputed area demonstrated the danger - a danger that was ultimately realised - that the Americans would augment their already formidable claim by establishing a title by right of occupation. Not only would this make them more determined in their demands, but it would also make real the danger of local collisions in the disputed area.

He neglected no deposit of information in formulating his policy and naturally therefore was in constant touch with the Hudson's Bay Company. The Governor of the Company was Sir J. H. Pelly, whose first letter to Canning on/

1. Addington's despatch is dated 28th December, 1824, in F.O. 5/186.

on the boundary issue in the Government records - the first in a long, intimate series - is dated 9th December, 1825, though mention is made of previous communications. (1) Pelly, after recapitulating the points of the British argument, indicates the benefits to British manufacturers of the Company's trade in Oregon. He considers the possession of Fort Vancouver and the right to the navigation of the Columbia River to be absolutely necessary to the Company's carrying on to advantage not only the trade of the upper parts of the river, but also that of the interior. (2) A boundary agreement ought to be reached, and the Company would suggest one "starting from latitude 49° at the Rocky Mountains [from which] the Line ought to be continued Southward along the height of land to the place where Lewis and Clark crossed the Mountains, said to be in latitude 46° 42', thence westerly along the Lewis's River, until it falls into the Columbia and thence to the Sea, leaving the navigation of both these rivers free to the Subjects of both Nations." (3)

For the purpose of obtaining more first-hand information of the area and with a view to co-ordinating the Government's policy with that of the Company, a list of questions was prepared in the Foreign Office, on Canning's instructions, for answer by the officials of the Company. The answers were written on 31st December, 1825, and both questions and answers are illuminating. Questions as to the soil and climate of Oregon, the extent of the fur trade, land and water communications, and other natural facilities are asked, and the answers, by comparing the Columbia and Fraser/

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1. The letter appears in G.O. 6/6.
 2. Fort Vancouver had been built to replace Fort George in 1824. It became the Company's chief base in Oregon. See map.
 3. 'Lewis's River' is the modern Snake River. Lewis and Clark had reached the mouth of the Columbia from Louisiana by way of the Clearwater and Snake Rivers.

Fraser Rivers, establish very clearly the importance of the former. On this subject the Hudson's Bay Company's adviser writes in unequivocal terms that if the navigation of the Columbia is not free to the Company, and the territory to the northward is not secured to them, they must abandon and curtail their trade in some parts and probably be constrained (1) to relinquish it on the west side of the Rockies altogether.

Ultimately, the opportunity desired by Canning was presented in 1826 when Mr. Gallatin was sent to London to negotiate a treaty comprehending all questions in dispute between the United States and Great Britain. On the Oregon issue he was instructed to renew Rush's offer of 1824 (the line of the 49th parallel right to the Pacific) with the additional concession of the free navigation of any branches of the Columbia which happened to cross the line at navigable points.

Great Britain, on the other hand, adhered to her former proposition as a basis of negotiation. (2) Canning receded slightly from his former position, however, by intimating that he would be prepared to grant to the United States the use of the harbour of Port Discovery in the Straits of Juan de Fuca, with a radius of land five miles in breadth encircling that harbour.

If this was not acceptable, the British commissioners were authorised to offer, as a final territorial/

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1. The answers were prepared by Mr. (later Sir) George Simpson, who had wide practical experience of the fur trade in Oregon. (C.O. 6/6). "There was no element of the fur trade from the Athabasca Country to the Sandwich Islands, from Hudson Bay to the steppes of Siberia, that he did not acquaint himself with by personal visit. He was a dynamo of energy, tireless at his work, whether at his desk or on the march." F. Merk, "Fur Trade and Empire," Harvard Historical Studies, No. 31, Introduction, p. xviii, London, 1931.
 2. Supra, p. 59.

torial concession, the whole peninsula comprised within lines described by the Pacific to the west, de Fuca's Strait to the north, Hood's Canal to the east, and a line drawn from the southern point of Hood's Canal to a point ten miles south of Gray's Harbour to the south. In addition, free navigation of the Columbia would be granted. On two points Great Britain cannot yield. She could not cede any part of Vancouver Island, which is intersected by the 49th parallel, without the same risk of collision as exists in the system of joint occupancy: nor could she surrender the right to navigate the Columbia because she would thereby deprive her settlers of their main outlet for trade. If the United States rejected this revised and somewhat novel offer Huskisson and Addington, the commissioners, were to propose renewal of the arrangement of 1818 for ten or fifteen (1) years.

An impasse soon developed because the American representatives would not depart from the 49th parallel as their basis of discussion. The detached morsel of land offered by the Foreign Secretary was deemed useless. The English negotiators sought thereupon to secure continuance of the arrangement of 1818 with the saving clause that all claims to exclusive sovereignty should be held in abeyance. Gallatin, however, refused to agree to any restriction of the United States' right to assume and exercise at all times exclusive sovereignty in the disputed territory.

At length, in August, 1827, almost synchronising with the death of Canning, a new convention was signed which renewed/

1. See his letter, No. 1, 10th November, 1826, in F.O. 5/219. Gallatin's offer is discussed in Twiss, op. cit., Chapter XVI. Accounts of the negotiations appear in F.O. 5/219 and 5/230. For the extent of the 'Olympic Peninsula' see map in Appendix.

renewed the arrangement of 1818 for an indefinite number of years but made it terminable by either party at a year's notice.

Canning's attitude had been, as usual, firm and in the best British interests. A letter of his to Lord Liverpool, the Prime Minister, of 7th July, 1826, explains his position. (1) After deploring the blunder of the restoration of Astoria, he expresses the hope that he will be able to retrieve the mistake if the present position is maintained immovably. Retreat will make the cession of Astoria the first of a series of signs of weakness. It must be borne in mind that the Americans' "ambitious and overbearing" views are daily becoming better understood in Britain and that the trade between the Eastern and Western Hemispheres, direct across the Pacific, is the trade of the world most susceptible of rapid augmentation and improvement. In ten years the East India Company's monopoly will expire and "though at that period neither you nor I shall be where we are to answer for our deeds, I should not like to leave my name affixed to an instrument by which England would have foregone the advantage of an immense direct intercourse between China and what may be, if we resolve not to yield them up, her boundless establishments on the North-West Coast of America." (2)

This letter together with his instructions of 1824 illustrate and summarise Canning's policy and, had he lived to carry it to fruition, we may well believe that the line/

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1. To be found in E. J. Stapleton, op. cit., II, 73.
 2. Mackenzie, Thompson, and other pioneers concurred in this view.

line of the Columbia for which he stood so resolutely would have formed the basis of the boundary settlement west of the Rockies. He was the first British statesman to realise fully the importance of the subject and to recognise the possibilities of trade with the Orient by way of the north-west coast of North America. The line he proposed and negotiated for so determinedly was the best possible in view of the retrocession of Astoria. Canning was aware that British interest in Oregon was primarily commercial and was directly represented by the fur traders; it was his policy to encourage and protect that interest. Since 1821, when the Hudson's Bay Company absorbed the North West Company, the former had controlled the fur trade in Oregon. Their method of operation was to establish trading-posts or 'forts' at strategic points in the interior, to which the Indians would bring their furs to exchange them for articles of British manufacture. (1) In this aspect of the trade, therefore, the Hudson's Bay Company assisted British industry. The furs were sent down the Columbia River, whence they were transported to China which provided a lucrative market for them. It is obvious that the success of this trade was largely dependent on the use of the Columbia, the possession or the use of which became, therefore, from Canning's time a sine qua non of British negotiators. He thought of it as the 'St. Lawrence of the West,' and it was deemed to be the only suitable western outlet to the sea in British North America. Canning appreciated the Americans' desire to have the use of the excellent harbours north of the Columbia for their whalers and fur-traders, and this explains his offer of the 'Olympic Peninsula;' but both banks of the Columbia must be retained by Great Britain.

It is true that Canning established a dangerous precedent/

1. For an account of the fur trade see Beckles Willson, 'The Great Company,' London, 1888, or K. Coman, 'The Economic History of the Far West,' 2 vols., New York, 1912, or F. Merk, 'Fur Trade and Empire,' London, 1931.

precedent by offering, for the first time in the negotiations between the two countries, to cede a relatively small area north of the Columbia, but the offer represented a real attempt to conciliate the Americans at a time when it was desirable to settle outstanding disputes between the two countries. Moreover, the Americans had initiated the Oregon discussions and Canning deemed it correct, as a gesture of friendliness, to make a slight recession in British demands. The important consideration is that he perceived the extreme necessity of a speedy settlement.

Canning's general policy towards the United States was to depress the influence of that country in the western hemisphere, and he aimed, therefore, at continuing Pitt's plan of an understanding with the South American colonies which he wished to align with Britain. Whereas, by the Monroe Doctrine, Europe and America were to be absolutely separate and independent of each other, Canning wanted intercourse between the two to be free with the American states playing their part, if necessary, in European politics. (1) He saw Mexico, which he said must "be either subservient to or jealous of" the United States, as the potential counter-poise to the latter, and he believed (2) that any United States' expansion would be towards Mexico. His policy with regard to the north-west coast was therefore governed by his desire to bring Mexico closer to Britain, territorially and in spirit. The Oregon boundary must be as far south as possible to achieve this, and Canning could not contemplate the loss of prestige among the South American colonies that would follow recession from the line of the Columbia.

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1. H. W. V. Temperley, 'The Later American Policy of George Canning,' *American Historical Review*, XI, 779-797, p. 780.
 2. From memo. in Vansittart Papers, written by Vansittart and inspired by Canning, in British Museum, Ad. MSS. 31, quoted by Temperley, p. 781. For Canning's American policy see also, H. W. V. Temperley, 'The Foreign Policy of Canning,' London, 1925, p. 487 ff.

CHAPTER IV

A PERIOD OF DIPLOMATIC INACTIVITY: 1827-41

So far as Anglo-American diplomacy was concerned the Oregon controversy languished for some time after the agreement of 1827. So far as the domestic politics of the United States were concerned, however, the question continued to obtrude itself more and more. True to their traditional tendency to avoid an issue, the British Government and public, fortunately for the ultimate peaceful settlement of the dispute, invariably ignored the high-spirited discussions on Oregon conducted in the United States Congress,

The conciliatory American policy of the Castlereagh era was not so positively maintained after Castlereagh's death and the effect was soon evident. Till 1830 the Tories were enjoying in Britain their long innings of power, and contemptuous dislike of the Americans was common among them. This aristocratic party had not yet forgotten the loss of the American colonies and many regarded the Yankees as traitors. Many English periodicals and magazines of the eighteen-thirties affected to despise and ridicule 'Brother Jonathan' whose culture was so inferior to that of 'John Bull.' Harriett Martineau, for example, retained the old attitude towards American affairs, while Mrs. Trollope's 'Domestic Life of the Americans,' (1832) aroused those feelings of ridicule and scorn which other writers of repute sought to preserve. True, there were exceptions like Cobden, who maintained that "British Policy should be directed more with reference to American conditions than along the ancient lines of the balance of/

of power in Europe," (1) but these exceptions were rare.

Whatever hope there was of a close entente between the two countries disappeared with the concurrence of a number of events immediately following the accession of Queen Victoria. First of all, there occurred the Canadian Rebellion, the leaders of which fled to Vermont and New York and from there conducted a number of border forays into Canadian territory. The United States' Government made no satisfactory attempts to prevent them from addressing public gatherings and recruiting troops. However innocent the Americans were of complicity in these raids, the fact remains that the United States provided the rebels with a safe and accessible refuge.

Trouble arose also over the 'Caroline' incident and much bitterness was engendered by its sequel - the McLeod affair. The 'Caroline' was a ship used to transport men and ammunition to Canada. A number of Canadian soldiers crossed to American territory, seized the 'Caroline', and, directing it towards Niagara Falls, cut it adrift. In a skirmish which accompanied the escapade, an American was killed. Great agitation followed, and the United States' Government demanded redress. Then followed the 'McLeod incident.' In 1840 a Canadian named Alexander McLeod boasted in New York that he had taken part in the 'Caroline' affair and that he had killed a man. When McLeod was arrested Great Britain demanded his release, but this was refused. The incident was not satisfactorily disposed of until the Webster-Ashburton negotiations in 1842.

The United States in the late thirties were suspected/

1. Quoted in W. A. Dunning, 'The British Empire and the United States,' p. 85, New York, 1914. Cf. H. L. Keenleyside, 'Canada and the United States,' New York, 1929. On the problem of the right of search see W. L. Mathieson, 'Great Britain and the Slave Trade,' Chapter I, London, 1929.

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suspected of encouraging Texas to obtain its independence from Mexico, whereas the British Government, prompted by their crusading enthusiasm for the abolition of slavery and their anxiety that Texas should remain as a buffer between the United States and Mexico, feared the acquisition of the region by the United States.

The old question, too, of the right of search continued to agitate the minds of the Americans. In 1841 a treaty was signed by five continental powers conceding reciprocal right of search and agreeing to solicit the concurrence of the United States. General Cass, a leading Senator who later became Secretary of State, instituted a strong agitation against the treaty after it was signed. France's recent failures in Egypt and Syria induced her sympathy with Cass. The latter contended that exercise of the right of mutual search was impossible because one state might have scores of cruisers and another might have only a few. The United States persistently refused to entertain the distinction that Great Britain made between the right of search and the right of visit.

Finally, the Oregon question itself was attracting more attention because, in addition to the discussions in Congress, preparations were being made for American emigration into the disputed territory.

Having regard to conditions prevalent in the period under review(1827-41) therefore, we must conclude that in view of the tenacity with which the rival Governments held their claims in Oregon and the mutual dislike and suspicion of the two peoples encouraged by the series of incidents we have noted, it was perhaps fortunate that no agreement was imperative/

imperative at that time. Yet the British Government might have secured a very satisfactory settlement had they pressed for one, prepared to go to war if necessary, or had they enthusiastically taken up the challenge so often thrown down by Congress. Once American immigration into Oregon had begun, the British position was seriously weakened, and in proportion as it increased in numbers, the maximum British claims lost their chance of realisation.

It will be well to notice also the slight diplomatic progress effected in this period. (1) As early as February, 1829, the British Government had taken cognisance of 'Floyd's Bill' which was introduced in Congress at the end of 1828 authorising the establishment of a fort at the mouth of the Columbia and the organisation of an exploring expedition to Oregon. The erection of such a fort would not, of course, have been a breach of the terms of the Convention of 1827, though it would have violated its spirit. So great was the clamour in the United States, particularly in the west, for the occupation of Oregon, that something had to be done to satisfy public opinion, or at least to calm its noisier element. (2) The British Government, fortunately for the preservation of peace, wisely ignored the agitation, relying on the belief that the better sense of the American people and, in particular, the prudence of the Government would prevail. They understood the anti-British polemics of vote-seeking American politicians; indeed, the British press/

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1. So far as the British public were concerned, Oregon might never have existed. Oregon was of interest only to the Foreign Office, the Colonial Office, and the Hudson's Bay Company.
 2. Many memorials were presented to Congress urging this, and private companies were actually formed for the purpose of organising emigration to the Pacific coast. See a letter of 21st February, 1829, from Backhouse (Foreign Office) to Hay (Colonial Office) in C.O. 6/7.

press at this period very trenchantly derided this peculiar feature, among others, of American politics.

While the agitation for the forcible seizure of Oregon continued in the United States, therefore, and bills for the occupation of the territory were annually presented in Congress during the thirties, the British attitude was generally one of ~~im~~passivity towards American threats to abrogate the Convention of 1827. But this policy of scornful apathy could be carried too far, and while Britain looked on, American immigrants were pouring into Oregon, their presence adding a further complication to the general controversy.

When the Convention of 1827 was signed the Americans had not a single settlement in Oregon, ⁽¹⁾ while the Hudson's Bay Company had many posts scattered throughout the land between 42° N. and the Russian boundary. United States' immigration commenced in 1835, when Methodist ministers with their wives set out overland from Missouri for the Columbia River; by the autumn of 1836 they were established on the river. ⁽²⁾ Their perseverance in the face of tremendous odds inspired others to follow their example, and their glowing reports of the natural wealth of the region and the fertility of its soil prompted considerable numbers to enter it.

The growth in population was at first slow, but the annual spectacle of scores of American families setting out on a long, dangerous journey to new homes in the wilderness had its due effect upon a nation whose love of adventure and patriotic display is proverbial. These heroic pioneers, it was argued, must have the protection of the United States' flag/

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1. See President Adams's Message of 12th December, 1827.
 2. An account of the activities of these missionaries appears in J. Barrows, 'Oregon,' Chapters XV, XVI and XVII, New York, 1886.

flag on their journey, and so the question of establishing military posts along the immigrants' route was mooted in Congress and press. In order that the title to their 'homesteads' might be given permanent validity, an agitation arose for the termination of the agreement of 1827 and for the settlement of a final boundary line between British and United States' territory in Oregon. Congress could make no grants of land till the Convention expired; in consequence of this, the Americans retained their settlements in the southern part of the disputed area.

Petitions were presented to Congress that the protection of the American flag should be extended to Oregon, and by 1838 these had become so numerous that Lord Palmerston, the Foreign Secretary, warned Mr. Fox, the British Ambassador in Washington, that he must not make any communication to the United States' Government upon the bill in Congress to send a military force to Oregon until he was given specific instructions. (1)

With the increase in American attention to Oregon, there was a corresponding increase in British interest, and we find the United States' records of the Foreign Office after 1838 more and more devoted to the Oregon controversy. There is, for example, a noteworthy 'Memo. on Relation between Treaties between United States and Britain and intended Massachusetts Emigration to Oregon,' (2) drawn up in the Foreign Office by Mr. Fox-Strangeways and forwarded to Mr. (later Sir) James Stephen, Permanent Under-Secretary at the Colonial Office. After giving the gist of the Conventions of/

1. Palmerston to Fox, No. 12, 2nd May, 1838, in F.O. 5/321.
 2. In C.O. 6/13, 12th August, 1839.

of 1818 and 1827, the memorandum expresses alarm at the proposed movement in Massachusetts. It is, however, in its annotations by members of the Cabinet that the memorandum carries importance, for these show that some members of the Government at least were alive to the dangers of the situation.

The important Mr. Stephen, for instance, has inserted in pencil his endorsement of Fox-Strangeways's opinion that abrogation of the Convention of 1827 should be in England's interest. Whether his conclusion was drawn from consideration of the policy of his predecessors or was his personal estimate of the best policy to be adopted at that moment, it is difficult to say. Stephen concludes his note with the remark that "It is not stated that Lord Palmerston adopts them [Fox-Strangeways's views]." The general tone of the inter-departmental correspondence - especially the annotations of Ministers like Lord John Russell and permanent officials like Stephen - indicates British policy's being framed to meet the exigencies of the moment; it betrays also the general apathy of the Government upon the Oregon dispute. Although Russell had been in the Government for several years, his marginal note to Sir John Pelly's letter of 2nd March, 1840, addressed to Viscount Palmerston, illustrates his ignorance of the facts of the controversy. (1) In spite of Pelly's warnings the Government refused to be forced into action other than to advise the Hudson's Bay Company to do all/

1. Pelly in this letter expresses alarm at the Senate's request to the President to abrogate the arrangement of 1827, and outlines the services rendered by the Company. They employ over 1,000 British settlers; they have developed the land at great expense to themselves. If the United States' Government carry out the Senate's advice the Company will be ruined and Britain deprived of "the only position on the shores of the Pacific that can be valuable to the Country, either for colonisation or commercial pursuits, while the only safe and commodious harbours on that Coast will be in possession of jealous rival Powers " In C.O. 6/14.

all possible to discourage American immigration into the
(1)
area in dispute.

It is apparent that, in so far as the British Government were interested in the controversy at all, they felt that their hands were tied by the terms of the Convention of 1827. During Palmerston's tenure of the Foreign Office, while nothing was done to encourage the United States' movement for abrogation (rather the contrary was true as his advice to Fox in 1838 (2) proves) no step was taken to counteract its possible evil effects or to replace it by a final boundary settlement. Greville summarised Palmerston's policy thus: "We are all in the right and the Americans all in the wrong, never give up anything, insist on having the things settled, in your own way, and if they won't consent, let it remain (3) unsettled."

The period 1827-41, then, is characterised by three things all of which retarded an accommodation of the boundary controversy. Anglo-American relations were not good enough to justify the opening of negotiations. The dispute was allowed to languish in semi-oblivion so far as the Foreign Office was concerned, and, while the permanent officials of the Government and the officers of the Hudson's Bay Company reflected the influence of Canning in their view that a speedy settlement was most desirable, the Cabinet was apathetic and disinclined to move. The third circumstance, namely, the extensive immigration of American settlers, was developing ominously for Britain; the numbers of immigrants were increasing substantially each year, and the clamour for their protection en route and in their new homes was increasing proportionately.

1. Commander Belcher complained to the Government of the political activities of the American missionaries in Oregon, believing for some obscure reason that they were employed by the Company.
2. Supra, p. 75.
3. II, 126, edition of 1885.

CHAPTER V

EFFORTS OF THE PEEL GOVERNMENT AT SETTLEMENT: 1841-43

1. Preparation of Data.

With the accession to power of Sir Robert Peel, "one of the most wisely peaceful ministers England ever had,"⁽¹⁾ in September, 1841, there was evinced by Lord Aberdeen, the new Foreign Secretary, a desire to end the Oregon controversy along with other outstanding matters of dispute between Britain and the United States.

Aberdeen's first step was to obtain all the existing data on the subject, and so we find the Under-Secretary, Mr. Backhouse, instructed to examine all relevant documents. The position is therefore brought up to date in a memorandum submitted by Backhouse on 28th October, 1841. After a brief review of the terms of the existing treaties and the results of negotiations, the author describes the matter as one of "manifestly vast importance." The disputed area is of easy access to the United States which have a rapidly increasing population and every disposition to meet the demands of settlement by the acquisition of fresh territory. The whole subject may soon be once again one of ardent debate in Congress;⁽²⁾ it is to be hoped that this will occur before the Canadian forces are reduced to their ordinary strength.

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1. G. M. Trevelyan, 'History of England,' p. 684, London, 1926.
 2. "The nation [United States] in the forties was permeated with a sense of power and of destiny that tolerated no suggestion of limit in any direction." Dunning, op. cit., p. 138. For an outline of the 'Manifest Destiny' movement see Part II, 'The San Juan Controversy,' below.

The recent opening of commercial relations with the East inspired in England increased attention to the Pacific coast of America, and the possibilities of Oregon, in view of the rapid extension of steam navigation and the probability of regular passage across the Isthmus of Panama, were greatly enhanced.

The new Foreign Office activity over Oregon in the winter of 1841-42 produced several important letters, notably a series from the Hudson's Bay Company, compiled at the behest of the Government and perused and annotated by the competent expert of the Government, G. M. Featherstonhaugh. Two of these, written by Simpson ⁽¹⁾ to the governors of the Company, dated 25th November, 1841, from Fort Vancouver, and 10th March, 1842, from Honolulu, respectively, are of great moment because they had the salutary effect of increasing the attention and importance attached to Oregon by the British Government, besides serving to stiffen their attitude on the ⁽²⁾ boundary dispute.

The first letter gives a full and exact account of the extent and resources of the Oregon territory, with the remark that the plains between the Cowlitz River and Puget Sound - all connected with the Strait of Juan de Fuca - will become in time as valuable as the Willamette Valley which the Americans call the 'Eldorado of the Northern Pacific.' ⁽³⁾ The prosperity of this region surprised Simpson, who found it peopled by about 350 Canadians and 150 Americans and nearly 1,000 Indians.

The second letter contains mention of an interview which/

1. See p. 63, footnote, supra.
 2. The first letter is to be found in F.O. 5/397, and the second in F.O. 5/388. Copies of both appear in the 'American Historical Review,' XIV, 70-94, with an introduction by J. Schafer.
 3. See Map in Appendix.

which the writer had had with Lieutenant Wilkes, who had been sent to Oregon on an exploring expedition by the United States' Government. Wilkes made it clear to Simpson that he had formed a high opinion of the strategic value of the Oregon territory, particularly of the harbours in and near the Strait of Juan de Fuca. Simpson's letter concludes, therefore, with expression of the hope that "you [Pelly] will urge H. M. Government not to consent to any boundary which would give to the United States any portion of the territory north of the Columbia River, as any boundary north of that stream would deprive Great Britain of the only valuable part of the territory, the country to the northward of the Straits of de Fuca not being adapted for agriculture or other purposes connected with colonisation."⁽¹⁾

Lord Aberdeen's desire to adjust all disputes with the United States, the spread of interest in the controversy, and the successful termination of the war in China concurred in impressing the need for a settlement. The policy of the Foreign Secretary, "the most ladylike member of the government,"⁽²⁾ was always pacific, and he hesitated to allow the Americans to abrogate the Convention of 1827 without making some effort towards an amicable adjustment of the whole dispute. The period of Aberdeen's tenure of the Foreign Office, therefore, extending from September, 1841, to/

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1. Pelly dispatched these letters to the Foreign Office, and after consideration of them by the Cabinet, Aberdeen asked the Admiralty to send a ship from time to time to the Columbia to protect British interests there and to obtain first-hand information about the region. The officer in charge was instructed not to interfere with the settlers of whatever nationality, nor was he to assert for Great Britain an exclusive claim to any portion of the territory. Addington (Foreign Office) to the Admiralty, 7th February, 1843, in F.O. 5/399. The 'Thalia' was sent from Bombay to the Columbia at the end of the year. See also Addington to the Admiralty, 18th October, 1843, in F.O. 5/402.
 2. P. Guedalla, 'Palmerston,' p. 253, London, 1926.

to July, 1846, was by far the most important one in the progress of the dispute, and it was a remarkable coincidence that his demission of office synchronised almost to the day with his successful conclusion of the whole affair - a settlement due in very large measure to his ability, patience, and perseverance.

2. Lord Ashburton's Mission: 1842.

On 8th February, 1842 (two weeks after the receipt of Simpson's letters), Lord Aberdeen commissioned Lord Ashburton to go to Washington to negotiate and conclude arrangements for the settlement of outstanding disputes between the United States and Great Britain. ⁽¹⁾ These were the north-eastern boundary, the north-western boundary, Oregon, the 'Caroline' affair, and the right of search.

Congress were again considering the abrogation of the Convention of 1827, and Ashburton was accordingly instructed to propose a line of boundary "commencing at the mouth of the Columbia River; thence by a line drawn along the middle of that River to its point of confluence with the Great Snake River; thence by a line carried due East to the Rocky or Stony Mountains; and thence by a line drawn in a northerly direction along the said Mountains until it strikes the/
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1. The wisdom of this step was attested by Sir Charles Bagot, who was so well qualified to estimate the temper of the American people. His letter addressed to Lord Stanley, the Colonial Secretary, is to be found in C.O. 42/490. "American Settlements", he writes, "are rapidly increasing on the Western side of the Rocky Mountains, and if Great Britain delays only for a few years to plant there a population connected with herself and attached to her Institutions, she will find herself extruded completely from the Country by her more active competitors I would, therefore, most earnestly recommend that Her Majesty's Government should at once decide on the course to be pursued by them, and act on it without delay, and thus anticipate the pretensions which will otherwise be put forward by the United States."

the 49th parallel of North Latitude. The Southern bank of the Columbia River would thus be left to the Americans, and the Northern bank to the English; the navigation of the river being free to both."

In the event of this proposal being rejected, Lord Ashburton was to propose a line starting from the point where the 49th parallel strikes the Rockies and running along that parallel to its intersection with the Kootenay River, thence along that river to the Columbia and thence to the Pacific. But he was to reject the proposal, formerly made by the United States, if it was repeated, of establishing the 49th parallel as the boundary right to the Pacific. If it was impossible to arrive at a settlement and the United States insisted upon abrogation of the existing Convention, their representatives were to be informed, as they had been in 1824 under similar circumstances, that any attempt to dispossess by force the British occupants would be considered a 'manifest infraction' of the rights of Great Britain.

Ashburton's reception in the United States presaged well for the success of his mission. He was conversant with the difficulties in his way and he was a very able negotiator. (1) That his judgment was good we have evidence in his reflections on the slave trade, the right of search, the 'Caroline' case, and the Maine boundary. He correctly gauged American opinion on Oregon when he saw that the United States were looking in that direction for a harbour on the Pacific. The mouth of the/

1. " the minister of the day is frequently deterred from doing what he approves by the scrutiny of a lower description of public opinion than that which influences opinion in any other parts of the world and of which all men, holding or seeking office, stand dismally in awe." Ashburton to Aberdeen, No. 2, 25th April, 1842, in F.O. 5/379. See F.O. 5/378 for the instructions given to Ashburton. The negotiation was conducted on the United States' side by Daniel Webster, the Secretary of State.

the Columbia was barred, and they were therefore seeking a suitable port to the north of it.

President Tyler was an expansionist and conceived the idea of making use of British influence in Mexican counsels to gain Northern California in return for a minor concession on the Oregon dispute. He was prepared to agree to the line of the Columbia to its junction with the Willamette, whence a line should be drawn northwards to Puget Sound. This would secure for the United States the very important harbours on the Sound. Webster suggested, therefore, that Britain might use her good offices to secure the Mexican port of San Francisco for the United States. (1) This proposal, however, was not accompanied by a suggested line of demarcation in Oregon, and Tyler's line was never actually put forward.

Ashburton very wisely considered this a good opportunity for Britain to secure the boundary she desired; if Mexico made a voluntary transfer to the United States, Britain could not interfere; if the Americans attempted a forcible seizure, she would be unlikely to intervene; would it not be wise, therefore, for Great Britain to avail herself of the American ambition to secure San Francisco for the purpose of reaching a satisfactory settlement of her own boundary difficulties with the United States? He concluded - unfortunately in error - that the Americans were unlikely within any reasonable period of time to make any considerable lodgment on the Pacific, and he felt that the Indians, who were naturally hostile to them, were in too great force there to/

1. Possession of San Francisco would have been of inestimable value to the United States. It would have given them a footing in fertile, mineral California, besides the best port on the Pacific, six weeks closer to China than any of the British ports. The Americans were very anxious to secure it. President Tyler, in December, 1842, instructed his minister to Mexico to urge its cession to the United States. See the 'National Intelligencer,' (United States), for 3rd January, 1843.

(1)

to make permanent settlement possible.

Ashburton's views must have greatly encouraged Britain's unfortunate failure to colonise Oregon. British policy at this period was opposed on general principles to further colonisation, the colonies being considered an intolerable burden. Indeed, instead of acquiring new territory, the Government actually gave consideration to the proposal to free unprofitable colonies. The Hudson's Bay Company were opposed to colonisation of the Pacific coast because they were a trading, not a land-developing, organisation; moreover, as Simpson's despatch above shows, they hesitated to colonise the country lest such an action might attract the Americans to it. Ashburton's ideas were based, of course, on the mistaken notion that Oregon was inaccessible to the United States, a notion which displayed lack of appreciation of American enterprise and perseverance as well as of the expansionist propaganda of the Democrats.

At this point in the negotiations (June, 1842), the Wilkes exploring expedition returned from Oregon and confirmed the view that the Columbia was dangerous to navigation; the expedition also established the excellence of the ports to the north. Wilkes enumerated the arguments against the line of 49°: a large area is affected; acceptance of the line of the 49th parallel would, by giving up command of all the water routes, place all south of 49° at the mercy of the nation possessing north of it; the line of 49° gives up what must become one of the great highways to the interior - the Fraser River; giving up all Vancouver Island means surrendering the navigation of the Strait of Juan de Fuca; finally, and most important of all, it means losing five important/

1. Ashburton to Aberdeen, No. 2, 25th April, 1842, in F.O. 5/379.

important harbours which offered everything that could be desired as safe and good ports for naval establishment. (1)

Tyler and Webster at once changed their opinions; in the face of the Wilkes Report they could not in any way contract the American claim; thenceforward, therefore, they insisted on the 49th parallel as the final boundary in Oregon. Ashburton had to write home that Wilkes's return had blasted his hopes of settling the Pacific coast boundary dispute. (2)

Ashburton did ultimately succeed, however, in settling the pressing controversy over the north-eastern boundary; so that his mission was by no means fruitless.

3. Difficulties in the Way of Settlement.

In the United States discussion of the controversy continued and increased in volume, for it was kept alive by anti-English politicians and aggressive westerners who resented the prosperity of the Hudson's Bay Company. The great danger was that hasty and prejudiced opinions and declarations might be made in the United States, which would more than likely/

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1. A copy of Wilkes's Report to the Secretary of the Navy, sent to the Senate on 1st July, 1842, but not printed until 1911 appears in the 'Oregon Historical Quarterly,' XII, 269-299. Wilkes's account of his exploring party appears in C. Wilkes, 'Narrative of the United States Exploring Expedition,' Philadelphia, 1845, notably Chapters 9-14, Vol. IV.
 2. No. 10, to Aberdeen, 29th June, 1842, in F.O. 5/379. "The public is at present busy with this subject and little in a temper for any reasonable settlement." A private letter from Lord Ashburton in the Aberdeen MSS. in the British Museum suggests that Webster kept the Oregon Question open in the hope that he would himself be sent to England as special emissary to settle it. At any rate, the Senate, in Ashburton's opinion, would never have ratified any proposition consistent with his instructions which he might have made. "I have a bad opinion of the good faith of the party likely to be in power and they must be treated accordingly." It would be inadvisable in the existing state of American politics, with 'expansion' on the lips of everyone, to make any concession, lest no treaty be made and the concession used in future negotiations as a basis of discussion.

likely find an echo in England.

The Peel Government remained anxious to adjust the Oregon difficulty, and Mr. H. S. Fox, the British Minister at Washington, was on 18th October, 1842, instructed to suggest to the President the despatch of a special mission to England to end the controversy. Tyler merely played with the idea, however, and used it for his own ends. The United States' Secretary, Mr. Webster, informed Fox, when the latter opened the subject on 14th November, that a special mission was to be sent to end the dispute and to arrange a tripartite agreement between Great Britain, the United States, and Mexico, whereby the last-named should cede to the Americans a part of California containing the port of San Francisco. ⁽¹⁾ The mission never materialised, and it is doubtful if Tyler ever genuinely entertained the idea of sending it. At any rate, Webster, who would likely have conducted the mission, fell into disfavour with the American people who alleged that he had sacrificed American interests in concluding the treaty with Lord Ashburton. ⁽²⁾ Tyler, therefore, did not venture to seek ⁽³⁾ from Congress an appropriation for the mission.

The general scheme of the United States' Government at this time seems to have been to convey to their people the impression that they were doing all in their power to bring about an agreement on Oregon, while the British Government were deliberately pursuing a policy of procrastination and/

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1. Fox reported this in a despatch marked 'Confidential,' dated 24th February, 1843, No. 20, in F.O. 5/391.
 2. Webster and the President had failed to obtain concessions which they had pretended to have secured, and when discussion of the 8th Article of the Treaty began in the Senate the true state of affairs became apparent.
 3. Aberdeen persisted in hoping for the appointment of the special mission for a long time, and in the autumn of 1843 he still hoped for its dispatch. See his No. 5, 18th August, 1843, to Fox in F.O. 5/390. Tyler confidentially consulted the Committee of Foreign Affairs of the House of Representatives, and they advised against any appropriation.

and obstruction. A deliberate attempt was made by Tyler in his Message of 5th December, 1842, to suggest this by stressing his desire for settlement of the Oregon controversy and at the same time omitting all reference to the British proposal of the preceding August. His obvious intention was to let it be thought that all initiative was confined to the Americans; (1) Fox had to report that the desired effect was obtained.

Bills for the occupation of the Oregon territory continued to be introduced periodically, and Lord Aberdeen's first experience with this form of American activity was evidently alarming to him. Palmerston had ignored the debates in Congress upon similar bills, possibly because he was prepared to take adequate military measures if Congress passed one of them. Aberdeen, on the contrary, could not ignore the new bill of January, 1843, in which he saw a menace to peace and possible controversial settlement; consequently, he urged Fox to remind the Secretary of the terms of the Convention of 1827 and of the recent British proposal. (2) If the reminder was ignored Fox was to inform the Secretary that Great Britain would take the necessary steps to safeguard her interests. At the same time, Fox was to use his influence with those members of the Senate whom he could approach to explain the British attitude and exhort them, by pointing out the danger to peace if the bill passed, not to support it. The bill actually passed the Senate by a majority of two and was thereupon sent to the House of Representatives. The latter referred it to its Committee on Foreign Relations which on 3rd March recommended its rejection.

Other circumstances inimical to agreement on
Oregon/

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1. Webster's explanation of the incident was weak. He explained that that part of the President's Message which concerned Oregon had been written before the British proposal was made. See Fox's No. 20, 10th March, 1843, in F.O. 5/391. Webster and Tyler did not get on well together, a fact which may have had some influence.
 2. Aberdeen to Fox, No. 5, 3rd February, 1843, in F.O. 5/390.

(1)

Oregon were accumulating to increase Aberdeen's difficulties. The indifference of the British public towards the dispute facilitated his initial efforts to obtain a settlement, the general English lack of interest in American affairs contributing to allow him freedom in outlining a policy. But the American negotiators were not so free to act. Without the probability, amounting almost to certainty, that their maximum demands would be met, they had neither the liberty nor the desire to make a move. Besides the difficulties we have noted - American dependence on public opinion, political peculiarities, the aggressive policy of representatives from the western states, the readiness of the President to misrepresent the British efforts at solution and to use the negotiations to increase his personal prestige - two other thorny matters presented themselves.

The first of these was the Irish policy of the British Government. The United States' press was overwhelmingly pro-Irish, and in the summer of 1843 sympathy with the movement for Irish Repeal - which had for some time lain dormant - was revived. (2) Associations were formed throughout the Union, and Tyler himself addressed a branch in New York. The revival was but temporary and ephemeral but so long as the source of the trouble remained the agitation was likely to be resuscitated whenever convenient. The general result was to inflame the American public mind and prepare it to receive and foster the most extreme claims in Oregon. (3)

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1. Thus in March, 1843, many Senators voted for Linn's Oregon bill because its passage meant that Linn, whose only means of livelihood was politics, would be elected Senator for Missouri. See Aberdeen's memorandum in F.O. 5/418.
 2. Fox noted the revival and reported it to the Foreign Office in his despatch, No. 81, 13th June, 1843, in F.O. 5/391.
 3. O'Connell's speech at the Corn Exchange, Dublin, in July, 1843, did much to counteract the adverse influence of these Repeal associations. O'Connell denounced the institution of slavery and rejected the assistance, moral and financial, of a people who tolerated and defended it.

4. Texas and Oregon.

The second of the thorny matters mentioned above, one which was directly concerned with Oregon, was the situation in regard to Texas where developments were producing further obstacles to mutual trust and confidence.

Texas had become virtually independent of Mexico after the battle of San Jacinto in 1836 although Mexico did not recognise the independence. Annexation to the United States was widely mooted both in Texas, where in 1830 there were over 15,000 Americans, and in the United States, particularly in those states where slavery was practised. These saw the menace to slavery of the movement for its abolition, to the support of which Lord Aberdeen had committed Great Britain, and they sought to counteract its development by incorporating slave-holding Texas in the Union. (1) England, although she had recognised Texan independence in 1840 when its achievement had become inevitable, naturally opposed the annexation, and her influence in Mexican counsels assisted her in maintaining her attitude. It was her policy, then, to guarantee independence in the belief that she would thus counter the American movement for annexation. Her efforts to carry out this policy were obviously open to misrepresentation. Thus it was generally believed in the United States that British recognition of Texan independence and her influence in Texas, directed towards defeating and nullifying the movement for annexation, were prompted solely by dictates of ambitious self-interest and ulterior, unworthy motives. This quickened the expansionists, and consequently in April, 1844, a treaty providing for the annexation of Texas was drawn up. The Senate, however, rejected the treaty, and it was not until late/

1. The influence of Texas in diplomacy is discussed in G. L. Rives, 'The United States and Mexico,' 2 vols., New York, 1913, II, Chapters, XXVIII - XXXI.

late in 1845 that Texas entered the Union by act of legislation.

American agents like Duff Green, a newspaper editor whose opinion carried more weight with the President than the despatches of the accredited Minister, Edward Everett, were wrong in their attempts to divine Great Britain's policy with regard to Texas. Green, for instance, wrote from London in August, 1843, that England was prepared to forward a substantial loan to Texas in order to prevent annexation. President Tyler took this to be part of a general British plan to abolish slavery throughout the world in order to retain Britain's commercial supremacy against states employing slave labour. (1) British official correspondence proves that the President's views were unjust to the British Government. Lord Aberdeen specifically denied any occult design in urging upon Mexico speedy recognition of Texan independence beyond the natural interest attaching to the general extension of British commerce. Britain used her influence with Mexico, he admitted, simply to secure from Texas as a quid pro quo, in return for recognition of her independence, the abolition of slavery in Texas. But Britain would not interfere unduly with either Texas or Mexico. She desired to see the independence of Texas finally and formally recognised by Mexico, but this desire did not arise from ambition or self-interest. Britain's objects were purely commercial, and she had no thought or intention of seeking to act, directly or indirectly, on the United States through Texas. Though she wanted to see slavery abolished, she would neither openly nor secretly resort to any measures which might tend to disturb the internal tranquillity or affect the prosperity/

1. For a full definition of Tyler's policy and views see J. S. Reeves, 'American Diplomacy under Tyler and Polk,' New York, 1907, p. 130.

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perity of the United States.

The influence of this clash of interests in Texas upon the progress of the Oregon controversy is obvious inasmuch as the acquisition of free Oregon would be sought by the abolitionists as a counterpoise to a slave-holding Texas. Its influence upon the relations between the two countries is also apparent. An independent Texas would interfere with the United States' expansion westward, and would be fatal to the achievement of all that was involved in the idea of 'Manifest Destiny.' The annexation of Texas would be a measure of self-protection on the part of the United States against the encroachments of Great Britain which, by obtaining an influence over Texas, might dispute with the United States the commercial and naval supremacy of the Gulf of Mexico.

If Texas gave up slavery she would become an object of incitement to slaves in the United States; if she remained a slave-state, on the other hand, the southern bloc would be consolidated in the inevitable conflict over the slavery issue. Only annexation to the United States would furnish a satisfactory solution so far as the Union was concerned and, in spite of the clear and unequivocal nature of Aberdeen's definition of British policy, the average American believed that Great Britain stood in the way of annexation. Texas must be annexed to the Union in order to protect the slave interests of the southern states, so threatened by Britain's advocacy of abolition in Texas.

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1. See Aberdeen to Pakenham, No. 9, 26th December, 1843, in F.O. 5/390. Cf. Aberdeen to Wellington, 2nd March, 1845, in Aberdeen MSS. in British Museum. Pakenham was instructed to show the despatch of 26th December to the Secretary of State, who unfortunately did not publish its contents.
 2. J. C. Calhoun, later Secretary of State, was the leader of a formidable party which expounded these views.

CHAPTER VI

A CRISIS APPROACHES

1. Pakenham's Negotiations: 1843-44.

The urgency of the matter and the need of a speedy settlement were impressed upon the Government by the letters of private individuals who had personal experience of the Oregon territory. Thus, the eminent geographer and sole surviving pioneer of the 18th century, David Thompson, was at great pains to put the Government on their guard against American claims. He wrote to the Prime Minister, the Colonial and Foreign Secretaries urging an early agreement; after enumerating the wonders and excellences of the territory - its temperate climate, tremendous pines, myriads of salmon, naturally fortified harbours, and other attractive features - he states that the line of the Columbia should be insisted upon. (1)

There is also a letter from Sir George Simpson to the Company which makes a similar demand for a speedy settlement. The Americans are gaining ground rapidly and Dr. White, an agent of their Government, wants to choose a governor for Oregon. It is now, therefore, more than ever desirable that the boundary question should be entirely disposed of. (2)

These representations and others like them, along with the developing complications of the political situation, spurred/

1. Thompson's letter, dated 21st July, 1843, is in F.O. 5/401.
2. 21st June, 1843, in F.O. 5/401.

spurred the Foreign Secretary to action. While he was discussing with the Prime Minister, Sir Robert Peel, the steps to be taken, the United States' Government took the initiative in the reopening of negotiations, and the fact that both sides were thus keen in the autumn of 1843 to solve the Oregon problem was an excellent augury for the success of their efforts. Daniel Webster had resigned as Secretary of State in May, 1843, and had been succeeded two months later by Axel P. Upshur. On 9th October the new Secretary dispatched lengthy instructions and full powers to negotiate a settlement to the American Minister in London, Edward Everett.

In recapitulating the bases of United States' claims to Oregon, namely, discovery, exploration, the voyages of American navigators, the Lewis and Clark expedition, the rights transferred from Spain, and the settlement and restoration of Astoria, the despatch submits that the "exclusive right of the United States to the whole territory between the 42nd degree of latitude and the parallel of 54 degrees 40 minutes is believed to be now susceptible of very satisfactory proof." (1) For the first time the claim through contiguity is formally adduced. The Oregon territory lies contiguous to the United States' settled country, and is a mere extension of their acknowledged boundaries. "The natural spread of our population must cover it, without any direct effort, on our part, to settle or colonise it. It is important to our peace and security that it should belong to us." As the Union spreads westward, access to the Pacific is imperative while, on the other hand, possession of the area in dispute is of slight importance to Britain, particularly since the fur trade has markedly declined. In a sincere desire "to preserve the existing harmony between the two countries" the President/

1. American State Papers, Foreign Relations, VI, 662.

President will consent to equitable compromise. He is not prepared to go further than conceding the line of the 49th parallel, together with the right to navigate the Columbia. He will negotiate either in London or in Washington.

In the meantime, however, Peel and Aberdeen had decided to recall the Ambassador at Washington, H. S. Fox, who in their opinion was "not calculated by his manners or habits to smooth difficulties," and to replace him by Mr. (1) (afterwards Sir) Richard Pakenham. When Everett sought, therefore, to open negotiations he was informed by Aberdeen of Pakenham's appointment, and, though he continued to exert considerable influence upon the Foreign Secretary's policy, the scene of negotiations was transferred to Washington.

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Pakenham was to propose the line of boundary suggested by Britain in 1826 because it was obvious that a proposition of that kind once submitted must always involve the practical difficulty of subsequently assuming any less extensive basis of negotiation. If this proposal was rejected, he was to offer any other port south of 49° on the mainland or Vancouver Island that the United States might desire. In the event of that being refused also, he was to offer to make all ports free south of 49°. Arbitration was the next alternative, and if that failed Pakenham should suggest renewal for ten years of the Convention of 1827. Failing that, he was to express his regrets and drop the whole negotiation.

There was now little chance of the boundary line proposed - Canning's of seventeen years before - being considered acceptable to the Americans because of their newly-found, wider imperial aims; expansionism was now in full efflorescence./

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1. Pakenham was gazetted on 14th November, 1843, but did not arrive in Washington until the following February. For Peel's opinion of Fox see Peel to Aberdeen, 31st August, 1843, in Peel MSS., 40453 (British Museum).
 2. Supra, p. 63.

efflorescence. The bill (Atchison's) introduced in December, 1843, for instance, for the occupation of the Oregon territory, was even more presumptuous than its predecessors inasmuch as it sought to extend United States' jurisdiction over all Oregon as far as latitude 54° 40'. Nor had the tone of the United States' Government improved because Tyler's Message of the same month contained, in respect of Oregon, the same mis-
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representation as that of the previous year.

Besides the Atchison Bill in the Senate, a bill was introduced in the House of Representatives by Mr. Hughes of Missouri providing for the organisation of the Government of Oregon and the construction of a road to the Columbia River. Further, the American citizens of the Oregon territory drew up and presented a petition for a definition of the boundary. Fortunately for the cause of peace, there was a party in the United States which argued that time was on the American side; by allowing the peaceful occupation of Oregon and encouraging immigration into it the Government would be co-operating in a movement through which, in the course of a few years, the territory would become overwhelmingly American; Britain, to assert her claim, would have to resort to war which would outrage and unite American sentiment, if it were not, indeed, impossible for her to contemplate war at all. Americans of the highest integrity, of the type represented by Calhoun and Choate, belonged to this school, and their influence was invariably in favour of peace.

On 28th March, 1844, Secretary Upshur was killed and succeeded by J. C. Calhoun, the leader of the Fabian party just mentioned. As a matter of policy, therefore, Calhoun sedulously/

1. Supra, p. 85.

sedulously avoided discussion of the Oregon question with Pakenham, and the latter suspected that the Secretary had some sinister design in mind; at the same time, he felt that he would not be justified in forcing the matter contrary to Calhoun's expressed desire. (1) The presidential election campaign intervened to provide a further reason for delay, and it was not until the end of August, 1844, when Calhoun returned from a vacation in the south, that he intimated his readiness to treat on Oregon. (2)

The first conference was held on 23rd August, when expressions of mutual regard and desire for settlement preceded the actual parley. Pakenham, in accordance with Lord Aberdeen's instructions, proposed the line offered in 1826 together with control of any port on Vancouver Island. This was summarily declined, Calhoun giving the British Minister to understand that his minimum concession would be the line of the 49th parallel with the possible addition of Vancouver Island to Britain and the recognition of a free Columbia River. Pakenham understood by this time the obstinacy with which the Americans would assert their claims, and he wrote home corroborating Calhoun's view that the Senate would not sanction any line south of the 49th parallel. It became Pakenham's considered opinion that the American Secretary had formed rather high expectations as to the length to which Britain would be likely to go in the way of concession for the sake of getting rid of this troublesome dispute. (3)

Aberdeen's private opinions at this stage of the controversy/

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1. He seems to have suspected that the Americans might send a secret naval force to the Pacific with a view to the forcible seizure of Oregon. See his despatch, No. 47, 13th May, 1844, in F.O. 5/405.
 2. Pakenham's No. 99, 29th August, 1844, in F.O. 5/407.
 3. Idem.

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controversy may be culled from the Peel MSS. A letter to Peel, dated 25th September (that is, written almost immediately upon receipt of Pakenham's No. 99), expresses the opinion that the Americans would not be brought to concede more than the line of 49° with Vancouver Island. Such a line, with all harbours within Puget Sound down to the Columbia free to both countries and navigation of the Columbia free to both also, would constitute a most advantageous settlement. The only alternative would be arbitration, though Great Britain would probably receive less by arbitration than the above; but whether more or less, the Government would be released from all responsibility. (2)

These terms did not differ greatly from those ultimately agreed upon, and they were merely a development of Aberdeen's earlier views when he thought that arbitration would almost certainly be the eventual solution of the problem. It is probable that the Cabinet, with one or two exceptions, notably the Duke of Wellington who favoured a bold stroke for the line of the Columbia, put its faith in arbitration. (3)

Calhoun followed up his rejection of the latest British offer with a statement of his country's claims through France, Spain, and settlement, and at the same time he did not fail to stress the comparatively new claim of contiguity, that is, the claim founded on "its great increase [in population]", especially in the valley of the Mississippi, as well as the greatly increased facility of passing to the territory of/

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1. British Museum, 40454. Aberdeen's private papers show that at least as early as March, 1844, he was prepared to accept, if offered by the United States, the line of 49° with all Vancouver Island, free navigation of the Columbia and free access to the ports south of 49°. His great difficulty at that time was to reconcile the nation to abandoning the Columbia River as line of demarcation.
 2. Ibidem.
 3. Peel, at any rate, "inclined to arbitration," as his private correspondence testifies. See his letter to Aberdeen of 28th September, 1844, in the Peel MSS. The Foreign Secretary was given a very free hand in the Oregon negotiations; see Greville, *passim*.

of more accessible routes; and the far stronger and rapidly swelling tide of population that had recently commenced flowing into it." (1) The discovery of a new pass at the head of the La Platte had brought Oregon very close, and scores of Americans were pouring into it every year.

Pakenham answered this statement with customary recapitulation of British arguments. (2) He had two alternative proposals - arbitration (3) and failing that, renewal (4) of the agreement to joint occupation. Neither was likely to succeed because even "England's friends in the Senate" disliked settlement by arbitration, while "the clamorous party/

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1. From Calhoun's statement, enclosed in Pakenham's despatch, No. 103, 12th September, 1844, in F.O. 5/408. A perfect right of contiguity is "the right which a nation enjoys to exclude all others from a territory, the command of which, though it be not actually within her occupation, is essential to the convenience or to the necessity of her real possessions." There is also an imperfect right of contiguity which is "a mere preferable right, to acquire by settlement a complete title to lands not actually settled, and not essential either to the safety or to the convenience of existing settlements, but geographically connected with them." - 'Edinburgh Review,' for July, 1845, pp. 238-265.
 2. Copy in F.O. 5/408. Pakenham's private views appear in a 'Private and Confidential' letter to Aberdeen of 29th August, 1844, in the Aberdeen MSS. ff. 1-53. The Americans will cling to the line of 49°; if indeed they do not claim something beyond it in order to strengthen that portion as an alternative. Calhoun said that if Britain agreed to the 49th parallel his Government might surrender Vancouver Island. This was the most so far conceded by the United States, and if to it had been added the minor concessions of free navigation of the Columbia and the use of the ports between that river and the 49th parallel, the situation anticipated by Aberdeen in his private letter of 4th March (above) would have arisen.
 3. As advised in Aberdeen's despatch, No. 45, 1st November, 1844, in F.O.5/403.
 4. As advised in his despatch, No. 47, 18th November, in F.O. 5/403. Arbitration was not a wholly successful method of adjustment, as England had found in the North-east boundary dispute with the United States, the latter refusing to accept the award of the arbiter. The United States' view regarding arbitration was that compromise by negotiation was a possible and definitely preferable method of settlement. See in this connection also infra, pp. 142-43.

party there", which sought a summary method of settlement, was strong enough to defeat any attempt to renew the Convention of 1827. ⁽¹⁾ Pakenham was unable to report progress, therefore, and the imminence of a Presidential election meant the shelving of the question for the time being.

2. The Position with Regard to Mexico and California.

The question of Mexico and California was closely interwoven with that of Oregon, and developments with regard to the former were likely to hasten a crisis over the latter. During the 'forties the possibility that Great Britain and the United States would become involved in war as the result of a clash of interests in Mexico was very real. In brief, British policy sought to use all lawful means to prevent the annexation of Texas and California to the United States. The Americans, on the other hand, dominated by the influence of 'Manifest Destiny', considered the acquisition of these areas to be inevitable.

In the case of California as in the case of Oregon, Lord Aberdeen desired settlement by negotiation; his policy was to see what happened to Oregon before deciding what to do about California, and, as a corollary, he must make sure that Mexico did not commence hostilities against the United States prematurely. ⁽²⁾ "All the calculations of Mexican agents and their fond hopes of foreign aid rested entirely upon the result of the pending negotiations over the Oregon question." ⁽³⁾

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1. "It is evident that they all expect that England may in the long run be teased [sic] and worried into a compromise more advantageous to this country than could be obtained by the decision of an impartial arbiter." Pakenham's No. 140, 29th December, 1844, in F.O. 5/409.
 2. G. L. Rives, 'The United States and Mexico,' p. 99, New York, 1913.
 3. Rives, op. cit., p. 101.

The Mexicans were depending upon a breach between Great Britain and the United States over Oregon; their policy, therefore, was to defer action and prolong negotiation until the hour of alienation. Mexico had threatened to declare war if Texas were annexed to the United States but, when in October, 1845, the people of Texas by popular referendum accepted annexation, the Mexicans did nothing.

The cession of California to Great Britain had been mooted at different times, and British holders of Mexican bonds before 1840 had acquired the right to possess lands in Mexican territory. Upper California was a very valuable area, and the various British consuls scattered throughout its extent never lost an opportunity to advocate its acquisition by their Government. Pakenham was fully alive to the value of the region, with its commanding position on the Pacific, its harbours and forests, and when British Minister to Mexico he had written home in the autumn of 1841 advising an arrangement with Mexico to allow the establishment of British settlements in upper California. ⁽¹⁾ Indeed, interest in California's future seems to have been very great in the early 'forties. The country was in the hands of a few 'indolent Spaniards,' and had an entire population of less than 7,000. Yet it was capable of supporting millions. Conditions were favourable to British seizure inasmuch as the Government were notoriously ignorant and dissipated, while the Americans were hated by ⁽²⁾ the natives.

Palmerston might have done something to effect the acquisition of such a desirable region, but shortly after receipt of Pakenham's despatch he was replaced at the Foreign Office by Lord Aberdeen. The Peel Government were torn between/

1. *Idem*, p. 47.
 2. Cf. Simpson's views in his despatch to the Company, 10th March, 1842, copy in F.O. 5/388.

between a desire to acquire California and reluctance to increase Britain's responsibilities in a new, comparatively unknown country. On the one hand, the 'hungry 'forties' were a period during which the importance of emigration seemed vital to England. Excess of capital and population had lowered the value both of money and labour, with corresponding distress among the middle and lower classes. Emigration was a double benefit; it gave relief and ultimately comfort to the emigrants and created increased demand for employment of those who remained. On the other hand, the recent rebellion in Canada and the troubles along the United States' frontier, together with other manifestations of colonial unrest, convinced Peel and his Cabinet that colonies were nuisances, and Lord Stanley expressed the prevailing view when he wrote from the Colonial to the Foreign Office in November, 1841, that he was not anxious for the formation of new and distant colonies, all of which involve heavy expense, direct and indirect, besides multiplying the possibilities of misunderstanding and collisions with
(1)
foreign powers.

The British Government in 1841, therefore, would have almost looked with complacence upon American annexation of California. Secretary Webster saw this and felt bold enough in his negotiations with Lord Ashburton to urge a tripartite agreement between Great Britain, the United States, and Mexico for/

1. Quoted in Rives, *op. cit.*, p. 51. British public opinion tended to be anti-imperial and it was the general feeling that "England had fought but too long for the privilege of sending out lieutenant-governors to unprofitable colonies." See Fraser's Magazine for 1845, p. 485. Radicals like Hume and Roebuck were in favour of relinquishing the colonies. "They were indeed the disregarded incumbrances of unsympathetic and somewhat surly step-parents. Of the two political parties one did not value, while the other did not want them." W. H. Dawson, 'Richard Cobden and Foreign Policy,' p. 183, London, 1926. Peel did not wish to retain Canada against her will as a letter of his to Aberdeen, 16th May, 1842, indicates: the commercial intercourse, he points out, is all to the advantage of Canada. See C. S. Parker, 'Sir Robert Peel,' II, 388, 3 vols., London, 1899.

for the cession of part of California to his country, it being understood that Britain's participation would be rewarded with a favourable settlement of her claims in Oregon. (1) But for the unfortunate (from England's point of view) Wilkes Report it is more than likely that Ashburton and Webster would have been able to use this tripartite arrangement to settle the Oregon question in 1842.

By the end of 1844, however, the British Government's attitude towards California had undergone a change owing to the complications and delay in effecting an agreement on Oregon. We have seen that the difficulties in the way of agreement were increasing, and there seemed in 1844 to be no immediate prospect of settlement. To offset Aberdeen's disappointment at this, all the despatches of the British consul, Barron, and those of the vice-consuls in Mexico emphasised the value of California's natural resources, its central location for trade with the Orient, and the sympathy for Britain entertained by its leading citizens who apparently desired a British protectorate established over California. (2) The British Cabinet were faced, therefore, with the alternatives of pursuing an active policy in California and allowing the United States to do so. But the agencies against interference in California outweighed those in favour of it, and it was unlikely that the Foreign Secretary would now jeopardise peace by embarking upon/

1. Supra, pp. 84-85.

2. See Barron's No. 3, 20th January, 1844, in F.O. 50/179 (Mexico) and also Vice-consul Forbes's letter of 5th September, 1844, in same. These and other despatches all attempt to depreciate the value of Oregon as compared with California. They report the immigration into the latter of United States' emigrants who had been grievously disappointed with Oregon. This would have its influence upon the British Government by giving them an unfavourable opinion of the area north of the Columbia. Lord Haddington had stressed the value of San Francisco to Aberdeen and had made the Government anxious to possess it. See A. H. Gordon (Baron Stanmore), 'Life of Aberdeen,' p. 183, London, 1905.

upon an active Californian policy.

An important factor in assisting the Foreign Secretary to arrive at a decision was the course likely to be adopted by France, still a potential British enemy; (1) efforts at joint Franco-British action over the annexation of Texas had, after much unnecessary and suspicious delay on the part of France, come to nought. Louis Philippe hesitated to risk his throne for an English alliance in an unpopular war, and the outcome of the negotiations was merely an agreement to use only moral influence to prevent the annexation of Texas or California to the United States. This was a blow to Aberdeen who had at first hoped for a joint Anglo-French declaration guaranteeing the integrity of Mexican territory, but so long as there was a hope of Clay's succeeding at the presidential election and of the defeat of the annexationist party, he hesitated to hasten the issue of such a declaration. When the election resulted in the triumph of the expansionists, Aberdeen found that France was not ready to make common cause with him, and he had perforce - war being repugnant to him - to wait and hope for the best.

In spite of the exercise of moral influence, of what Guizot called "their good offices, their friendly counsels, their energetic remonstrances, to prevent the Texans from violating treaties," the annexation of Texas was becoming more and more inevitable; (2) indeed, it was now becoming evident that/

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1. "If we could succeed in enlisting France, for her own interests, cordially to unite in resisting American aggression, it would be a great stroke of policy, and go far to change the whole face of affairs. They began well, but timidly in Texas; perhaps a direct interest may make them bolder in California." Aberdeen to Peel, 23rd September, 1845, in Peel MSS. 40455.
 2. See Pakenham's despatches, F.O. 5/426 and F.O. 5/427. Aberdeen commended Pakenham for refraining from formal protest against the annexation of Texas. See No. 2, 18th March, 1845, in F.O. 5/403.

that time alone delayed even the acquisition of California by the United States. The British agents in California had been instructed by the Foreign Office that they were in no way to encourage the impending outbreak in California; Britain would not take that region under her protection, but if the Californians threw off the Mexican yoke, it was important that they should not assume any other which might prove inimical to British interests. (1)

The Cabinet gave serious consideration to the adoption of a more positive policy in California. It was suggested to them by the Mexican consul in London, Tomas Murphy, that a British colony should be established in California, but the plan was rejected. It was felt that the time for such a step was inauspicious because of the delicate nature of the Oregon negotiations. Had the colony been established before 1844, the position would have been somewhat different. In spite, therefore, of these temptations to act positively, Aberdeen's policy with regard to California, right to the outbreak of war between the United States and Mexico, remained a negative one, and the consul, Bankhead, was instructed to recommend earnestly to the Mexican Government, whether at war or not with the United States, to provide by every means in their power for the safety of California as the most vulnerable and dangerous point of the Mexican territories. Bankhead was not to commit Great Britain in any way and was to content himself with "sound and useful suggestions." (2) It was a policy of hoping for the best while fearing the worst; and if the worst came, nothing could be done.

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1. Peel favoured the planting of a colony. (Peel MSS.) Cf. E. D. Adams, 'The English Interest in California,' in the *American Historical Review*, XIV, 744-763. The proposed scheme is outlined in a letter by vice-consul Mackintosh in F.O. 50(Mexico)(183. Ten million dollars were to be paid to Mexico; a colonisation company was to be formed and given freedom of imports and exports together with control of the pearl fish industry for twenty years.
 2. F.O. 50/183. A translation of Murphy's despatch is given by G. L. Rives in 'Mexican Diplomacy on the Eve of War with the United States,' *American Historical Review*, XVIII, 275.

3. The Presidential Election of 1844.

With the presidential election due in November, 1844, President Tyler, who sought re-election, developed an aggressive expansionist policy which he thought might attract the electors. In particular, he hoped to acquire Texas before the Democratic nominating Convention met in May, 1844, and with the same end in view he wanted the Oregon negotiations to hang fire until after the election.

The Democratic Convention duly endorsed the views of Tyler when it passed the resolution: "That our title to the whole of the territory of Oregon is clear and unquestionable; that no portion of the same ought to be ceded to England or any other power." But instead of nominating Tyler the Convention chose the political 'dark horse', James K. Polk, the protégé of the arch-expansionist, ex-President Andrew Jackson. The influence of this choice upon the Oregon controversy cannot be overestimated, particularly as the candidate adopted as his campaign slogan, 'Fifty-Four Forty or Fight;' that is, he insisted that the United States' claim to the whole of Oregon ought to be asserted; so that Britain would be completely cut off from the Pacific Ocean, at the point of the sword if necessary. It is obvious that the presidential campaign would stir up much ill-feeling against England. The Democratic campaign caught the popular fancy, especially in the western states, and at the election in November Polk defeated the Whig candidate, Henry Clay, by a narrow margin. The unexpectedness of his candidature and subsequent election proved the strength of the expansionist sentiment in the United States, and Polk was exactly the type of man to see that his election promises were fulfilled, though the truth is that he had merely been shrewd enough to identify himself with a growing, years-old sentiment that exalted expansion.

After/

After the Revolution the United States had been too occupied with domestic problems till early in the 19th century to devote much attention to territorial expansion. Their mild success in the war of 1812 was the first step in a series that, in the middle 'forties, engendered the idea of 'Manifest Destiny.' The promulgation of the Monroe Doctrine, the beginning of over-land emigration to Oregon, the manoeuvres to secure Texas, were all steps in the movement which produced ultimately the election (1) cry, 'Fifty-Four Forty or Fight,' and later 'Manifest Destiny.'

The expansionist movement was the expression of the American feeling that democracy had approached perfection in the United States, and Americans wanted to prove that democratic institutions could go hand in hand with territorial greatness and power. Accordingly it was inevitable that Texas, Mexico, California, and even Canada should all eventually come under the Stars and Stripes; indeed, it was the duty of Americans to extend their institutions to those territories. Thus, Lyman Beecher claimed the United States to be "..... still the richest inheritance which the mercy of God continues to the troubled earth. Nowhere beside, if you search the world over, will you find so much real liberty; so much equality; so much personal safety, and temporal prosperity; so general an extension of useful knowledge, so much religious instruction; so much moral restraint"⁽²⁾ Standing in the way of the achievement of 'Manifest Destiny' was one country - Great Britain. By her influence in Mexican affairs she was able to delay the acquisition of California; her place in the counsels of Texas retarded the annexation of that territory; by her claims in Oregon she stood in the way of United States' expansion on the north-west coast; her possession of Canada presented a perpetual problem to the American expansionists.

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1. The name 'Manifest Destiny' does not appear until 1845, but the idea behind it was years old. See J. W. Pratt, 'The Origin of Manifest Destiny,' American Historical Review, XXXII, pp. 795-798.
 2. Quoted in E. D. Adams, 'The Power of Ideals in American History,' p. 81, London, 1913.

4. Danger of War.

If the developing Mexican situation and the election of Polk did not unduly trouble the British Government, other events were concurring to drive them to consider extreme measures, even war, over Oregon. The chief of these was the passage in the House of Representatives, by the convincing majority of 140 to 59, of a bill to organise the government of Oregon after the expiration of the year stipulated in the Convention of 1827. ⁽¹⁾ This peremptory method of settling the Oregon question was, to say the least, distasteful to the British Government, and Aberdeen urged Pakenham to have ⁽²⁾ it shelved by proposing arbitration.

Whatever hope there may have been of surmounting this fresh difficulty was swept away by the publication on 4th March, 1845, of Polk's inaugural address, wherein he threatened speedy renunciation of the Convention of 1827. The paragraph of the speech concerning Oregon runs as follows: "Nor will it become in a less degree my duty to assert and maintain by all constitutional means the right of the United States to that portion of our territory which lies beyond the Rocky Mountains. Our title to the country of Oregon is clear and unquestionable; and already are our people preparing to perfect that right by occupying it with their wives and children To us belongs the duty of protecting them adequately wherever they may be upon our soil. The jurisdiction of our laws and the benefits of our republican institutions should be extended over them, in the distant regions/

1. Pakenham conveyed the news of this to Aberdeen in his No. 11 of 4th February, 1845, in F.O. 5/424. The Senate a month later postponed consideration of the bill. See Pakenham's No. 23, 4th March, 1845, in F.O. 5/424.
 2. Polk's Secretary of State, James Buchanan, did not favour arbitration when Pakenham mentioned it to him in conversation. See Pakenham's No. 40, 29th March, 1845.

regions which they have selected for their homes." This seemed to suggest that the United States were ready to go to war if necessary, and Great Britain took steps accordingly.⁽¹⁾

The first defensive move by Britain was taken immediately after receipt of news of the action of the House of Representatives. A few weeks before the publication of Polk's inaugural address became public in England, it was realised that Britain must show the Americans, particularly the inhabitants of Oregon, that she was determined to assert her claims in the contested area. The Lords of the Admiralty were requested by the Foreign Secretary to send a ship frequently to Oregon, and it was suggested that Rear-Admiral Sir George Seymour should visit there himself as soon as possible, "with a view to give a feeling of security to our own settlers in the country and to let the Americans see clearly that Her Majesty's Government are alive to their proceedings and prepared, in case of necessity, to oppose them."⁽²⁾

Instructions in keeping with the desire of the Foreign Office were dispatched to Admiral Seymour, who was also/

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1. To Lord Aberdeen preparations for war were necessary if only as a threat to the United States, for he believed that evidence of British determination would have a good effect on them. See Aberdeen to Peel, 29th March, 1845, in Peel MSS. The inaugural address threw the American peace party into despair also. See Calhoun's letter of 6th May, 1845, in his correspondence printed in the Annual Report of the American Historical Association for 1899. Calhoun's aim had been "so to conduct the negotiation, that its failure should not involve a rupture of the friendly relations between the two countries and in that case, to use the influence of the press and Government to curb in the West, so as to prevent the rescinding of the joint occupancy and the taking of any step that might be considered a violation of the Convention." From a letter to J. T. Mason, 661.
 2. Copy dated 5th March, 1845, in F.O. 5/440. A move was made directly on the advice of Peel who wrote a 'Secret' letter to Aberdeen on 23rd February, 1845, expressing consternation at the action of the House of Representatives and advising the despatch of a frigate to the Columbia, its destination to be known only to the Government. See Peel MSS. 40454.

also ordered to estimate the military value of Oregon by detailing the number of forts, both British and American, the number and strength of armed vessels, and acquiring other pertinent information. (1)

For the purpose of organising the Hudson's Bay Company's forces in Oregon, it was decided to dispatch to Oregon Sir George Simpson of the Company who, better than any other, understood the conditions on the Pacific coast. Simpson's advice was first solicited, and he replied with a review of the military and naval position, pointing out the necessity of sending from Canada an agent skilled in military science. (2) The Company, at the behest of the Cabinet, sent Simpson himself to Oregon with orders to take what measures he considered necessary there. Pakenham was to keep him advised of the diplomatic progress of events. (3)

On the same day that he advised Pakenham of Simpson's departure, Aberdeen wrote to the Colonial Office asking Lord Stanley, the Colonial Secretary, to take steps to learn the military position of Oregon, informing him that war was imminent owing to excitement in the United States, the uncompromising boldness of the American claims, and the terms of the new President's inaugural address. It was suggested that Stanley should have the Canadian Government send two officers as private travellers. (4)

The/

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1. A copy of the Admiralty's instructions is enclosed in the letter of 5th March.
 2. Simpson's report, sent on 29th March, 1845, to the Foreign Office through Sir J. H. Pelly, appears in F.O. 5/440. He advises, if war comes, the use of 2,000 Canadian half-breeds for guerilla warfare; the despatch of three or four ships of war to the Columbia; the establishment of a strong battery on Cape Disappointment; the organisation under the Company of the fish and grain produce of the region.
 3. See Aberdeen's 'Confidential' despatch to Pakenham, No. 20, 3rd April, 1845, in F.O. 5/423.
 4. Addington to Hope, 3rd April, 1845, in F.O. 5/440.

The next move was to obtain parliamentary sanction for the steps already taken, and Aberdeen hoped that the discussion in Parliament would have a salutary, sobering effect on the American public mind by demonstrating the unanimity and determination of the British nation. (1) The question was mooted in Parliament on 4th April, when Lord Clarendon in the Lords and Lord John Russell in the Commons demanded to know how Great Britain stood in view of the recent "blustering announcement" of the President of the United States. In his reply Lord Aberdeen said, "..... we possess rights which, in our opinion, are clear and unquestionable, and by the blessing of God and with your support, we are fully prepared to maintain." These words were greeted with "loud and general applause." (2) Sir Robert Peel spoke to the same effect in the Commons; Great Britain considers she has rights respecting the Oregon territory which are clear and unquestionable, and if these rights are invaded, she is resolved and she is prepared to maintain them. There is nothing equivocal about these statements, and they were met by great unanimity in Parliament, even the advanced Radical, Hume, withdrawing all opposition when a vote for 40,000 seamen was made in the House of Commons.

But a fortnight later the Prime Minister went out of his way to reiterate the determination of the British Government to maintain their rights in Oregon. In the debate on the Maynooth grant he spoke of a "rising cloud in the West, and if that calamity [war] should befall us, it is my earnest prayer that, when it shall occur, it shall find the people/

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1. Aberdeen detained the American post in order that the report of the Proceedings in Parliament might reach the United States as soon as possible. See his despatch to Pakenham, No. 21, 6th April, 1845, in F.O. 5/423.
 2. Hansard, 3rd Series, Vol. 79, 4th April, 1845.

people of this Empire united in loyalty to the Throne, and in determination to support the common interests. It is my earnest hope that Ireland shall stand ranked with us and then I shall await the result with perfect composure." This celebrated speech was widely quoted in the United States, and there is no doubt of its effect. Buchanan denounced it to Pakenham as a breach of diplomatic etiquette at a time when negotiations were in progress, and he concluded from it, he said, that England was intent upon a quarrel.

5. A United States' Proposition is Peremptorily Rejected.

It was gratifying to the Cabinet to learn that their recently adopted tone was alarming the Americans, particularly when Pakenham reported that he saw no reason to fear that the alarm would produce anything but a good effect. (1) The debates in Parliament caused American attention to become focussed upon the Oregon question and prompted the press to examine their title with a view to discovering if it was clear enough to justify the extremity of war. (2) English newspapers were quite widely read when they crossed the Atlantic, and the more reputable American papers began to admit the justice of the British claim and to deny that their title was perfect.

The door to negotiation being apparently closed, it was necessary to provide Pakenham with instructions. If the suggestion of arbitration was not acted upon, war would become "not improbable." He was directed to use temperate but firm language with everyone with whom he came in contact and/

1. Pakenham to Aberdeen, No. 54, 13th May, 1845, in F.O. 5/426.
 2. The Americans were familiar with the fulminations of politicians, and Polk's inaugural address did not produce among them, therefore, the sensation that it did in England. The United States' public were astonished, therefore, to learn that war was being gravely discussed in Britain.

and to let it be understood that nothing would be conceded
(1)
to force or threats.

Pakenham was very glad to act upon this advice for there is little doubt, having regard to his changed tone, that he had become dissatisfied with his office of supplicant to negotiators whom he suspected of insincerity. The change was immediately reflected in his reports of conversations between himself and Mr. Buchanan. He testified to the sobering effect on the American public of the discussions in Parliament; (2) the mercantile and moneyed classes, he perceived, heartily disliked war, and even the more mischievous and anti-English newspapers like the New York 'Herald' became more moderate in their criticism. (3)

A full month elapsed before the subject was again broached, and during that period Pakenham received Aberdeen's despatch of 6th April advising him of the possibility of war and accompanied by copies of the parliamentary speeches of recent date. The effect of these on the British representative is noteworthy; from the role of supplicant he changed to that of haughty, though courteous, patron; Buchanan was told, not that Britain would suggest an alternative to arbitration, but that the burden of making overtures rested upon him. (4)
Fortunately, Buchanan refused to take up the challenge implied/

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1. The full instructions appear in No. 21, 6th April, 1845, in F.O. 5/423. Arrangements for war were also made in Canada as it was understood that, if and when war came, the Americans would attempt to satisfy their long suppressed ambition to possess Canada. Sir Charles Metcalfe advised the Colonial Office on the conduct of military operations should war be declared. Command of the Great Lakes should be secured first; the states were to be conquered singly in order to effect a breach between North and South; the British navy was to destroy American commerce and blockade United States' ports; India was to supply a force to occupy Oregon. See W.O. 1/552.
 2. The American Ambassador in London reported to his superiors the anti-American tone of the British press. See Pakenham's 'Separate and Confidential' despatch of 28th September, 1845, in F.O. 5/428.
 3. See his despatch, No. 49, 28th April, written after receipt of English newspapers of 5th April, in F.O. 5/425.
 4. No. 49, in same.

implied in Pakenham's words.

Pakenham, however, was determined not to let the matter rest, and in his conversations with the American Secretary of State he displayed an aggressive attitude altogether foreign to his former manner. He asked Buchanan plainly if the United States were prepared to resort to war should the negotiations collapse. Buchanan had to answer in the negative and Pakenham, pursuing his preconceived plan, suggested that, if the United States did not want war as an alternative to settlement by compromise, it was their place to submit a proposal for accommodation. The British representative was suspicious of Buchanan who, he thought, wanted to gain time in order to allow the Mexican situation to develop; if the annexation of Texas, which Congress had decided upon by a resolution of 1st March, 1845, could be managed without provoking war with Mexico, the American terms for an adjustment about Oregon would become more stringent. (1)

That is exactly what happened. The Texan difficulty was satisfactorily disposed of because Mexico, in the face of a unanimous resolution in favour of annexation to the United States passed in June by the Congress of Texas, could not do anything. Polk could now turn to Oregon, and on 12th July, 1845, Buchanan submitted a note to Pakenham outlining the United States' claim and purporting to establish a perfect title to the whole Oregon area up to 54° 40'. According to Buchanan President Polk was so profoundly convinced of the justice of his country's claim that he had been in doubt at the time of his election whether he should immediately end the/

1. Pakenham's account appears in his despatch, No. 53, 13th May, in F.O. 5/426. He was to propose, as a counter to Buchanan, the line of the Columbia with all ports between the river and the 49th parallel free to both nations; if Buchanan made no offer, Pakenham was to use his discretion about tendering one. See Aberdeen's No. 22, 18th April, in F.O. 5/423.

the negotiation. He felt, however, that the acts of his predecessors in office constrained him to make concessions. His Government, therefore, magnanimously offered to agree to the 49th parallel as the boundary line, and would concede to Great Britain the freedom of any ports on Vancouver Island south of that line. (1) It is hoped that the offer will furnish a "stable foundation of lasting peace and harmony" as the line will carry out the principle of contiguity for both, and it will secure to each a sufficient number of commodious harbours on the north-west coast.

In the meantime the American Government had decided to replace Edward Everett at London by Louis McLane, and the latter sailed on 16th July equipped with instructions to submit a proposition similar to the above with the exception that the United States offered to cede the "small cap" of Vancouver Island south of 49°, "which would be of no importance to the United States." (2)

We have seen that one direct result of the parliamentary debates and the war preparations in England and Canada was to stiffen Pakenham in his negotiations with Buchanan, and we have noted two examples of the change. The American proposition of 12th July supplied the opportunity for a third. On the ground that this offer was less favourable than that made by the United States in 1826, Pakenham summarily rejected it, fortified, as he later admitted, by the tone of the debates in Parliament and its echo throughout the British nation. The free navigation of the Columbia had always been a/

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1. A copy of Buchanan's note is enclosed in Pakenham's despatch, No. 87, 29th July, in F.O. 5/427. Enclosure 2 is a copy of Pakenham's reply.
 2. "Afterwards, if the difficulty can only be resolved by the sword, we may then appeal with confidence to the world for the equity and justice of our cause, and may anticipate the smiles of Heaven upon the right." Sen. Ex. Doc. No. 489, 29th Cong., 1st Sess., pp. 27-32, Serial No. 478.

a British sine qua non and adoption of such an unfavourable offer ad referendum would have represented a diplomatic victory for the United States. (1) Pakenham professed to see in the proposal a "shabby attempt" to keep up the blustering tone of Polk's inaugural address, and he wrote with contempt of the President's effort to castigate his predecessors who had aimed at an adjustment by reciprocal concession.

Buchanan and Polk were quick to recognise the tactical error involved in Pakenham's action, and on 30th August (2) they withdrew the original offer of 12th July, leaving matters as they had stood since September, 1844, and transferring to the shoulders of the British Government the burden of making further proposals for an agreement.

Lord Aberdeen was mortified when he heard of Pakenham's precipitate action and its sequel. (3) While he realised that according to the letter of his instructions the Minister was in the right, he deplored his not having taken the proposition for the consideration of the Cabinet so that an avenue of approach might have been left open.

Pakenham attempted to recover from the effects of his mistake by seeking to induce Buchanan to reconsider the decision to withdraw his offer of 12th July. But the Secretary of State in several conversations gave him to understand that the President could not recall what had already/

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1. In a private letter to Aberdeen of 28th October Pakenham offered to resign his post, declaring that he had lost confidence in himself. His defence of his peremptory rejection appears in his No. 114, 29th October, in F.O. 5/429.
 2. Buchanan was absent from Washington during most of August; hence the delay in answering. Moreover, he wanted to dally until relations with Mexico were clarified. Polk, on the other hand, saw no "necessary connection" between Mexico and Oregon. Diary, I, Memo. of 26/8/45.
 3. Pakenham's account of the withdrawal and his remarks upon it appear in his despatch, No. 95, 13th September. He concluded that Polk's move was an endeavour to pander to party politics. Peel seems to have considered the offer as made for delay or evasion by a Government he considered insincere and "dishonest." See F.O. 5/429.

already been done, nor could he modify in any way the withdrawal of the United States' offer. ⁽¹⁾

At the same time Lord Aberdeen was discussing the new situation with the newly appointed American Minister at London, Louis McLane, to whom he reiterated the chagrin of his Government at Pakenham's precipitate action. He informed him that the British Government would have welcomed the offer as a basis of negotiation, and he expressed the hope that Polk's decision to withdraw the offer was not final. This he followed up by suggesting arbitration as the most acceptable method of settlement. Pakenham was instructed to propose this means of adjustment, and if it was rejected "be the consequences what they may, Her Majesty's Government will have no choice but to maintain unimpaired those rights which they believe Great Britain to possess." ⁽²⁾ The great difficulty was, of course, that negotiations were entirely closed unless Pakenham withdrew his note of rejection and Buchanan his reply. All the efforts of the British representative to effect this were opposed by Buchanan, however, and Pakenham had to wait for a favourable moment to offer arbitration.

It might be noted that the autumn and early winter of 1845 was a particularly unfavourable time for England to make a settlement of the Oregon question because the prospect of a peaceful understanding between the United States and Mexico was becoming brighter, the Mexicans having in August signified their willingness to negotiate and arrangements were made to dispatch the Honourable John Slidell for that purpose. Slidell was to arrange for the peaceful annexation/

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1. Buchanan to McLane, No. 13, 5th November, in Sen. Ex. Doc. No. 489, 29th Cong., 1st Sess., Serial No. 478, p. 34.
 2. Aberdeen to Pakenham, No. 64, 3rd October, 1845, in F.O. 5/423. Buchanan in conversation with Pakenham reiterated his dislike of arbitration, but admitted that the thought of war was abhorrent to him.

ation of Texas and the acquisition of California. Of course, if the negotiations failed, the United States were prepared to take both by force. (1)

The break in the negotiations gave Lord Aberdeen an opportunity to reconsider his private views on Oregon, and it is interesting to note that they had undergone little change in the year or so that had passed. Events had merely confirmed his opinion of March, 1844, and he still felt that Britain should contend for the line of 49° to the sea, for Vancouver Island entire with common navigation of the Columbia, for freedom of access of both countries to all ports between the Columbia and the 49th parallel on both the mainland and the Island. He believed that this would give England everything really worth contending for, and it seemed to coincide with the ideas of the Hudson's Bay Company, which had lately established its principal settlement on Vancouver Island. (2)

6. A Presidential Message.

Pakenham's rejection of the American offer of July, 1845, coming so soon after the President's unequivocal inaugural message and during the course of the critical situation with regard to Texas and California, did much to inspire the terms of the Presidential Message of 2nd December, 1845. (3)

The Message had a threefold bearing, on Texas, on Mexico, and on Oregon. With regard to Texas the President was able to assure his people that forces were in preparation to 'protect' the/

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1. Slidell's attempts at settlement went on over a period of months until the Mexicans sent him home without an agreement. For an account of his efforts see Rives, op. cit., Chapter XXX.
 2. Aberdeen to Peel, 17th October, 1845, in Peel MSS. Cf. below, Chapter IX, Section 3.
 3. J. D. Richardson, 'Messages and Papers of the Presidents,' IV, pp. 392-398.

the United States from Mexico. Concerning Oregon Polk suggested that notice to abrogate the Convention of 1827 should be given and United States' jurisdiction extended over the whole region. He reminded his people that he was bound by the decisions of his predecessors in the Oregon negotiations. "The extraordinary and wholly inadmissible demands of the British Government and the rejection of the proposition made in deference alone to what had been done by my predecessors and the implied obligation which their acts seemed to impose afford satisfactory evidence that no compromise that the United States ought to accept can be effected." Congress must take steps to protect citizens in Oregon, and "the protection of our laws and our jurisdiction" ought to be immediately extended over the territory. Polk goes on to recommend the erection of stockades and forts along the route to Oregon for the protection of immigrants against the Indians. In the papers accompanying the Message all documents dated after 12th July were omitted, and nothing was therefore said of the efforts of the British Government to reopen negotiations subsequent to that date.

The Message produced a sensation, particularly in Britain, and coupled with recent reports of increased activity in English shipyards it caused an acute fall in Federal stocks and in those of individual states. (1) The Message proved one thing conclusively, namely, that the President was determined to maintain his public role of champion against what he termed British aggression. His sincerity is not to be doubted. He had been elected on a 'Fifty-Four Forty' platform, and he believed that had his offer of 12th July been accepted his Administration might have been overthrown. (2)

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1. Pakenham to Aberdeen, No. 134, 13th December, F.O. 5/430. Cf. Buchanan to McLane, No. 20, same date, in Sen. Ex. Doc. No. 489, 29th Cong., 1st Sess., Serial No. 478, p. 36.
 2. Polk, Diary, I, 107.

Yet Lord Aberdeen was in no way disheartened by the Message; indeed, he looked upon it as another milestone on the road to settlement. It was just what he had expected; if the Senate adopted the advice contained in the Message, the whole controversy would be speedily brought to an issue. "I have never been afraid of this Oregon question, and feel confident that in the course of the year we shall see it finally settled, either by arbitration, or by direct negotiation." (1)

The difficulty was how to reopen negotiations. Acting under instructions, Pakenham on 27th December suggested to Buchanan that the dispute might be submitted to the arbitration of a foreign power. It was hoped by this suggestion that, if arbitration were refused, the way would be open for submission of a new proposition by either side. But the unequivocal answer of the Secretary of State simply made the prospect of a peaceful solution seem even more remote, and the optimism of the Foreign Secretary appeared to be hopelessly misplaced. In his letter rejecting the suggestion, Buchanan asserted that, besides "other conclusive reasons," consent to arbitrate the controversy would be a confession on the part of his Government that their claim to all Oregon was not irrefutable, and arbitration would mean their consent to a compromise which would necessarily preclude them from claiming the whole of the disputed area to which they asserted a clear and unquestionable title. (2)

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1. Aberdeen to Peel, 28th December, 1845, in Peel MSS. 40455. On 3rd December, that is, before the Message was made public he expressed himself similarly to Pakenham; "as the crisis becomes more imminent the chance of settlement improves." He wrote to Everett to the same effect, (Aberdeen MSS.) while Greville was told much the same - II, 340, edition of 1885.
 2. Pakenham's No. 3, 5th January, 1846, in F.O. 5/446. Cf. Buchanan to McLane, No. 21, 29th December, in Sen. Ex. Doc. No. 489, 29th Cong., 1st Sess., Serial No. 478, p. 36. Buchanan's memorandum on the subject is printed in Moore, 'Works of James Buchanan,' VI, pp. 350-53.

CHAPTER VII

PROSPECTS OF A PEACEFUL SOLUTION

1. Moderate American Opinion Desires Peace.

Though at the end of 1845 war had seemed close at hand, the next year was not far advanced when a peaceful settlement seemed much more likely. Towards effecting this change several influences were at work, and these were potent enough to justify the optimism of the British Foreign Secretary. In the face of so much evidence to the contrary, Aberdeen's confidence in a peaceful solution appears unfounded, but the manifestations of peaceful intentions, not all of them public, on the part of the Americans seemed overwhelming to him. The friendly tone of the debates in the Senate and the absence of violence toward Great Britain in the American press; the fact that the impending repeal of the Corn Laws was welcomed by the South, and that the Whig manufacturers of the North, led by Clay and Webster, were for peace in spite of the fact that war would least affect them; the persistent assurances of the President's pacific intentions given by McLane, who, it is to be remembered, was sent to England by Polk with special instructions to facilitate the settlement of the Oregon controversy; the knowledge that the imminence of war with Mexico must influence the United States' Government in favour of peace with England; the undoubted pacifism of the British press in 1846; the unanimity of the peaceful assurances/

assurances from private American sources; (1) all these factors pointed in only one direction, namely, the certainty that the Oregon question would be settled peacefully.

The prospect of war was abhorrent to the commercial and financial interests in the United States, and a powerful peace party was developing in the Senate. The prices of stocks had suffered decline with the advent of Polk and with the trend of events in the direction of inevitable war they continued to depreciate.

J. C. Calhoun was at once one of the most prominent members of the pacifist party in the Senate and the leading personality in the slave-holding states. His policy in Oregon was, as we have seen, to delay settlement and to encourage immigration, knowing that a claim by occupation and settlement would be the ultimate factor in establishing a title. The slave states wanted to annex Texas where slavery was recognised. The abolitionists wanted to annex the free area of Oregon, and led by Adams and Geddings they wanted war as a means of crushing Calhoun's party. (2) In spite of this opposition, Calhoun was able at the end of 1845 to assure the British Minister, Richard Pakenham, that he would be able to defeat in the Senate any controversial measure likely to produce war; (3) indeed, by the spring of 1846 the peace party controlled both Senate and House of Representatives. (4)

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1. See Aberdeen MSS., passim.
 2. See Calhoun's letter to J. H. Hammond, 23rd January, 1846, in Calhoun's published correspondence in the Report of the American Historical Association for 1899.
 3. Pakenham's No. 1 of 2nd January, 1846, in F.O. 5/446. He wrote on 26th February that Calhoun and Webster assured him that only seven senators would oppose an accommodation.
 4. See Calhoun's letter of 25th April in his published correspondence. His arguments against war were several; his country's enormous debt and its rotten paper system were those he placed foremost. If war came, he argued, the United States would be surrounded by enemies - Mexico to the south, Indians in the west, Canada to the north, and a British fleet on the Great Lakes.

The reports of Congress debates were all forwarded to the Foreign Office by Pakenham; so that the British Government were fully conversant with opinion in the United States. Moreover, reports of the debates were given in British newspapers. The Congress debates on the motion to give notice to Great Britain to end the Convention of 1827 lasted over two months, but they seldom showed doubt that Congress wanted a peaceful settlement.

The peace party in the Senate were anxious to produce tangible evidence in their efforts and with that in view overtures were made to Pakenham by Senator Archer of Virginia and by Mr. W. W. Corcoran, an eminent Washington banker who was on intimate terms with the members of the Government. They urged him to propose the line of the 49th parallel, with all Vancouver Island to Great Britain, and navigation of the Columbia River free to both for a number of years. Pakenham was approached during the last weeks of December, 1845, and it is significant that Mr. Corcoran entertained Polk for a few days early in January, 1846. (1)

On 24th February, 1846, Senator Haywood informed the President that Senators Calhoun, McDuffie and a number of others wanted a compromise on Oregon, and Polk assured them in reply that he would put to the Senate any British proposal which had as its basis the line of the 49th parallel. (2) The next day the Senators assured Pakenham that, if Britain were to offer an accommodation on the principle of "equitable partition and compromise," there was a positive majority in the Senate to support its acceptance. What the detailed terms were to be was not defined, but Calhoun offered to introduce/

1. M. M. Quaife (editor), Diary of J. K. Polk, 4 volumes, New York, 1910, I, 306.
2. Idem, I, 249.

introduce in the Senate a resolution advising the President to resume negotiation on the basis of Gallatin's offer of 1826. When Calhoun spoke of this to Polk on the 25th, however, the latter vetoed the idea on the reasonable ground that failure to pass such a resolution by the necessary two-thirds majority would almost certainly have fatal consequences. ⁽¹⁾ The pacific senators gave Pakenham positive assurances thereupon that, if his Government were to offer a settlement based on the line of the 49th parallel with all Vancouver Island to Great Britain, his proposition would be approved by the Senate without much ⁽²⁾ opposition.

It is obvious, therefore, that a cogent reason for Britain's accepting the 49th parallel as the line of demarcation was that the United States would simply not accept less, and even the most moderate American statesmen - called '49 men'-were prepared to go to war if Great Britain proved adamant in demanding more. Let contiguity settle the issue, they contended, and give Britain the area which is necessary for the protection of her interests - the fur trade - that is, give her north of 49°. American settlements were gradually being established in the intervening area between the United States and Oregon, from the Gulf of Mexico to the 49th parallel. If the land was to be divided unequally and one country was to receive the larger share, then surely, argued the Americans, the award should be made, not as a recognition of mere abstract right, but of those considerations which the proximity, numbers, past and present labours/

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1. Diary, I, 252, Pakenham's 'Separate and Confidential' report detailing the above-mentioned overture was written on 26th February. According to Polk, Archer told Pakenham that navigation of the Columbia would never be ~~conceded~~ by the United States, but there is nothing in Pakenham's despatch to substantiate this statement. Diary, I, 256.
 2. Pakenham's account of this offer appears in two despatches: No. 138, 29th December, 1845, and in one of the same date marked 'Separate and Confidential,' both in 5/446. If the offer had been made three months previously, he said, it would have been pared down in subsequent negotiations.

labours of the American settlers introduced as necessary elements in the adjustment of the dispute. Since England had never attempted to establish settlements in the Oregon territory while the United States had done so, let the latter have what is essential for settlement, namely, the more fertile region lying south of 49°. This argument is, of course, the natural development of the Fabian policy advocated by Calhoun, and it represented moderate opinion in the United States. (1)

Another aspect of the controversy which influenced moderate as well as extreme opinion among Americans was the strategic importance of the area between the Columbia and the 49th parallel. It was the unanimous American opinion that the harbours of Puget Sound were essential to the military safety of the United States. The harbours are commodious and without obstruction at the entrances; the entrances are deep and sheltered by high mountains; the shores abound with valuable timber; the Sound was likely to be the commercial centre and the western railway terminus of the North Pacific. (2)

There was no guarantee that the pacific attitude of the Senate would continue; indeed, there was distinct evidence that this was a mere transient phase of which Britain must take advantage. The minority war party in the Senate were/

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1. Probably the most favourably disposed of the moderate men in the United States was Edward Everett, United States' Minister to Britain till August, 1845, and now in retirement at home. A close friend of Aberdeen with whom he regularly corresponded, he too was a '49 man.' On 15th November, 1845, he wrote: "I cannot too strongly express the opinion that no party, I had almost said no individual, would be willing to make a further departure from the forty-ninth degree, than to leave you the whole of Vancouver Island. As this concession meets what you so frequently told me was an indispensable condition of settlement, viz., some modification of the proposal which was declined by you in the former negotiations I sincerely hope that you will be able to agree to it." Aberdeen MSS. ff. 1-62. See also his letter of 10th December to the same effect.
 2. The British Government also saw the Puget Sound area as "the really valuable part of the territory." See Aberdeen to Peel, 25th September, 1844, in Aberdeen MSS.

were anxious to delay accommodation in order to resurrect the 'Fifty-Four Forty or Fight' agitation as a vote-catching expedient at the next elections. Pakenham feared that the elections might invest an anti-English expansionist majority with power, and he conveyed his fears to his Government. (1)

2. President Polk's Attitude.

The President, after consultation with a small Cabinet of five or six members, was responsible for the official United States' policy, and it will be remembered that President Polk had been elected to office on the politically attractive cry of 'Fifty-Four Forty or Fight.' There can be little question that, at first at any rate, he believed in the 'clear and unquestionable' title of the United States to all Oregon, but as so often happens in political life (Buchanan, who had been a bigoted 'Fifty-Four Forty or Fight' man before assuming office and a very mild '49 man' after appointment, is an excellent and luminous example), experience of office led him to modify his claims and to reduce his demands appreciably. He was confronted, therefore, with the delicate task of reconciling public opinion to a diminution of his claim. If the United States' title to all Oregon as far north as 54° 40' was clear and unquestionable in 1844, it was equally so in 1845 and 1846, and to reconcile a people almost fanatically in favour of territorial expansion to receiving considerably less in Oregon than he had promised during his election campaign was a stiff problem for Polk to solve. To understand why the United States ultimately/

1. Pakenham to Aberdeen, No. 34, 29th March, 1846, in F.O. 5/447. A private letter to Pakenham proves that Aberdeen was aware of this: "It seems generally to be apprehended, with good reason, that if Congress should rise without our having previously come to any agreement, there is very little hope of any amicable settlement hereafter. Time, therefore, is of even more importance with you than with us."

ultimately accepted the British proposition of May, 1846, it would perhaps be well, therefore, to outline the evolution of President Polk's Oregon policy.

Although it appears difficult on the surface to comprehend Polk's policy, a study of his 'Diary' in conjunction with the public and private correspondence of Lord Aberdeen makes it reasonably clear that the President very soon found that his election promises were not easy of fulfilment. He was able enough and obstinate enough to obtrude his opinions upon the other members of his Cabinet, and his influence was potent in the final settlement of the Oregon problem as well as in determining the British attitude to the dispute. Polk seems genuinely to have wanted a peaceful settlement of the controversy, but the extravagance of his election policy and the popularity of his election demands made it necessary for him to bring public opinion to his view or, alternatively, to maintain publicly his 'Fifty-Four Forty or Fight' attitude and privately to do everything possible to secure an amicable arrangement on the basis of diminished American claims. It was inevitable that he would choose the latter policy.

As early as 12th May, 1845, Polk was preparing the American people for a compromise, his paper, the 'Union', stating, "Some people say we want war - some that we cannot be kicked into war. Several predict that there will be war. Now, without undertaking to say positively that there will be war or that there will not be war, we venture to predict that it is not Mr. Polk's will to plunge his country into war, and still less to sacrifice her rights and honour. He will never abandon either " (1) Polk knew that war would be the consequence/

1. Quoted in E. I. McCormac, 'James K. Polk,' Berkeley, California, 1922, p. 568.

consequence of insistence upon an extreme American claim in Oregon. ⁽¹⁾ The logical alternative to war was a compromise of that claim. At that time, also, he offered the London embassy to Van Buren as the man to bear the "olive branch" across the Atlantic, ⁽²⁾ and, though Van Buren was unable to accept, the offer indicates Polk's anxiety for peace with England.

His next step was to seek arguments justifying a compromise because he well knew that mere rhetorical bombast on the evils of war would not silence the anti-English Democrats. His plea would be, he decided, that his hands were tied by the concessions of his predecessors. Secretary Buchanan's letter of 12th July, 1845, to Mr. McLane explains the President's policy. "The President at a very early period of his administration was called upon to decide whether he would break off or continue this negotiation. Placed in a responsible position he first inquired whether the national honour required that he should abruptly terminate it by demanding the whole territory in dispute. War before dishonour is a maxim deeply engraven upon the hearts of the American People, and this maxim ever shall regulate his conduct towards foreign affairs. But it was impossible for him to conceive that there could be dishonour in pursuing the course which had been adopted by Mr. Monroe, his patriot Revolutionary predecessor, more than a quarter of a century ago, and had been either expressly sanctioned or acquiesced in by all succeeding administrations." ⁽³⁾

Pakenham's/

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1. Buchanan to McLane, 12th July, 1845, in J. B. Moore, "The Works of James Buchanan," VI, 191, London, 1908-11.
2. "On great occasions the highest men are to be taken, where war is to be averted, none but the highest If anything can be added to make the suggestion agreeable to you, you may safely consider it as uttered by the President," wrote Bancroft, member of Polk's Cabinet. See M. A. de W. Howe, 'Life and Letters of George Bancroft,' I, 269-271, London, 1908.
3. Sen. Ex. Doc. No. 489, 29th Cong., 1st Sess. Vol. 9, p. 27. Serial No. 478.

Pakenham's peremptory rejection of the offer made to him on the same date and the subsequent repudiation of his action by his Government (made known to Polk on 19th August by a letter from McLane which stated that Lord Aberdeen would agree to very liberal terms) emboldened him to instruct Buchanan to withdraw the offer of 12th July, and to reassert the United States' claim to territory as far north as 54° 40'. The Foreign Secretary's expression of regret at Pakenham's precipitate action along with his declaration of a desire to reopen negotiations were to Polk a sign of weakness, and he instructed Buchanan that if Pakenham offered the terms rejected by him (Pakenham), they were to be refused. (1) In short, the British representative's arbitrary act was a precious gift to the President as it gave him an excuse for insisting upon the line of 54° 40' and enabled him to continue to play his pre-election role of the patriot who was determined to defend to the last his country's pretensions. All moderate men were conciliated by his offer of the line of 49°, while the extremists were satisfied with its withdrawal and the assertion of the whole claim. (2)

Any fresh British offer would be rejected by Polk or put to the Senate. This move was the first hint of a new expedient. The Senate form a branch of the treaty-making power and their consent is necessary to the ratification of all agreements with other nations. Polk conceived the idea - an antiquated device not resorted to since Washington's time - of putting any suitable offer before the Senate, and if they advised acceptance he could make them responsible, maintaining/

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1. Polk, 'Diary,' I, 13. Also Sen Ex. Doc. op. cit. Cf. McCormac, op. cit. p. 575.
 2. Buchanan to McLane, in J. B. Moore, op. cit., VI, 342.

maintaining that they had forced his hand. The President's Annual Message of December, 1845, was drawn up in accordance with these views after review and approval by the Cabinet.

At the end of the year word reached Washington of the crisis of 5th December in England. The danger of the re-appearance at the Foreign Office of the bellicose Palmerston was ominously real and, immediately upon receipt of this alarming news, Polk at a Cabinet meeting took one further step in retreat from his stand on a "clear and unquestionable title." After consulting Senator Allen, Chairman of the Foreign Relations Committee of the Senate, and other Senators, all of whom assured him that the Senate would approve, he let Buchanan know the minimum terms which he would submit to the Senate. These were: a boundary line along the 49th parallel to the sea with free ports to the United States north of 49°.

(1)

On the surface and in public Polk still adhered to the view that "the only way to treat John Bull was to look him straight in the eye; that he considered a bold and firm course on our part a pacific one; that if Congress faltered or hesitated in their course John Bull would immediately become arrogant and more grasping in his demands; and that such had been the history of the Britttish [sic] Nation in all their contests with other Powers for the last two hundred years."

(2)

The news from England was not reassuring, for when McLane broached to Aberdeen the matter of Britain's extensive preparations for war he was told "very promptly and frankly" that Great Britain could not disguise that she was preparing for a possible rupture with the United States, though the Foreign Secretary stated "very positively and distinctly" that the/

1. Diary, I, 139.
2. Diary, I, 155.

the preparations had no direct reference to such a rupture. The significant fact for the President was that, though McLane expressed unabated confidence in the frankness and honesty of Lord Aberdeen, he could not ignore the fact that the increases in the navy were exactly of a type calculated to assist in a war with the United States. ⁽¹⁾

At the end of 1845, therefore, the diplomatic position was grave owing to the uncertain nature of the British internal political situation and the British preparations for war, directed unmistakably against the United States. But President Polk's position was clear enough. He knew that the British Government merely sought an opportunity to offer the line of the 49th parallel, and he knew also that such an offer would more than likely pass the Senate upon whom the President had decided to throw the onus of agreeing to a diminution of the 'clear and unquestionable' title of the United States. ⁽²⁾ By thus shelving responsibility, and by constantly reiterating his conviction of the right of the United States to the whole area in dispute, Polk, "relieved by the refusal of the British Government to accept his offer of compromise from the embarrassment in which the acts of his predecessors had placed him," felt that he was maintaining a degree of consistency. It is doubtful if he was as sanguine of a speedy peaceful settlement as Lord Aberdeen, but he seems never to have doubted the wisdom of his policy, and the events of the early months of 1846 quite confirmed, as will be seen, his estimate of the real position.

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1. McLane to Buchanan, No. 30, 3rd Jan., in Sen. Ex. Doc. No. 117, 29th Cong., 1st Sess., Vol. 4, Serial No. 473, p. 243.
 2. Twenty-five of the fifty-six Senators were of the more or less pacific Whig party while the thirty-one Democrats were not a solid entity. If Polk were to give the lead to the Democrats in favour of a peaceful settlement, there was no doubt that such a settlement would be reached.

3. Public Opinion in Great Britain.

It is clear that with the advent of the year 1846 the prospects of a peaceful solution of the long-standing Oregon controversy were increasingly bright. In the United States a more or less pacific President, a pacific Senate, and a pacific press were encouraging portents. Fortunately, this general pacifism found an echo in England where the prevalent feeling was that the people preferred a settlement to a litigation, a compromise to a contest, peace to war. (1) The tone of the press in both countries reflected the new attitude, and it was obvious from the new conciliatory, tolerant tone that each side was attempting to understand the other's case.

The 'Times' at this period held a somewhat unique position. It had done a great deal towards overthrowing Melbourne in 1841 and, though it was no ministerial organ, its views carried great weight with the Cabinet. (2) In 1845 this newspaper proved to be consistently conciliatory, and no attempt was made to disguise its dismay at the failure of the respective Governments to reopen negotiations after the rejection of the offer of 12th July. In January, 1846, the 'Times' suggested that Great Britain should offer what Gallatin had proposed in 1826, namely, the line of the 49th parallel with the Columbia River free to British subjects. (3) Three months later it added to these demands indemnity to the Hudson's Bay/

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1. Leading Article of 4th January, 1846, in 'Times.'
 2. "Its object and well-planned method being to control rather than to thwart their [the Government's] proceedings, and, above all, by securing early information as to the course of those proceedings and by putting a cloak of omniscience over its extensive knowledge, to give an appearance of leading where it might only be following,....." See H. Fox Bourne, 'English Newspapers,' London, 1887, p. 166.
 3. Edition of 4th January, 1846, p. 4.

Bay Company for the loss of their posts in the disputed area.

Scarcely less influential, the Whig 'Edinburgh Review,' as early as July, 1845, in an excellent article reviewing correspondence, pamphlets and books on Oregon, attempted to find a solution of the boundary problem. After expressing its faith in the fairness of the idea of arbitration, the article concludes that the 49th parallel ought to be the basis of the boundary. Great Britain would, of course, retain all Vancouver Island and the right to navigate the Columbia. This would give her the Island which, if she is "absurd enough" to plant a colony in the Northern Pacific, would be the least objectionable site. (1)

Throughout the course of the Oregon dispute, except where a point of honour was involved, Britain was always prompted primarily by commercial motives. Her interest in Oregon had been awakened by the commercial possibilities of the region; it had been increased by the opening of trade relations with China and by the possibilities of steam navigation which brought the region so much closer. She had now to consider the adoption of forcible means to assert her minimum claims in Oregon, realising that in doing so she would jeopardise her commercial intercourse with the United States. Her great cotton/

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1. Vol. 83, pp. 238-265. In an article in the American Historical Review, XL, pp. 38-62, 'British Government Propaganda and the Oregon Treaty,' Professor F. Merk shows that the article was composed by the economist, Nassau W. Senior, who was working in collaboration with Edward Everett, United States' Minister at the Court of St. James. The article shows that Everett, with Aberdeen's approval, was attempting to influence the British public to accept the line of the 49th parallel. The article appearing in the leading Opposition organ caused something of a sensation, and brought forth the condemnation of some prominent Whigs, not for the nature of its conclusions but rather because it was deemed inconsistent with the policy that ought to be followed by an Opposition journal.

cotton manufacturing industry, for instance, was dependent upon the southern states for supplies of raw material, and if war came tremendous distress would follow in Lancashire. Moreover, conversely war would assist American manufacturers in their competition with those of England. Yet, as will be seen later, the British Government were in the winter of 1845-46 grappling with the problem of distress in Ireland and to a less degree in England and Scotland. In these circumstances, therefore, it was realised that war would be folly.

The financial interests were also opposed to war because of their huge investments in the United States. Of the two hundred million dollars of state bonds issued it was estimated that two-thirds were in British hands. War would certainly stop payment of the interest on these securities and might endanger repayment of the principal. That these interests feared war is attested by the fact that on 27th October, 1845, Mr. W. W. Ward of Boston, agent for the great English banking firm of Messrs. Baring Brothers, called on President Polk and demanded to know if the President favoured peace or war because British bankers were anxious to determine the safety of their commercial relations. (1)

The financial and commercial classes in England thus affected were not slow to take what steps they deemed likely to maintain peace. Thus, the merchants of Manchester early in April, 1846, composed an address to American manufacturers in which they set forth the advantages of peace and the evils of war. The address was signed by such outstanding figures as Cobden, Bright, and Lord Radnor. Similar addresses were prepared by citizens of Plymouth, Boston, and other/

1. Diary, I, 74. Polk, while suspicious that Ward was but an agent of the British Government, assured him that peace was his policy at that time.

other English towns presented to towns of the same name in
 the United States. ⁽¹⁾

No less striking than this general desire for peace was the common English view of the intrinsic value of the object of all the trouble - Oregon. What country would resort to the extremity of war over a region which its Government, Opposition, press and people considered quite worthless? The official correspondence abounds with illustrations of Lord Aberdeen's efforts to impress upon Pakenham the trivial value of the whole area; ⁽²⁾ it would be sheer madness to go to war for what the Foreign Secretary called a "few miles of pine swamp." ⁽³⁾ Lord Clarendon said in the Lords that war was indefensible for the possession of an unoccupied territory the whole fee-simple of which was well known to be of such insignificant value as not to compensate the losses and ⁽⁴⁾ miseries that one single month of war must produce. Lord Ashburton felt that war for a question worthless in itself was unthinkable, and Lord John Russell addressed the House of Commons to the same effect.

And so also with the English press which was unanimous in its estimate of the disputed area. The 'Times' spoke for all but Palmerston and his 'Morning Chronicle' when it said that "the Oregon territory sank in public estimation to the slender importance which really belongs to so remote and uninhabitable ^{2/} portion of the globe " ~~2/~~ 5-

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1. Some of these are reported in the 'Times.' See, for instance, the edition of 6th April, 1846.
 2. See, for example, Pakenham's No. 18, 26th February, 1846, in F.O. 5/446.
 3. Lady F. Balfour, 'Life of Aberdeen,' London, 1898. Letter to J. J. Gurney of 20th February, 1842.
 4. Hansard, Vol. 84, Lords, 17th March.
 5. 14th July, 1846, p. 4. 'Blackwood's Magazine,' another influential organ, LIX, 439, said that Oregon was "the last thing in the world that a decent nation would get into a passion about." The 'Edinburgh Review' agreed that the greatest error of the whole controversy was the importance attached to the area. 83, 259.

Add to these press reports the tenor of the advice to the Foreign Office of men like the very able vice-consul Forbes in Mexico. From the most unbiased accounts he had received from servants of the Hudson's Bay Company, employed for many years in Oregon, and from his own personal observation he did not hesitate to affirm that the Oregon territory was vastly inferior to the exaggerated reports given of it by individuals whose private interests had been connected with the belief in the truth of these reports. ⁽¹⁾ It will be seen later that even the fur trade was no longer supplying the Company with profits.

This conviction that Oregon was of no real value strengthened the current conventional view of colonial acquisition. The growing success of the movement for free trade struck another blow at colonisation, for the two were considered to be mutually incompatible. Foreign possessions were an advantage, it was believed, only so long as they provided the mother country with exclusive markets. Profitable trade relations with Oregon could not be hoped for; the Hudson's Bay Company had a monopoly of what trade there was and no longer reaped a very handsome profit from it.

4. Corn Law Repeal and Oregon.

Another striking aspect of the commercial urge towards peace was the movement for free trade and repeal of the Corn Laws. Though the question of repeal was not in itself new, it had entered upon a fresh phase in the winter of 1845-46 when the arguments in favour of repeal were impressively illustrated by events in Ireland and Scotland. In August/

1. Forbes to Aberdeen, No. 5, 5th September, 1844, in F.O. 50(Mexico)/170.

August, 1845, the first word of the probable failure of the potato crop reached the Peel Government. Since the Irish peasantry were dependent almost entirely upon potatoes for sustenance the situation was very grave. A great deal of correspondence on the subject passed between the Prime Minister, the Home Secretary, and the Lord Lieutenant of Ireland. Bad news continued throughout September and October, the infection spreading to Scotland towards the end of the latter month. Finally when the Cabinet saw the seriousness of the position they decided by a majority that to ameliorate the economic position they must repeal the Corn Laws.

Peel's party split on the issue of Corn Law Repeal, and the Prime Minister on 5th December, 1845, tendered his resignation to the Queen, suggesting Lord John Russell as his successor in office and offering to co-operate with him in repealing the Corn Laws and to support him in securing an increase of the army and navy in view of the difficult nature of Britain's relations with the United States. ⁽¹⁾

Lord John was unable to form a ministry because certain of his indispensable nominees for office, notably Grey, refused to sanction his choice of Lord Palmerston as Foreign Secretary. Palmerston would accept no portfolio but that of the Foreign Office and Russell in despair had to advise the Queen on 20th December that he was unable to form a government. Peel was therefore summoned and, with the Duke of Buccleuch converted to repeal and Lord Stanley replaced at the Colonial Office by Mr. Gladstone, he was able to resume office.

The progress of these events was carefully followed in the United States, and Aberdeen took care that the details were/

1. Peel's 'Memoirs', II, 225-6, London, 1857.

were not delayed. Thus, in order that word of the momentous step decided upon by the Cabinet might catch the mail and be known in the United States as soon as possible, he prematurely communicated their decision to Delane, editor of the 'Times.' He knew that this would have a great effect in the United States, and would encourage pacific counsels, particularly in the western states where were the most inveterate enemies of England. Aberdeen felt that the free access of their grain to British markets would do much to mollify their anti-English sentiments. (1)

5. Other Factors for Peace.

The continental political situation was not too reassuring, and the Prime Minister realised that a war with the United States might produce a coalition against Britain of the Americans and other countries, especially France and the secondary naval powers which, in the unsettled state of international law relating to neutrals, would welcome an opportunity to attack Great Britain. The visit of the Tsar to Queen Victoria in 1844 was viewed with much dissatisfaction in France and was denounced by the Opposition as a complete breach of the friendship between France and England. France and Great Britain were friends, at least nominally, but little was required to change the apparent friendship into open hostility. Even if the French Government were inclined to remain neutral at first, France would be tempted to take advantage of Britain's temporary weakness owing to the massing of/

1. See Greville, *op. cit.*, II, 312. Some indeed suspected that the whole affair was a device to deceive the United States into hastening on the Oregon negotiations. That Aberdeen put weight upon Corn Law Repeal is apparent from his private correspondence, particularly with Everett; Peel, too, told Lord Francis Egerton that "the admission of maize would go far to promote a settlement of Oregon." Parker, *op. cit.*, III, 324.

of her forces on the Pacific coast. She was still the traditional enemy, and the Lords of the Admiralty, when asked for their views on the situation, advised "a degree of prudent precaution which, under the most flattering circumstances of amity with France," must be observed. (1)

Although the French Chamber of Deputies declared on 31st January, 1846, by a considerable majority (234 to 156) that France would remain neutral in the event of an Anglo-American war, the British Government remained suspicious. It was known that Guizot had pacific inclinations, but what guarantee was there that his successor would maintain his policy? France had a standing army of 350,000 men with a National Guard of a million. Peel, quite aware of these facts, stood between two fires in the Cabinet - Wellington and Aberdeen. The former - and the majority of the Cabinet shared his views in varying degrees of conviction - defended the axiom bellum para, pacem habebis; the latter, on the other hand, denounced it. Peel, after deliberation, inclined to the Wellington point of view. (2)

Still another reason why the settlement of the Oregon question came when it did and according to the terms it contained was the very real danger that the minor local conflicts in the disputed area between the United States' settlers and the Hudson's Bay Company might lead to a larger conflagration with very wide ramifications which would engender bitterness that could be dispelled only by war. With the increase in the numbers of Americans the Company experienced more and/

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1. See Confidential Report of Lords of Admiralty to Foreign Office, 10th June, 1846, in F.O. 5/461.
 2. "When I see the weakness of Civil Authority in France, - the fruitful germs of war with France which will spring up in the event of war with the United States, - when I look back on the suddenness with which there have been within our short memories revolutions in the Government of France - and look forward to the events which may occur on the death of Louis Philippe - I cannot feel sanguine as to the future." Peel to Aberdeen, Peel MSS. 40455.

and more difficulty in protecting themselves. The Government had, as we have seen, been slow to furnish protection, and the area itself was not easily guarded. By joining the Provisional Government established in Oregon on the initiative of the American settlers the Company had surrendered whatever control the British Government might have had over British settlers in the contested territory.

Once the United States had given notice of the abrogation of the Convention of 1827 ⁽¹⁾ their numerical superiority would enable them to plant their standard at all points where American citizens were to be found. They would administer justice, levy customs duties, and perform generally the offices proper to exclusive sovereignty. Britain's position would be intolerable, and she would be faced with the alternatives of evacuation or war. With the notice of abrogation more and more imminent as the early months of 1846 passed, an honourable settlement became imperative. ⁽²⁾

6. British Party Politics and Oregon.

The more immediate circumstances connected with the settlement of the Oregon question centred about the domestic affairs of the British Government, and one of the most decisive factors on the side of peace was the uncertainty relating to the tenure in office of the Peel Government. The Conservative/

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1. Notice was actually given on 28th April, 1846, and received at the Foreign Office on 16th May.
 2. The summer of 1846 brought incidents which illustrate what might have happened. In July the United States' vessel, 'Shark,' under Lieutenant Howison, arrived at Fort Vancouver. The commander, though news of the settlement had not yet reached him, assured the American settlers in unequivocal terms that the United States' Government would concede no territory on the mainland south of 49°. A movement towards Vancouver was begun at once by land speculators to be in time for "a snatch at the loaves and fishes." Other incidents followed to illustrate the nervous tension.

Conservative party had split upon the free trade issue, and it was considered only to be a matter of time until the minority group of the party would take their revenge by coalescing with the Opposition in order to oust Peel's Government from office. Somewhat naturally Peel was anxious to demit office with honour, and if he could settle the Oregon difficulty, which had been outstanding for so long and which had more than once so seriously menaced the good relations between his own country and the United States, he might earn the gratitude of his countrymen. He had sacrificed power to the ideal of free trade, an ideal which depended very largely for its realisation upon friendship with the United States; by settling the Oregon controversy he would have removed the most serious obstacle to peace between the two countries, and the fewer obstacles there were and the closer the friendship, the better chance free trade had of success. Peel knew, for instance, that before the recent war cry in the United States the dominant party there wanted a low tariff. He saw that a satisfactory arrangement of outstanding differences between the two countries would encourage Congress to revise the tariff to England's benefit. Events proved the wisdom of Peel's calculation, for the United States' tariff was revised in the same session of Congress that brought agreement to the Oregon settlement.

Lord Aberdeen, as Foreign Secretary, had the Oregon question as his special and, one might say, favourite problem: His successor at the Foreign Office, he was aware, would be Lord Palmerston, a man of entirely different temperament who would never stand for the rebuffs and delays which Aberdeen had experienced. Palmerston believed that Britain's foreign policy/

1. Greville, op. cit., passim.

policy should be determined by the operation of either of two principles - hope or fear. Smaller countries ought to be encouraged to hope for British support in their time of danger. Powerful countries, on the other hand, should be taught to fear opposition from England if they acted unjustly towards Britain or her allies. (1) It was nothing but a sign of weakness, he felt, to yield to a foreign state and then boast that all such states were in good humour with Great Britain.

After the Ashburton Treaty of 1842 Palmerston had maintained in the columns of the 'Morning Chronicle' a most virulent campaign of denunciation of the Peel Government for having sacrificed British interests. While the Oregon negotiations were in progress he continued to attack the Government and to threaten what would happen if they gave the slightest concession to the Americans. It was desirable to maintain peace, he contended, and admiration of United States' institutions was permissible; but England must maintain her honour and her rights. To let the Americans have this so-called barren tract will not prevent war; rather will it invite one for, if England yields in this, the United States will soon pick a quarrel. The territorial frontier of the Columbia, not the bare right of navigation, is the least that Britain can demand and this she must demand as a right. (2) Britain's foreign/

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1. See Lord Dalling's 'Palmerston,' p. 143. London, 1874. In of out of office he maintained these principles.
 2. 'Morning Chronicle,' 17th January, 1846, p.4. Palmerston affected to see all attempts at compromise as preliminary to giving up all Canada. To surrender territory to the Americans is like handing over one's travelling companion to propitiate an animal of prey; it only increases the desire for food. "The Yankees are disagreeable to deal with," totally unscrupulous and dishonest and determined somehow or other to carry their point. See Palmerson to Clarendon, 31st December, 1857, in Clarendon Papers, copy in American Historical Review, XLII, 500. Cf. F. Merk, 'British Party Politics and the Oregon Treaty,' American Historical Review, XXXVII, p. 658.

foreign policy is traditional, maxims and precedents of the Foreign Office serving as rules and principles. The leading principle in the Oregon affair has always been that the Columbia should be the boundary, and to agree to the 49th parallel is to surrender all that the Americans had ever manoeuvred for; their claim to all Oregon is merely a tactical move to effect this. The slightest compromise will be interpreted as surrender.

There is no equivocation here, and there is not a shadow of doubt about how Palmerston would have dealt with the United States claims in Oregon. Peel and Aberdeen both felt that, if Oregon were not settled before they relinquished office, Palmerston would make it a pretext sufficient to justify war with the United States. If war came, the whole success of Peel's free trade scheme would be endangered. Moreover, the American Government were aware that the days of Peel's Government were numbered and that Palmerston would soon control British foreign policy once again. (1) McLane had written home that the Peel Government would not be in office after 1st July, and this prospect as much as any embarrassment caused by the Mexican War induced the Americans to seek peace.

Both in England and America, therefore, the agents and influences for peace in 1846 were multiple and potent. The best interests of economic and commercial policy, of domestic and foreign affairs, would be most effectively advanced, it was universally understood in Britain, by peace, and great sacrifices of 'diplomatic punctilio' could be made to preserve it. In the United States, too, a friendly Senate, pacific President, well-disposed public all offered positive assurances of a peaceful settlement.

1. "Osborne [the Queen's residence] had already murmured some apprehension at the prospect; the Bourse was nervous; Guizot and Lieven shared a common fever; Louis Philippe denounced him openly as 'l'ennemi de ma maison;' even the reigning Rothschild complained that 'il a l'inconvenient de faire baisser les fonds de toute l'Europe sans nous en avertir.'" P. Guedalla, 'Palmerston,' London, 1926, p. 253.

CHAPTER VIII

AMICABLE CONCLUSION OF THE CONTROVERSY

1. Resumption of Negotiations in 1846.

Negotiations between Pakenham and Buchanan continued during 1846. The British suggestion of settlement by arbitration having met with unqualified rejection by the United States, Pakenham attempted on his own initiative to differentiate between the matter of the title and that of equitable division by proposing that the title alone should be the subject of arbitration. Buchanan answered that such a proposition was not acceptable to the President who did not believe the territorial rights of the nation a proper subject for arbitration. ⁽¹⁾ Great Britain was reminded that in the last arbitration (that of the King of Sweden) the arbitrator had exceeded his powers by suggesting a boundary line of compromise. Furthermore, Oregon was essential to the United States because of its extent, its destiny as the home of Americans, and its position as an avenue for the commerce of the western states with Asia, advantages which would be placed in jeopardy by arbitration.

Arbitration/

1. Buchanan's reply is enclosed in Pakenham's No. 12, 5th February, in F.O. 5/446. Aberdeen expressed entire approval of Pakenham's efforts in his No. 8, 3rd March, 1846, in F.O. 5/445. Cf. Buchanan to McLane, No. 22, 29th January, 1846, printed in Sen. Ex. Doc. No. 489, 29th Cong., 1st Sess., Vol. 4, Serial No. 478, p. 38.

Arbitration had always seemed to Aberdeen to be the most reasonable method of adjustment, and whenever negotiations languished he brought it forth. The United States were consistently opposed to this method, and when in the earlier stages of the discussions a general arbitration had been suggested they had refused as flatly as in the later stages they had rejected Aberdeen's offer to submit the subject of an 'equitable division' of the Oregon territory to an arbitrator. This, the Americans felt, would have been to admit that Great Britain had a right to a portion of the territory. When the Foreign Secretary met this refusal by proposing that the question of title alone should be submitted to an arbiter with the instruction that he should divide the territory if neither had a clear title, the United States' Government were no less adamant. They contended that to instruct an arbiter in such terms would be tantamount to a clear invitation to him to effect a division of the region. It was their view that to agree to arbitrate was to run the risk of giving up their total stake in Oregon and to lose the valuable harbours of Admiralty Inlet and Puget Sound which Lieutenant Wilkes had valued highly. Arbitration was too slow, and what hope had they that a European arbitrator would possess the detachment necessary to reach a just decision? (1)

Lord Aberdeen found the American dislike to arbitration difficult to understand. He felt that in the face of the position created by Polk's withdrawal of his offer of 12th July, 1845, the British Government had gone as far as could be expected consistently with national pride toward/

1. For the official United States' views on the subject of arbitration see Sen. Ex. Doc. No. 489, 29th Cong., 1st. Sess., Vol. 4, particularly Buchanan to McLane, No. 21, 29th December, 1845, same to same, No. 22, 29th January, 1846, and same to same, 26th February, 1846. Pakenham has an excellent summary of these reasons in his despatch, No. 12, of 5th February, 1846, in F.O. 5/446.

towards reopening negotiations by offering arbitration as a solution. The complete rejection of that offer by the Americans was mortifying, and the Foreign Secretary then debated whether to submit a final proposition in the form of an ultimatum or to accept the alternative - war. The position was saved to some extent by the receipt by McLane of Secretary Buchanan's instructions of 29th January wherein it was stated that, though the President would accept nothing less than the whole territory unless the Senate should otherwise determine, it was left to the discretion of the Minister whether intimation should be made to Aberdeen that, if the British Government desired a peaceful termination of the controversy, they should immediately submit a proposition. The President would decide whether such a proposal, if made, was of a character to justify its submission to the Senate. ⁽¹⁾ This kept the matter open, but it did not go far enough for Aberdeen, who wanted to know the minimum offer that Polk would submit to the Senate.

On the very day of the dispatch of the above instructions Aberdeen was seeing McLane to whom he expressed his chagrin at the rejection of the arbitration offer. He gave it as his conclusion that the President did not really desire peace, and he explained accordingly that he had withdrawn his objections in the Cabinet to the adoption of war measures directed against the United States. He made it clear also that he was not prepared to make any new offer in the circumstances.

The American Cabinet met on 24th and 25th February to consider McLane's despatch containing the gist of his interview with Aberdeen, and the important despatch of 26th February was the result. Beginning with the usual, though this time even more comprehensive, defence of Polk's decision to refer any offer to/

1. Buchanan to McLane, No. 22, 29th January, 1846, printed in Sen. Ex. Doc. No. 489, 29th Cong., 1st Sess., Serial No. 478, p. 37.

to the Senate, it goes on to define the terms which the President deems worthy of submission. They are: the line of 49° with all Vancouver Island to Britain, together with the free navigation of the Columbia for a number of years. To what extent these terms were to be communicated to Aberdeen was left to McLane's discretion, the President relying "with implicit confidence in his sound judgment, prudence and patriotism." (1)

Nothing was better calculated to clarify the diplomatic position or to establish hope of a peaceful solution. The terms likely to be acceptable to the British Government were known, and it was also known that the views of the Senate on Oregon coincided with British views almost exactly. All that was now necessary was formal presentation of a proposition by either of the disputants. But the British Government were in no hurry to move until the Senate had come to a decision on the notice of abrogation of the Convention of 1827. On the day that Buchanan disclosed to Mr. McLane the President's terms of settlement, Pakenham was advising the British Government to make no proposition in the meantime. Calhoun and Webster/

1. Sen. Ex. Doc. No. 489, 29th Cong., 1st Sess., Serial No. 478, p. 40. Cf. Diary, I, 244. A private letter by Buchanan to McLane of the same date makes it clear that "there is not the least doubt but that the offer would receive the previous sanction of a constitutional majority" of the Senate. See Moore, op. cit., VI, 385. The despatch of 26th February supplies Polk's apologia: "The President, since the date of his Message, has seen no cause to change his opinion, either in regard to our title to Oregon or to the manner in which it ought to be asserted. But the Federal Constitution has made the Senate, to a certain extent, a coordinate branch of the treaty making power. Without their advice and consent, no treaty can be concluded. This power could not be entrusted to wiser or better hands. Besides, in their legislative character, they constitute a portion of the war-making, as in their Executive capacity they compose a part of the treaty making power. They are the representatives of the sovereign States of this Union, and are regarded as the best index of the opinion of their constituents. A rejection of the British ultimatum might probably lead to war, and as a branch of the legislative power, it would be incumbent upon them to authorize the necessary preparations to render this war successful. Under these considerations, the President, in deference to the Senate, and to the true theory of the constitutional responsibilities of the different branches of the Government, will forego his own opinions

Webster had assured him that no more than seven senators would oppose a settlement on the principle of "equitable partition and compromise," and certain senators had sought his opinion as to the terms of accommodation that the Senate ought to advise the President to accept. (1)

The Senate debates on the resolution to give notice of abrogation of the Convention of 1827 continued to be conducted in the most friendly manner. The United States' press was playing its part too, and Senator Haywood, who was recognised as Polk's mouthpiece, was demanding in the 'Intelligencer' that there should be a compromise on the basis of the 49th parallel. He reminded his readers that the President was not bound by the resolution in favour of demanding all Oregon passed at the Convention which nominated him.

Events in another sphere were conspiring to hasten a decision on Oregon on the part of the American Cabinet. Mexican affairs which, as we have seen, were so closely linked with the Oregon question, were approaching a crisis. On 12th January the President had received news that his attempt at negotiation with the Mexicans had failed. (2) Preparations for war were at once begun; General Taylor was ordered to lead his army to the banks of the Rio Grande, and Conner's fleet was sent back to Vera Cruz. No definitely belligerent move was made and a policy of procrastination was pursued for it was agreed that an eye must be kept on Great Britain. Their patience almost exhausted, the United States' Cabinet decided early in April that it would be 'prudent' to await/

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1. Pakenham to Aberdeen, 'Separate and Confidential', 26th February, 1846, in F.O. 5/446.
 2. Rives, op. cit., Chapter XXXII. On the following day Pakenham wrote home that "if the report of an unfavourable turn in affairs with Mexico should be confirmed, the consequences would, I think, soon become visible in the prevalence of more moderate views with respect to Oregon." See despatch No. 4, in F.O. 5/446.

await the arrival of the next steamer from England. It was agreed that, provided the news from England was favourable, a Presidential Message on Mexico should be drawn up.

Finally, after prolonged debate, the Senate, by a vote of 40 to 14 passed an amendment to their resolution to give notice of the abrogation of the Convention of 1827 agreeing to show a conciliatory disposition and framing the notice in friendly terms. After a conference between committees of the two Houses, the bill passed both on 23rd April and was approved by the President four days later. On the following day Secretary of State Buchanan advised the United States' Minister in London, Louis McLane, of the decision, and he also sent for Pakenham to tell him that notice "in the kindest manner" had been sent to the British Government through McLane.⁽¹⁾ The United States considered peace as good as settled; their Mexican ambitions were near realisation, and their policy with regard to Mexico could now be carried to fruition; a Presidential Message on Mexico was promulgated the following week.

The passage of this conciliatory notice of abrogation proved the turning point in the negotiations. The friendly nature of its terms and the guarantees to Pakenham of leading senators, together with the very friendly tone of Pakenham's/

1. Reported by Pakenham in his No. 50, 13th May, 1846, in F.O. 5/449. The notice ran as follows: "And whereas it has now become desirable that the respective claims of the United States and Great Britain should be definitely settled; and that said territory may no longer than need be remain subject to the evil consequences of the divided allegiance of its American and British population and of the confusion and conflict of national jurisdictions dangerous to the cherished peace and good understanding of the two countries that the attention of the governments of both countries may be the more earnestly directed to the adoption of all proper measures for a speedy and amicable adjustment of the differences and disputes in regard to the said territory." Cf. Buchanan to McLane, 28th April, 1846, printed in Sen. Ex. Doc. No. 489, 29th Cong., 1st. Sess., No. 478, p. 46.

Pakenham's and Buchanan's exchange of communications and the friendly tone of Buchanan's despatches to McLane (some of them shown by the latter to Lord Aberdeen) were sufficient for the Foreign Secretary to draft the articles of a convention.

2. Lord Aberdeen's Terms.

It is true to say that throughout the negotiations the initiative had almost invariably lain with the British Government, particularly in the 'forties. Since July, 1845, the situation had, with the rejection of the American offer of that month, developed into a position of deadlock. More than one effort had been made by Great Britain to end that position, but the Americans had rejected these efforts without submitting, at least formally, a proposition that would be acceptable to them. American Government circles and perhaps British Government circles were familiar with the terms wanted by the President, but the public of both the United States and Britain were kept in the dark. The Foreign Secretary was therefore faced with the risk of losing prestige and dignity by making a renewed offer, even though it was sure of acceptance. But after debating the matter with himself he came to the conclusion that it would be criminal if he permitted considerations of diplomatic punctilio or etiquette to prevent his making every exertion to avert the danger of calamities which he was "unwilling to contemplate but the magnitude of which scarcely admitted of exaggeration."⁽¹⁾

Aberdeen received the notice of abrogation on 16th May, interviewed Sir J. H. Pelly of the Hudson's Bay Company the/

1. Aberdeen to Pakenham, No. 18, 18th May, 1846, in F.O. 5/809.

(1)
the same day, and two days later forwarded a copy of his suggested convention to the United States. The 49th parallel was to form the basis of the line of demarcation in Oregon, but all Vancouver Island was to go to Great Britain; the Columbia River was to be free to the Company and to British subjects trading with the Company; the possessory rights of the Hudson's Bay Company south of 49° were to be respected.

The offer was in effect an ultimatum, if an offer which is transmitted with something like a probability of acceptance can be so described. Pakenham was to send home any alternative offer proposed by the Americans, although his was to be an ultimatum as far as he was concerned. Even if the Peel Government remained in office there was little prospect of any material alteration of the proposition being accepted; if a new Government came into office there was no chance whatever of their agreeing to a reduction of terms; and a change of government was expected at any moment. A reference to England, therefore, would be equivalent to a rupture of negotiations.
(2)

The terms he offered were considered by Aberdeen to be honourable and advantageous to both parties. Great Britain would obtain the harbours necessary for her commerce, as well as an increased security for her settlers and their possessions in lieu of the detailed district with its single harbour offered by the British plenipotentiaries in 1826. She did not wish to weigh very minutely the precise amount of compensation or equivalent which might be received by either party, but was content to leave such estimate to higher considerations than the mere balance of territorial loss or gain.

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1. See Pelly to Aberdeen, 22nd May, 1846, in F.O. 5/809, recapitulating the burden of their discussion of 16th May.
 2. See private letter to Pakenham, 18th May, in Aberdeen MSS. in the British Museum.

When the Foreign Secretary showed the terms of his ultimatum to McLane on 18th May, the Minister, interpreting his instructions literally, ⁽¹⁾ informed him that there was no possibility of the President's agreeing to concede free navigation of the Columbia. This threatened to create an impasse, because not only did it appear to McLane to be unacceptable but both Polk and Buchanan felt it to be a concession they could not make. McLane would have granted free navigation for a number of years to the servants of the Hudson's Bay Company, but he would never advise granting a permanently free Columbia. He was unable to understand Aberdeen's insistence on this point, and he was much disappointed by the pertinacity with which it was "at so much risk" insisted upon. He was unsuccessful in inducing Aberdeen to reduce the right of navigation to a number of years.

When Pakenham submitted the treaty draft of 18th May to Buchanan on 6th June the Secretary at once stated that "the strongest objection existed" to the grant of a perpetually free Columbia. The matter was discussed in the American Cabinet. Polk had told Calhoun on 25th February, Archer two days later, ⁽²⁾ and Senator Benton on 11th March and again on 9th April ⁽³⁾ that if Great Britain insisted upon the perpetual free navigation of the Columbia River he would reject the claim without even submitting it to the Senate. He now receded from this position to the extent of expressing the view in the Cabinet discussions that the right of navigation of the river was restricted to the duration of the Hudson's Bay Company's charter, which was due to expire in 1859. Yet in spite of/

1. See instruction of 26th February, already quoted.
2. Idem. I, 256.
3. Idem, I, 280 and 324.

of dissatisfaction with Article 2 of the draft, Polk decided to submit the draft to the Senate for their previous advice because he realised that, if he rejected it without making an alternative proposition, "war was almost inevitable."⁽¹⁾

The words of the draft are clear enough, and McLane's despatch of the same date made it clear that Aberdeen's intention was in no way to limit the right; indeed, after the signing of the Treaty McLane freely and fully confirmed that he had rightly understood Aberdeen's intentions.⁽²⁾

Maintaining that the article spoke for itself, Pakenham offered to refer the subject to his Government with the explanation that he could take no action without doing so. Buchanan and Polk would not hear of this for, in the face of the developing Mexican situation, delay was dangerous, and they agreed to sign the Treaty as drafted by the Foreign Secretary. The bare suggestion of a reference to England was sufficient to overcome every difficulty.⁽³⁾

Pakenham's instructions were to withhold the British proposition in certain cases, but the outbreak of war with Mexico was unlikely to be one of these. Yet the war provided Great Britain with an excellent opportunity to cripple the competition of American shipping and to check the expansionist movement in the United States.⁽⁴⁾ There is no doubt that the Mexican Government confidently expected that irritation/

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1. Diary, I, 453.
 2. Aberdeen to Pakenham, 29th June, 1846, in F.O. 5/809.
 3. Private letter of Pakenham to Aberdeen, 29th June, 1846, in Aberdeen MSS.
 4. Peel announced in Parliament that "so far from being influenced in our views in regard to the policy of terminating these disputes about the Oregon by the breaking out of war between the United States and Mexico, the Government distinctly intimated to Mr. Pakenham that, although that event occurred, it did not affect in the slightest degree our desire for peace." Hansard, Vol. 87, p. 1053. There is no indication of this in the official correspondence, though Pakenham had general powers to withhold the offer if developments warranted.

irritation over Oregon would gain for them English assistance. The tense situation that existed over the Oregon dispute in the winter of 1845-46 had given them such hope of an Anglo-American conflict that they had merely temporised with John Slidell, the special American minister plenipotentiary.

Had he cared to do so, Pakenham, without exceeding his instructions, could have threatened assistance to Mexico unless the most extreme British demands in Oregon were conceded. But war with the United States would have been harmful to Britain's best interests, and with the British public now almost unanimous in holding the view that the line of 49° would secure all that was essential to their country's honour, the pretext for war was manifestly slight and unworthy. Those moderate Americans who had so zealously supported the cause of peace would never be able to forgive any attempt to allow the fluctuations in the success of American arms in Mexico to influence the Oregon negotiations. (1)

President Polk's difficulty was adroitly met by his putting the British terms to the Senate for their advice, and by his insisting in the Cabinet that the Convention, despite the precision of the apposite article, merely sought to grant free navigation for the duration of the Hudson's Bay Company's charter. During the discussions in the Senate on the treaty draft it was proposed on 12th June to recast Article 2 so as to restrict the right of navigation to the period 1846-63, but the proposal was rejected. An amendment to the resolution for adopting the draft which suggested the line of 54°40' as the boundary was also decisively rejected, and 18th June found the Senate by 41 to 14 deciding to accept the draft convention of Lord Aberdeen without the addition or alteration of a single/

1. Aberdeen later completely endorsed Pakenham's decision; see his letter of 30th June in Aberdeen MSS. "You have full liberty on the subject to decide whether, if I possessed knowledge of the facts, I should withdraw the offer," were the instructions.

single word.

It may be argued, therefore, that the concession by the Americans of a perpetual right to navigate the Columbia River to British subjects represents a distinct gain made by Lord Aberdeen and the concession proves that, while for the sake of peace he had receded from Canning's line based upon the Columbia, he was by no means intimidated into accepting more than he was prepared to concede. In 1846 navigation of the Columbia appeared to be essential to the successful prosecution of trade in Oregon and by securing it in perpetuity the Foreign Secretary was merely protecting the commercial interests of his compatriots. Potentially, the right of navigation was of great value when it is remembered that the British Hudson's Bay Company in 1846 controlled the economic life of practically the whole of Oregon. The Company would be able by economic action to restrict immigration into the Oregon territory; it would be possible for it to impede seriously the work of any territorial government which might be established by the Americans; it could, if it so wished, nullify United States revenue laws. The United States' Government realised all this, and Secretary Buchanan summed it thus: "To estimate the evils which would attend such a concession, we have but to imagine what would have been the consequences had the British Government succeeded in securing for its subjects the free navigation of the Mississippi from its source to its outlet in the Gulf of Mexico."⁽¹⁾ As a matter of fact, this clause ultimately became a dead letter because after the Treaty of 1846 the Company developed an alternative route by way of the Fraser River which, because of the commercial restrictions placed on the trade of the Columbia by American revenue officers, took the place of the southern river as a great trade artery.

1. Buchanan to McLane, 26th February, 1846, in Sen. Ex. Doc. No. 489, 29th Cong., 1st Sess. p. 40. Cf. Moore, 'Works of James Buchanan,' VI, 192.

CHAPTER IX

THE HUDSON'S BAY COMPANY AND THE OREGON QUESTION (1)

1. The Point of Honour.

In view of the consistent attitude towards the Oregon controversy of the British people and of their unanimous aversion to war with the United States, it is natural to ask whence sprang the incentive to war at all. The answer is that it developed from the point of national honour involved. (2) This point of honour was twofold - abstract and concrete. The abstract principle was threatened by the possibility of surrendering to American 'threats' a region to which Great Britain felt she had a just claim; there was also dread of loss of prestige among foreign powers. In other words, the real impediment to a pacific settlement was the fear that con- (3) cession might encourage extortion.

The subject had long been one of international importance; in addition to the two contending parties, Spain and France had at one time been directly involved, and Russia indirectly interested, and these powers were therefore familiar with/

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1. The hopes and pretensions of the Company can now only be - at least partially - a matter of conjecture for their archives are not open to students. The present writer was informed by the Company's secretary that an archivist has been appointed and that the papers are being collected and catalogued.
 2. That the Americans understood this and acted accordingly is evident from McLane's published correspondence. Besides other testimony a letter from Tyler to Calhoun, in the latter published correspondence, p. 1059 ff., is noteworthy.
 3. All contemporary newspapers note this. See the 'Spectator,' 1846, p. 158. Cf. Fraser's Magazine, October, 1845, p. 485. "Yield only one inch and there will be no end of Yankee blustering and bravado."

with the issues comprehended by the dispute. The question was regularly discussed in the French press, ⁽¹⁾ and an official geographer, de Mofras, had been sent by the French Government to the Pacific to report upon conditions there.

The concrete aspect of the point of honour involved the abandonment of the interests of the Hudson's Bay Company in Oregon, and, so far as it concerned Great Britain, the Oregon controversy was very largely a matter of honour, the tangible aspect of which demanded adequate defence, moral and material, of the Company's interests in Oregon. Throughout the boundary negotiations the really debatable and contested area was that lying between the Columbia River and the 49th parallel inasmuch as, since the time of Canning, Great Britain had been committed to demanding the Columbia as boundary while the United States, in spite of the boisterous "Fifty-Four Forty or Fight" agitation of 1844-45, were committed to the 49th parallel as their demands in the north. It is important to remember that in this contested area British influence was paramount, greatly outweighing that of the United States, there being but eight ⁽²⁾ Americans settled within its confines in 1846.

The Hudson's Bay Company controlled this disputed territory and guarded it jealously against United States' encroachment. Their chief factor there, Dr. John McLoughlin, succeeded in inducing the Americans to call this section 'Vancouver', thereby giving tacit recognition ⁽³⁾ (so he maintained) of Britain's claim to it. It was the policy of the Company's/

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1. See, for example, the 'Journal des Débats' of 10th March, 1846.
 2. An article by F. Merk, 'The Oregon Pioneers and the Boundary' in the American Historical Review, XXIX, pp. 681-699, discusses this subject.
 3. McLoughlin to the Company, 20th November, 1845, copy in F.O. 5/461.

Company's agents in Oregon to impress upon American settlers there that the ultimate boundary would be the Columbia, and no opportunity was lost of discouraging their crossing the river.

The Company's interests in the region between the Columbia and the 49th parallel were very extensive in the fields of the fur trade and agriculture. (1) In all discussions of the boundary the sine qua non of the Company was the right to free navigation of the river which was the only one navigable north of the parallel of 42°. Since water communication with the interior was so essential to the success of the fur trade, surrender of the use of the Columbia by the Government would be to the serious detriment of the Company's interests. As will be seen later, it was primarily a change in those interests which prompted the British Government to relinquish with equanimity their adherence to an accommodation along the line of that river.

An estimate of the extent of the Company's holdings may be gleaned from two reports - that of Warre and Vavasour and that of Captain Gordon and Lieutenant Peel. The first two named were the military officers sent to Oregon by the Canadian Government upon the advice of the home Government. (2) Gordon, a relative of Lord Aberdeen, and Peel, a son of the Prime Minister, were also sent out to secure information upon the state of the United States' settlements in Oregon and to indicate to the inhabitants that Great Britain would not allow her rights to be invaded. (3)

The/

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1. Their charter contained no power to acquire land and still less to give a title to lands. Consequently, no British colonies other than those of the Company's servants were established in Oregon. The charter gave the Company temporary control of the ports they needed for their trade.
 2. Supra, p. 107.
 3. The Peel-Gordon report appears in F.O. 5/419. Their appointment dated from 2nd September, 1845.

The central depot for the fur trade was Fort Vancouver, the settlement established by the Company on Canning's instructions in place of the restored Fort George in order to link up a claim by occupation to that by right of discovery and exploration. There were also four other important stations - Fort Okanagan, Fort Victoria, Cowlitz Farm and Fort Nisqually. (1) Each of these was an agricultural centre as well as a fur rendezvous and centre of supplies. At Vancouver over a thousand acres of land were under cultivation and several thousand cattle pastured there. The Puget Sound Agricultural Company, an adjunct of the Hudson's Bay Company, had its centre at Fort Nisqually and, though the Government's agent, Captain Gordon, considered the soil infertile, the fact remains that nearly 2,000 acres were under cultivation and over 5,000 sheep were pastured there. Cowlitz Farm, with 3,500 acres under (2) cultivation, was perhaps the most fertile region of all.

We have seen that all classes in Britain considered Oregon a useless, barren tract; its one valuable advantage - strategic location - was thought to be quite unworthy of the fiery discussion excited by the desire for its possession. To the Company, however, it is obvious that Oregon was a source of profit and represented the investment of a large amount of their capital. The directors perceived that the trade of the territory was susceptible of extensive development and the intimate knowledge of its geography possessed by their factors indicated to them very clearly the immense possibilities of the area even north/

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1. See map in Appendix.
 2. The Company also had considerable interest in the region of the Willamette River upon which the American settlers had begun to settle. Methodist missionaries, for example, had seized the Falls of Willamette, and others had made considerable inroads upon the Company's lands. In the winter of 1841-42 it was estimated by Simpson that in the Willamette region there were 300 Canadians (servants of the Hudson's Bay Company), 150 Americans, and 1,000 Indians. Of live stock there were 2,000 horses, 3,000 cattle, and 3,000 pigs. See Simpson to Pelly, 25th November, 1841, in F.O. 5/399.

north of 49°. They hoped, therefore, to retain the region between the Columbia and the 49th parallel of latitude as a field for their operations. But they were not stubbornly insistent upon it; if the Government had to surrender that territory, provided they (the Company) received adequate compensation they would have few regrets in withdrawing from an area in which their servants were exposed to the insults of the worst class of American, and their property placed at the mercy of men who could invoke their patriotism as a pretext for robbery and depredation. The Company were so well established south of 49° that the British Government could not possibly ignore their interests involved in the controversy. This, therefore, provided a valuable incentive to the promotion of the British cause after Lord Aberdeen and Mr. Pakenham had wearied of the dispute, which they did long before its final adjustment.

2. The Company and Great Britain.

One now asks the question: Did the Hudson's Bay Company advance or prejudice the claims of the British Government? Was their policy in Oregon and were their actions in harmony with the best interests of Great Britain? The answer briefly is that by exerting economic pressure - the only means that they could use consonant with the terms of the Convention of 1827 - the Company kept the Americans out of the disputed region between the Columbia and the 49th parallel. In doing this, they were upholding the British claim in Oregon because after 1843 the Americans were entering Oregon in such numbers that before 1846 they had occupied all the best land and sought even to develop claims north of the Columbia River. Had they been in no way checked, these American 'squatters' would have established, by right of occupation, their country's title/

title so comprehensively that a line even north of the 49th parallel would justifiably have become the basis of the United States' claim, and the Americans would have demanded at least that part of Vancouver Island which lies south of 49°; moreover, they would probably have refused to concede navigation of the Columbia. By advising the 'squatters' of the unsuitability of the region and by threatening to withhold supplies from them if they settled on the north side of the river, the Company's agents succeeded most effectively in discouraging American immigrants. (1) Further, they succeeded, by their policy of passive resistance, in impressing upon the settlers that the Columbia would be the ultimate boundary.

It is well to remember that the presence of the Americans in the Willamette Valley was welcomed by the Hudson's Bay Company because the settlers were a source of appreciable profit to them. If the Company were concerned solely with high dividends, as is so often alleged, why did they not encourage the Americans to settle north of the Columbia as well as south of it? The land north of the river was not so fertile, but that alone does not explain why less than a score of Americans managed to establish themselves in the huge area extending over three degrees of latitude. The answer would seem to be that the Company, by the only means legally at their disposal, discouraged the settlement of American citizens north of the Columbia because they wished to keep faith with the British Government, who had committed themselves throughout the negotiations to securing the Columbia as boundary. The Americans were/

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1. "The Company exercises full authority over all, whether Indians, English or Americans, who are in its service, and in a manner always injurious and generally disastrous to all others who undertake to trade in that territory. It may be said, in fact, that Americans, except associated with Company, are not permitted to carry on a traffic within several hundred miles of the Company's posts." Hall J. Kelley, 'Memoir on Oregon,' 31/1/39, printed in appendix to House report, No. 101, 25th Cong., 3rd Sess. Cf. Wilkes, op. cit., V, 144-45.

were welcomed so long as they kept within the Willamette Valley and did not interfere with the Company's trade. The plan of campaign adopted by the Company in dealing with the Americans was to establish a trading post adjacent to every American post and to compete with them even at a loss. That mere dictates of trading policy alone did not prompt these methods is obvious from the fact that they were directly opposite to those employed in dealing with Russian settlements. Since the latter offered no challenge to British domination in the region of the Columbia, however, the Company were not required to challenge and oppose the Russians' presence. (1)

It is indeed not too much to say that, but for the Hudson's Bay Company's interests in Oregon, the Government might well have been able and willing - the concrete point of honour being absent - to arrange a settlement distinctly less favourable than that secured in 1846. That the Government throughout the negotiations suffered embarrassment from the existence of the Company's holdings is one way of expressing the fact that all Oregon might quite easily have been surrendered but for the Hudson's Bay Company. Not only the British authorities but also Polk and Buchanan realised that fact, and therein lies the significance of the Company's influence in the final settlement. (2)

That influence was real, potent and continuous, besides being from a British point of view the outstanding characteristic of the whole controversy.

Lord Aberdeen never forgot the Company's vast stake/

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1. This is illustrated in McLoughlin's (Chief Factor) last letter to the Company, quoted by K. Judson in the 'American Historical Review,' XI, 104-134.
 2. Pakenham told Buchanan that "the British Government would be glad to get clear of the question on almost any terms They would yield it [the whole territory] without a murmur ... [but] the Hudson's Bay Company had rights in Oregon which must be protected; and I understood him to admit that they did interpose an obstacle in the way of settlement of the question." See report of interview with Pakenham on 27th December, 1845, in Moore, op. cit., VI, 352-353.

stake and inspired policy in the area between the Columbia and the 49th parallel; if title by occupation counted for anything this region was surely Britain's. His great difficulty was to reconcile his obligation to the Company and his duty to his country, which objected to a war over territory so remote as Oregon. At one time the two seemed irreconcilable, but it is greatly to his credit that, assisted by a certain degree of good fortune, he effected a boundary settlement which proved acceptable to the Hudson's Bay Company and at the same time was not unacceptable to the British public.

Upon the twofold point of honour England - Govern-
 (1)
 ment, Opposition, press, and public - was unanimous, and was prepared to uphold it at the point of the sword, if necessary. Both British and American Governments were aware that a compromise on the 49th parallel would oblige Britain to yield far more than the United States, and would give the latter decidedly the best of the bargain. The Americans would be giving up nothing not then in their possession while Britain, with a dozen 'forts' north of the Columbia, would be relinquishing
 (2)
 several places which she had occupied for many years. England was willing to cede the title of sovereignty and dominion over the greater part of Oregon, but she required, as/

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1. For the Opposition point of view see Spencer Walpole, 'Life of Lord John Russell,' London, 1889, p. 421.
 2. New York 'Journal of Commerce,' 9th March, 1846. Cf. Moore, op. cit., VI, 352-53, and Polk's 'Diary,' I, 191-192. The despatches of Louis McLane, who succeeded Edward Everett as United States' Ambassador in London in August, 1845, also demonstrate that the Americans realised the importance of the point of honour to Great Britain. "I may repeat my conviction, founded upon all the discussion in which I have been engaged here, that in making partition of the Oregon territory, the protection of those interests which have grown up during the joint occupation is regarded as an indispensable obligation on the score of honour and is impossible to be neglected." McLane to Buchanan, 18th May, 1846. For the press attitude see the leading articles in the 'Times' for 4th January, 7th February, 16th March, 1846.

as a matter of honour, as well as of utility, that the commercial advantages of the country should be continued to her. The Hudson's Bay Company had a very strong case with the Government and its interests must not be sacrificed to American ambition and aggression.

3. The Company's Transfer to Fort Victoria.

Probably the most cogent reason why the settlement of the Oregon controversy came when it did was the change in the policy of the Hudson's Bay Company. For a number of reasons Fort Vancouver, the Company's chief post, agricultural and fur trade centre in the Oregon territory, had become untenable. For instance, the bar at the mouth of the Columbia was proving a formidable and irksome obstacle to the Company's shipping; true, this difficulty was not new (Simpson had been delayed at the bar for three weeks in 1841) but, with the development of trade, (1) it acquired greater significance.

Another circumstance which depreciated the value of Fort Vancouver and encouraged the view that a new chief depot should be sought was the alarming annual decrease in the yield of furs of the area north of the Columbia. No attempt had been made to preserve the valuable animals which supplied the furs, and the increase in the number of trappers was consequently followed by a decrease in production. This increase in the number of trappers represented the activities of the American Fur Company of John J. Astor. (2)

Simpson/

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1. Simpson was an early champion of Fort Victoria which was easy of access at all seasons. See in particular his letter to the Company, March, 1842, in F.O. 5/399. Several ships were actually lost in crossing the bar; Astor's 'Tonquin' sank in 1811; the Company's 'William and Anne' was lost in 1829, their 'Isabella' in 1830, Wilkes's 'Peacock' in 1841, Howison's 'Shark' in 1846.
 2. The papers of the company are in the possession of the New York Historical Society. Miss Grace J. Nute reviews them in the American Historical Review, XXXII, 524 ff.

Simpson made frequent reference to this decline in the fur trade in his letters to the Governor of the Company, and the actual profit and loss returns for 1842 and 1843 corroborate his views. At Fort Vancouver a loss of £1,213 was recorded in the former year and one of £991 in the following year. Settlement did not favour the trade in pelts, and the Hudson's Bay Company realised that with the inroads of American (1) settlers their posts would have to be removed.

If the profits of the fur trade were decreasing, it has to be noted, on the other hand, that the general trade of the Oregon territory was rapidly improving and developing to the financial advantage of the Company. The latter's main object, therefore, was to avoid a war at all costs, because war would interfere with their profits. That is why they assisted destitute American immigrants; why they bowed before American threats and joined the Provisional Government established in Oregon; why they removed their chief base from Fort Vancouver to Fort Victoria. (2)

The kindly reception extended to American immigrants by the British Company may appear unintelligible since the Americans were apparent rivals whose presence assisted the claim of the United States' Government and at the same time threatened Britain's title by right of occupation. But the destitute settlers provided a valuable market for the Company's goods; they borrowed tools, ploughs, seed, oxen, and other supplies from the Company, and, the journey from the United States having exhausted the funds of many of them, they were delighted to find the Company ready to lend them money - always at/

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1. K. Judson, Oregon Historical Quarterly, XVII, 215-239. See also Wilkes's remarks on the fur trade in his report, a copy of which is to be seen in the Oregon Historical Quarterly, XII, 269-299.
 2. "Forced submission or resistance would damage us," said Dr. McLoughlin, chief factor at Fort Vancouver. He had charge of 500 men and managed most successfully thousands of Indians. As interpreter of Company policy he is second only to Simpson.

at six per cent interest. What appeared to be a humanitarian gesture was in reality prompted by the instinct for profit. The Company's were almost the only vessels touching at the Columbia; moreover, the Company's officials encouraged the settlers to run into debt. The Americans were always welcomed, therefore, south of the Columbia so long as they did not interfere with the fur trade. If they encroached upon the Company's rights they were punished with refusal of clothing and supplies. Goods were sold at an advance of fifty per cent on London prices and in 1846 it was estimated that fully four thousand of the settlers were indebted to McLoughlin and the Company to the extent of £20,000.⁽¹⁾

Possession of Fort Vancouver was essential to the successful prosecution of trade with the Americans in Oregon, and the decision to reduce its status with a view to its ultimate abandonment was only made as the result of the envy and hostility of the American settlers in the neighbourhood. The influx of settlers into the Willamette Valley was increasing annually and had by 1843 assumed proportions quite unexpected both by the Hudson's Bay Company and the United States' Government. The earliest settlers had been for the most part missionaries, but a new type of arrival produced in the Company's agents justifiable anxiety about their personal wellbeing as well as about the safety of their stores. Settlers from Missouri who belonged to the thieving and disorderly category of immigrant men who had left home to escape payment of debts or as fugitives from justice, began to enter in large numbers in 1843. Usually they arrived destitute and starving to find the British Company in possession of most of the best land. They often came with/

1. J. H. Gilbert, 'Trade and Currency in Early Oregon,' p. 45, New York, 1897.

with minds inflamed by demagogues who preached that the Hudson's Bay Company was a most sinister organisation which could even incite the Indians to plunder and murder the Americans.

The most daring and unscrupulous of the immigrants squatted upon land directly contiguous to, if not actually upon, recognised Company territory, trusting for the permanence of their location to the good nature of the Company's servants and to the difficulty of evicting them. ⁽¹⁾ If the petition of the settlers was granted and United States' jurisdiction established over Oregon, the American military force which would inevitably be sent to the region could be expected, by its intimidating presence, to drive the Company out. Fearing this, the Hudson's Bay Company were anxious to hasten a boundary settlement which would either guarantee the security of their possessions or grant them adequate compensation for any loss sustained.

It was President Tyler's Message of December, 1844, urging that emigration to Oregon should be facilitated, that finally moved Simpson to instruct McLoughlin on 1st January, 1845, to collect furs at Fort Victoria which was thenceforward to replace Fort Vancouver as the main depot for ships to and from England. In the spring of that year the 'outfit' (the year's supplies kept in case of shipwreck) was deposited at Fort Victoria and the produce of Forts Nisqually and Langley was stored there for export. The wisdom of the transfer was confirmed by the events of 1845. The new American arrivals of that year and the next were escorted for a considerable distance by United States' dragoons who gave them the necessary protection en route and allowed them to reach Oregon with money and goods intact. No longer were they so dependent upon the British/

1. After the boundary settlement in 1846 the best land and cattle south of 49° were seized by the Americans. This fact came out in 1863 when the Report of the British and American Joint Commission on Hudson's Bay Company Claims was published. Cf. F. Merk, 'The Oregon Pioneers and the Boundary,' American Historical Review, XXIX, pp. 681-99.

British company for initial supplies or funds. That part of the Hudson's Bay Company's business ceased to be profitable, and the Company were therefore prepared to move northwards in spite of the fact that the mainland north of the 49th parallel was looked upon with disfavour and had never been rated very highly.

The choice of the new chief depôt at Fort Victoria at the southern end of Vancouver Island proved to be a wise one inasmuch as it was calculated to accord with the trading interests of the Company and the strategic interest of the Government. (1) United States' diplomacy had been directed toward securing the control of suitable harbours on the Pacific, for great weight had been attached to the report of Lieutenant Wilkes who had reported that those on Puget Sound were excellent, and he had advised most strongly that their possession ought to be made a sine qua non of American demands in the Oregon negotiations. Egress from their harbours to the Pacific was possible only by way of Queen Charlotte Sound, which was understood not to be navigable for ships, and Juan de Fuca Strait. Great Britain controlled the former, and if she received Vancouver Island entire in the boundary settlement, she would be in a position to control shipping through the latter also. Fort Victoria, therefore, lay in a highly strategic position. Further, since Britain had practically given up all/

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1. The actual transference of business to Victoria was naturally a slow process, and the success of the post was at first speculative. The first buildings had been erected in the spring of 1843, though the decision to establish some sort of post there had been made as early as the previous summer by Factor Douglas who saw in Esquimalt one of the best harbours on the whole Pacific coast. The new fort soon justified its choice; it drew trade from all directions, including some districts never before touched. It was able to accommodate the merchant shipping plying in that region, while the surrounding area offered wide scope for farming operations. Before the boundary settlement was reached Fort Victoria was able to supply a large number of men-of-war with vegetables, flour, and other provisions. United States' whalers, of which there were many in northern Pacific waters, were also supplied by the new depot.

all hope of securing the integrity of California as a part of Mexican territory, and since the United States' expansionists were casting covetous eyes upon the region whose acquisition, in view of the weakness of the Mexican grasp upon it, was considered to be only a matter of time, it behoved the British Government to nullify the threatened transfer to the United States of the greatest port on the Pacific coast, San Francisco, by securing and developing Fort Victoria.

The effect of the establishment of the new chief depot was soon evident among the Oregon negotiators. On 29th March, 1845, Sir George Simpson gave the governor of the Company his notion of a suitable boundary line. After detailing essential moves in the event of war, he advises that, if the line of the Columbia proves unobtainable, the line of the 49th parallel ought to be acceptable to the Company provided that Britain retained possession of all Vancouver Island and was guaranteed free navigation of the Columbia River. ⁽¹⁾ It is a most significant fact that the terms thus outlined and later transmitted to the Government as consistent with the interests of the Hudson's Bay Company are identical with those of the final settlement of 1846.

4. The Company and the Provisional Government.

In the spring of 1843 the American citizens of Oregon assembled and voted for a Legislative Committee of six to act as a Provisional Government; this move had become necessary for the protection of existing land claims. ⁽²⁾ Owing to the early predominance of British subjects (all of them superannuated/

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1. Copy in F.O. 5/459.
 2. The case of an American settler named Young, who had died intestate in 1841 leaving valuable property, inspired the idea of the Provisional Government.

superannuated members of the Hudson's Bay Company), however, the first attempts at setting up a separate government were easily frustrated.

The Company were duly invited to join, but Dr. McLoughlin at first felt unable to give his consent. Later, however, in August, 1845, force of circumstances compelled him to change his policy. A number of attacks on the Company's property, ⁽¹⁾ the difficulty of excluding intruders, the refusal ⁽²⁾ of the Company and the Government to send him armed support, the loss of Company servants by desertion and his inability to prosecute them, the existence of large outstanding debts owing to the Hudson's Bay Company by the settlers of the Willamette Valley, were McLoughlin's reasons for joining the Provisional ⁽³⁾ Government of Oregon.

The conditions of joining laid down by the Company were broad in principle. They were to pay taxes only on sales to settlers; the region north of the Columbia was to be called Vancouver; the Company's trade rights were to be guaranteed; the majority of the officials in the Vancouver area were to be ⁽⁴⁾ Englishmen. At the same time, the Provisional Government had a definite pro-American tone and character. The Preamble to the first Organic Laws, for instance, ran as follows: "We, the/

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1. For example, an American named Williamson squatted upon Company property and to oust him McLoughlin had to destroy his hut.
 2. McLoughlin repeatedly complained of the Company's and Government's failure to support him. He was told in November, 1844, that "no such protection could be obtained in the existing state of the boundary question, of which there is little prospect of an early settlement " At length, a man-of-war, the 'Modiste,' was sent to the Columbia in 1845.
 3. McLoughlin's letter outlining his policy and the reasons for it appears in F.O. 5/461. It is dated 20th November, 1845.
 4. R. C. Clark, 'The Last Step in the Formation of a Provisional Government for Oregon for 1845,' in the Oregon Historical Quarterly, XVI, 313-329. In their first report, that of 1st November, 1845, Warre and Vavasour approved the Company's action, but in their second of 10th July, 1846, (not in Lord Aberdeen's hands in May, 1846, when drafting the treaty) they condemned it.

the people of the Oregon Territory, for purposes of mutual protection, and to secure peace and prosperity among ourselves, agree to adopt the following laws and regulations, until such time as the United States of America extend their jurisdiction over us."⁽¹⁾

The Hudson's Bay Company has been trenchantly denounced by its critics for associating in the Provisional Government. It is argued that this act compromised the Government who were concerned with the interests of the Company.⁽²⁾ While it is true that the Company's acceptance of the Provisional Government was to a certain extent reprehensible, it must be remembered that they accepted it only after much deliberation and in the absence of adequate military protection from the British Government. The Chief Factor at Fort Vancouver, Dr. McLoughlin, had made, as we have seen, repeated unsuccessful efforts to induce the Government to send a protective force. The Company's lands were invaded and their agents insulted; their only means of protection and legal redress was an alliance with a body which would respect their rights, and that is what they effected by joining the Provisional Government. They merely entered into an alliance with the American settlers, and as an earnest of their good faith the Americans gave them control of the area north of the Columbia River. It may be argued that the Company placed British subjects under the jurisdiction of a government with foreign sympathies, but we must remember that nearly all the British subjects were in the pay of the Company which would therefore continue to exercise effective control over them. The American settlers wanted a constitution/

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1. J. Grover, 'Oregon Archives,' p. 28, quoted in E. S. Meany, 'History of the State of Washington,' p. 144, New York, 1924.
 2. See in particular J. White, 'Canada and Its Provinces,' VIII, 969, Toronto, 1914-17, 23 vols.

constitution long before they possessed a majority in the country. Their every effort in this direction was defeated by the Company's influence until that majority was obtained. In the terms of alliance a negative sort of recognition was given by the American settlers that the Columbia was likely to be the boundary, a gain of much greater value than any ever achieved by British diplomacy.

The very fact that the Company were invited to associate themselves with the Provisional Government is proof of their power and influence. The Americans saw that it would be much more politic to placate rather than defy the Hudson's Bay Company. They were completely dependent on that body for supplies; the Company kept them in touch with the outside world; they acted as clearing-house for their commercial paper and, most important of all, they controlled the Indians who were a constant menace to the Americans in the Willamette Valley. ⁽¹⁾ The memorial of the settlers to the United States' Government in 1846 explains and deprecates this dependence on the British Company. Had the latter persisted in holding aloof from the Provisional Government, exasperation and anger would have induced the Americans to precipitate trouble in Oregon. That was precisely what the Company, in accordance with the instructions of Lord Aberdeen - who greatly feared that a local clash would precipitate a general war - as well as their own inclinations, were determined to prevent.

Participation in the Provisional Government was conditioned by adherence to the terms, not of a fusion, but of an alliance. The oath of allegiance was changed in order to allow the settlers to support the Organic Laws of the Provisional/

1. See R. C. Clark, 'Last Step in the Formation of the Provisional Government of Oregon,' in the Oregon Historical Quarterly, XVI, 316-317.

Provisional Government "so far as they are consistent with duties as a citizen of the United States or of a subject of Great Britain."⁽¹⁾ It was a coalition government, and, with Englishmen filling the majority of the offices of the region in dispute - between the Columbia and the 49th parallel - a continuous English bias in the spirit of its government was ensured.

This recognition of the Provisional Government of Oregon, coupled with the virtual abandonment of Fort Vancouver as a trade centre (the two taking place within two months of each other), sufficed to convert Peel and other members of the Cabinet to Aberdeen's way of thinking, that is, to being satisfied with the 49th parallel as the basis of the boundary settlement.⁽²⁾ The Company obviously no longer regarded the river as vital to their prosperity, and the concrete point of honour would not be sacrificed by accepting the 49th parallel as the line of boundary. The trade of the region north of 49° could be centred at Fort Victoria, while if the Columbia was free to both nations use could be made of it as long as it was needed. The Government could not be charged with dereliction of British interests, and the Opposition and the nation - perhaps even Lord Palmerston - would be appeased. After this withdrawal from the line of the Columbia, then, there remained only the occurrence of a favourable occasion to offer the line of 49° to the United States.

1. Clark, *idem*, p. 323.

2. That Aberdeen attached great importance to the transference of the Company's chief post is evident from his references to it in his private correspondence, and Everett, who was evidently apprised of its imminence early in 1845, judged it to be of sufficient importance to reconcile Britain to accepting the line of 49° along with a free Columbia. See his letter to Aberdeen, 28th January, 1846, in Aberdeen MSS. When the Foreign Secretary received word of the transfer he immediately wrote to the Prime Minister privately, advising him of the development and urging the acceptance of the 49th parallel as the line of demarcation in Oregon. See Aberdeen to Peel, 17th October, 1845, in the Peel MSS.

5. The 'Mystery' about Oregon.

There is a school of Canadian historians which seeks to discredit the part played by the Hudson's Bay Company in the boundary settlement, and to charge them with gross selfishness in their devotion to British interests in Oregon. The members of the school contend that the Company contrived to wrap Oregon in mystery in order presumably to cloak the true nature of their work there.

Thus, the 'father' of the school, J. E. Fitzgerald, an Englishman, writes: "Had that Corporation [the Company] asserted the privileges of their charter against American claims as vigorously as they have ever opposed them to British liberties, the boundary between the United States and British North America would never have been settled along the forty-ninth parallel." (1) And later: "The Company know very well that as long as there is a general belief that the interior of the continent of America is of no value, so long they may feel secure in the possession of their privileges; and therefore the idea is circulated that the whole country north of the forty-ninth parallel of latitude is a frozen wilderness, where human life can with difficulty be supported, and where the earth will not yield its accustomed fruits" (2)

But there was no mystery about Oregon. We have noted many instances of the very close co-operation that existed between the Government and the Hudson's Bay Company. Indeed/

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1. J. E. Fitzgerald, 'Examination of the Charter of the Hudson's Bay Company,' London, 1849, p. 12.
 2. Idem, p. 114. The protagonists of this view speak of the Company as an 'historical anachronism' which did everything to perpetuate the mystery ' about Oregon. See J. White, 'Canada and Its Provinces,' 23 vols., Toronto, 1914-17, Vol. VIII. Cf. Coats and Gosnell, 'Sir James Douglas,' Toronto, 1926, p. 159. Cf. also H. Commager, 'England and the Oregon Treaty of 1846,' in the Oregon Historical Quarterly, XXVIII, 18-38.

Indeed, almost all the knowledge possessed by the Government of the geography and resources of the Oregon territory was confined, at least before 1845, to information collected and freely imparted by the Company. Canning, for instance, felt constrained to consult the 'Pelly tribe' before formulating his boundary terms, while H. U. Addington, who was at the Foreign Office as a permanent official throughout the greater part of the Oregon controversy, was in regular consultation with the Governor and the other officials of the Hudson's Bay Company. (1)

When the crisis approached in 1844 with the inception of the 'Fifty-Four Forty or Fight' movement, the Government at once applied to the Company for details of conditions in Oregon. The Warre and Vavasour expedition was a direct sequel to Sir George Simpson's memorandum of 29th March, 1845, (2) and his interview with Peel and Aberdeen of 8th July; Aberdeen sent Simpson as special envoy to the north-west coast, having him call on Pakenham with private information on his way out; when the time came for the Foreign Secretary to draft the terms of the Treaty of 1846 he actually obtained the assistance of the Governor of the Company, Sir J. H. Pelly. It is difficult to see how co-operation could be closer than this.

(3)
Sir George Simpson was the Hudson's Bay Company's expert on the subject of Oregon. He knew the country intimately, and he understood its potentialities better than any other man. He spent his life in the Company's service and he had explored the Oregon territory from both the Canadian and Pacific/

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1. In December, 1825, Addington, on Canning's instructions, prepared for answer by the Company a series of questions which, complete with answers, became the basis of the Government's information on Oregon. See above, p. 62.
 2. F.O. 5/440.
 3. See quotation in footnote 1, p. 63, above.

Pacific sides. His 'Narrative of a Journey Round the World' (1847) describes Oregon and the forces at work there. When the Government in 1845 decided to send Warre and Vavasour to prepare a military report on the territory, all arrangements for their expedition, as well as the drafting of their instructions, were left in Simpson's hands. He sent orders to all Company factors on how to gather information for the envoys, and he arranged for their recommendations to be acted upon at once. The same courtesy and consideration were extended to Lieutenant Peel and Captain Gordon when they arrived on the north-west coast in 1845, and these two investigators also testified to the ready co-operation of the Company's officials.

Simpson it was who first discerned the possibilities of Fort Victoria and the necessity of establishing a post there if Britain's claim to the southern half of Vancouver Island was to be maintained. Had the Company not been so well established there in 1846, it is more than possible that a determined American attempt - probably resulting in success - would have been made to divide the island at the 49th parallel. Fort Victoria, ^Sport of great strategic importance, would thus have been surrendered.

In view, then, of all these instances of co-operation between the Hudson's Bay Company and the British Government throughout the whole period of the Oregon dispute, it is difficult to determine just how the Company shrouded the territory in mystery. No one in Great Britain was interested in Oregon for itself because the spirit of the age was decidedly inimical to colonial expansion. Settlers for peopling Oregon were not forthcoming from England, and occupation by settlement was the only effective positive counter which Britain could offer to the United States' claims. Economic resistance was the chief negative means of combating the extension of American/

American immigration and, as we have seen, of this weapon the Company made most effective use.

Once the Hudson's Bay Company knew that an accommodation of the Oregon trouble was imminent, it behoved them to remind the Government of their extensive interests south of 49°; otherwise, how could the Government protect interests of whose extent they had been wilfully kept in ignorance by the Company? If the latter had argued that the area was totally worthless, the Government must have retorted: Why do you not abandon it then and, by doing so, facilitate agreement on the boundary controversy?

CHAPTER X

CONCLUSIONS

It has often been argued by Canadian historians that whenever Canadian questions have been entrusted to imperial diplomacy Canada's best interests have invariably been ignored and sacrificed to the advantage of purely British concerns. While the Treaty of 1783, and more particularly the Ashburton Treaty of 1842, have been objects of most denunciation, the impression has often been conveyed also that the Oregon Treaty was but another example of the mother country's dereliction of her duty towards Canada.

It is difficult reasonably to contend that Canada ought to have been considered as having an interest in Oregon in the first half of the 19th century. The fact is that the Oregon territory was almost as remote from Canada as it was from Britain, and the possibility of the two becoming linked politically was no more than a dream, the realisation of which was completely thwarted by the report of Warre and Vavasour. English diplomatists can surely not be blamed for failing to foresee that one day, however near, the area between Upper Canada and the Rockies would be extensively occupied by other than Red Indians and a few fugitive fur-trappers.

The wisdom or otherwise of the British Government's concluding the Treaty of 1846 is hardly debatable in the face of the almost unanimous desire in England to have the Oregon dispute disposed of once and for all, and the answer, also, to Canadian/

Canadian critics, so far as the Government were concerned, lies in the trend of public opinion in England. Although the public did not want Oregon, they were reluctant to relinquish their claim to it at the expense of their country's humiliation. English public opinion was so strongly anti-colonial that it never attempted to comprehend the reality of a Canada extending from Atlantic to Pacific. The policy initiated by Pitt when he dictated the terms of the Nootka Sound Convention in 1790 - and it was also the policy of Pitt's disciple, Canning - was to allow settlement of the Oregon territory to take its natural course, no matter whether by Spaniards, Americans, Britons, or Canadians, as it was unlikely to remain long either an American or a British colony. Pitt lived before the day of United States' imperialism, and he could not have foreseen the formidable expansionist movement of the next century. (1)

No man could have been more considerate of public opinion than Lord Aberdeen, and his attempts to satisfy it and at the same time to direct it constitute a most striking feature of the negotiations on the British side. When the Foreign Secretary first broached the matter of Oregon towards the end of 1843, the public knew only that Great Britain had a title to the territory and that Canning had made a great sacrifice in 1827 when he had offered to limit the British claim to the area north of the Columbia River. It was felt that no concession beyond that could be made; on the other hand, Aberdeen felt as early as 1843 that the United States would not be brought to concede more than the line of the 49th/parallel. (2)

Lord Aberdeen decided, therefore, that the minimum/

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1. Albert Gallatin seems to have held the same view as Pitt. See his letter to Clay of July, 1827, quoted in Scholefield and Howay, 'History of British Columbia,' Montreal, 1914, I, 440.
 2. Aberdeen to Peel, 25th September, 1843, in Peel MSS.

minimum British terms should include the line of the 49th parallel to the sea, leaving all Vancouver Island to Great Britain and, to soften the blow involved in accepting as a basis the American line, he demanded the free use to Britain of all harbours within Puget Sound to the Columbia along with free navigation of that great river. If the Americans refused these terms, the controversy would have to be submitted to an arbitrator for decision, a view which displays excellently his respect for public opinion for in his own words, whether the arbitrator awarded "more or less, we [the Cabinet] would be released from all responsibility." This explains why the Cabinet, Peel and Aberdeen in particular, were keen on arbitration as a method of settling Oregon. The territory was intrinsically of little value, but public opinion had been agitated about it, and Palmerston and the Opposition had so successfully convinced the public that the Ashburton Treaty was an unqualified concession to American clamour that the Government must be extremely wary in their conduct of the Oregon negotiations. The press of both countries and public outcry had given the subject a fictitious interest which rendered it difficult for either government to act with moderation, or even with common sense. (1) The public mind in England had been so excited, particularly after Polk's arrival on the scene, that the Foreign Secretary's chief task became one of reconciling the public to accepting the line of 49°.

Examination of contemporary newspapers, the best reflex of public opinion, proves conclusively that this task was performed with success, and in 1846, after the signing of the Treaty, but one paper, the 'Morning Chronicle,' remained faithful to a settlement based on the line of the Columbia/

1. Same to same, 21st October, 1844, in Peel MSS.

Columbia. Even the 'Morning Herald,' which was violently anti-Peelite and which frequently referred to the 'squeezability' of the Prime Minister and his Cabinet, agreed that the 49th parallel was quite acceptable as line of demarcation. 'The Examiner' seemed to speak for the great body of public opinion when it said that the only regrettable feature of the Treaty of 1846 was that "this was not done long since and that these concessions were not made to the pacific and courteous Mr. Webster instead of to the blustering Mr. Polk." (1)

If the Treaty satisfied the demands of the Hudson's Bay Company then it could not be denounced as sacrificing the concrete point of honour. Were these demands satisfied? The most complete answer to this question is the assertion that the Treaty secured the identical line advised as early as March, 1845, by Sir George Simpson, the Company's chief adviser on Oregon; it confirmed the Company in possession of their territories south of the line finally adopted; it secured the navigation of the Columbia River and thus protected the Company's trade interests till the final evacuation of Fort Vancouver was effected. Lord Aberdeen had consulted Sir J. H. Pelly, Governor of the Company, before dispatching the project of May, 1846, and Pelly in a subsequent letter had endorsed (2) the terms verbally agreed to by the Company on 16th May. It is clear, therefore, that the Treaty of 1846 was completely satisfactory to the Hudson's Bay Company although, naturally, had external circumstances been different and had not the necessity of a speedy peace been paramount, the Company would have favoured standing out for the line of the Columbia.

The British public could be satisfied that the abstract/

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1. Cf. 'Spectator,' the 'Quarterly Review,' (Vol. 77) and the 'Edinburgh Review,' (Vol. 83).
 2. Pelly's letter is in F.O. 5/809.

abstract point of honour was saved because in no way could the Treaty be deemed a surrender to American threats. Word for word the terms of the Treaty were dictated by the British Government so that, in spite of the fact that Lord Aberdeen was familiar with President Polk's minimum demands, the terms have the merit of being, at least apparently, British in origin. The significant fact is that, though he detested the idea of war and the maintenance of peace was imperative, Aberdeen's offer of May was an ultimatum the rejection of which presumably meant war. It contained Britain's maximum concessions; it was to be withheld if extraneous circumstances warranted; the United States' Government recognised it as an ultimatum by neglecting to insist upon limiting the navigation of the Columbia to the term of the Company's charter, a demand which Polk had consistently maintained; McLane had assured Aberdeen that his terms would be rejected. Yet they had been presented. That Secretary Buchanan was aware of the alternative is attested by his unsuccessful attempt to secure Pakenham's assurance that the right of Columbia navigation would expire with the Company's charter; finally, we have Aberdeen's word that he "made the terms moderate because he wished them to be final."⁽¹⁾ It is to be remembered that the British public knew nothing of Polk's secret assurance of acceptance; so that to them the draft of 18th May was an ultimatum that saved the national honour.

Settlement of the controversy was greeted in England with a universal sigh of relief. Lord Aberdeen had correctly estimated before anyone else in Britain what terms the United States would accept. The only difference between his scheme of 1844 and the final arrangement was that he abandoned his earlier claim to free access to the ports between the/

1. Aberdeen to Everett, 1st July, 1846, in Aberdeen MSS.

the Columbia and the 49th parallel, a claim to a merely nominal right which could be exercised, if necessary, by the possession of Vancouver Island. In the face of Cabinet opposition he persisted in his scheme in spite of all discouragements, and eventually won over Cabinet and public to his views. In the sense then that the Treaty was in agreement with contemporary public wishes it was a success for the Foreign Secretary; in that sense, too, the Treaty was certainly not a British failure.

It has been said that peace was imperative for Great Britain in 1846, mainly because of the movement for repeal of the Corn Laws, but for quite another reason it was essential for Britain to adjust the Oregon dispute. The territory was filling up with Americans at an extraordinary rate with each year bringing increased numbers of immigrants. The 49th parallel would hardly contain them, and it is not too much to say that, if the Oregon Treaty had not been concluded when it was, Britain would have almost certainly lost the modern province of British Columbia completely.

Insistence by England upon her maximum title to what she deemed to be barren land would have been anachronistic in the age of arbitration and reciprocal concession which had arrived; moreover, such insistence would have meant war. She was in no way to undertake a war which would have inevitably ruined a great economic experiment and added to the sufferings of a famine-stricken population. Had the British Cabinet contained an extraordinary soothsayer able to foretell Canada's development westward during the subsequent forty or fifty years, had they been prepared to abjure their free trade principles, had they been able to look with equanimity upon additional suffering in Ireland and the rural areas of England and/

and Scotland, then they might have gone to war in 1846. That they sought peace indicates their concern with the immediate interests of their people; with one great plunge into the future, the economic future, they were resolved to be content. The principles of free trade and the belligerent defence of their claims in Oregon were, in the Government's opinion, quite incompatible with each other.

Critics in condemning the early British failure to settle the Oregon question stand on firmer ground. British diplomacy must be condemned for neglecting to achieve a settlement in the early years of the century as well as for more than one mistake in negotiation. It must be conceded that the British title to Oregon, or at least to the area in dispute between the 49th parallel and the Columbia River west of the Rockies, was indubitably better than that of the United States. Her claims by discovery and exploration were superior. The United States could base a claim either upon the discoveries of her subjects or upon her title derived from the Florida Treaty; but not upon both because one cancelled the other. If the Spaniards were first to discover the area, then the Americans had no claims based on discovery. Hezeta, the Spaniard, had found the mouth of the Columbia before the American, Gray, while it was the Englishman, Broughton, Vancouver's lieutenant, who had explored the river for 100 miles more than a dozen years before the advent of Lewis and Clark.

The Nootka Sound Convention had, as we have seen, established the principle that occupation and settlement must follow discovery to validate a title, and in the disputed area there was no question as to which side was first thus to consolidate its claim. The North West Company had established a chain of trading-posts in Oregon some time before the first, and/

and for a long time the only, American post - Astoria - in the disputed area, and the Hudson's Bay Company had followed this up by extending the number of trading-stations and introducing agricultural pursuits.

The American claim through the Louisiana Purchase was quite invalid while we have seen that it is doubtful if the terms of the transfer of Astoria had any effect upon the title.

The first mistake made by Great Britain was of course the retrocession of Fort George (Astoria), the post of a private company sold to another company during the war of 1812. The Government could not plead ignorance of the subject for the North West Company made representations to them from time to time, and Simon McGillivray, one of the partners, conferred on several occasions with Cabinet Ministers. He had interviews with Wellesley, Castlereagh, Bathurst and Rose, upon all of whom he attempted to impress that the United States had no just claim to the possession of Astoria. (1) The second mistake, connected directly with the first, was in looking upon the fort as a national possession.

The Convention of 1818 which established a form of condominium for ten years was a mistake because the time was favourable for adjustment of the problem, and, in view of the large number of British and the paucity of American posts in Oregon and of the relative international status of the two countries at that time, a large share of the territory must have/

1. "No measures were for some time adopted by Government to interfere with their [the Americans'] new establishment at the Columbia River," though they "all expressed their opinion that the Country in question belongs of right to Great Britain " See 'Statement Relative to the Columbia River,' written in July, 1815. A copy is enclosed in Bagot's despatch to Castlereagh, No. 74, 2nd December, 1817, in F.O. 5/123.

have gone to Britain; as a matter of fact, the United States' offer of that year conceded nearly three-quarters of the area in dispute. Though Canning was responsible for the first recession from the line of the Columbia, had he lived a little longer he would probably have effected a satisfactory arrangement at a time when Britain was certain to receive a more advantageous settlement than that eventually achieved; he would certainly never have consented to the indefinite extension of the idea of condominium or, as it was termed, joint occupation.

The Convention of 1827, signed after the death of Canning, which continued condominium indefinitely was another error in the series. Great Britain, possessed of the conviction that the Convention secured all that was necessary, was mistaken in neglecting the question between 1827 and 1841, and her delay in compelling an issue before the American settlers had become safely ensconced in Oregon was most unfortunate. It had been recognised since Castlereagh's time that settlement of the dispute must anticipate American immigration into Oregon; yet in the period mentioned nothing was done by the British Government to accomplish this. (1)

Palmerston while at the Foreign Office had a splendid opportunity to secure one of his diplomatic victories, but the Oregon question does not appear to have interested him, though after the Peel Government came to power he recognised its value as a means of embarrassing that Government by much adverse/

1. Castlereagh to Bagot, No. 7, 4th February, 1818, in F.O. 5/129. "It is always more easy to come to an arrangement on such subjects when the Territory in discussion is little known or little cultivated than when Enterprise and Industry have led to settlements, which cannot be abandoned without loss, and cannot be ceded, without the alienation of subjects owing allegiance to one or other state." The history of the Oregon question furnished a remarkable confirmation of the truth of Castlereagh's words.

adverse criticism. Yet Palmerston, more than any other single statesman almost, was indirectly the author of the terms of the Treaty of 1846. Fear of his tongue after his bitter denunciation of the Ashburton Treaty of 1842 made the Peel Government throughout their tenure of office wary of further territorial concessions to the United States, while at the same time the precarious nature of the Government's tenure of office and the imminence of Palmerston's accession to the Foreign Office in 1845-46 were more effective than the embarrassing Mexican situation in tempering American demands and ultimately in hastening American acceptance of Lord Aberdeen's treaty project. Aberdeen was pacific and Palmerston was bellicose, but the interaction of their respective influences produced a peaceful settlement of the Oregon dispute. Palmerston prevented Aberdeen's surrender, partial or complete, in the face of the vigorous American policy based on Polk's election campaign cry; at the same time, concern at the imminence of Palmerston's return to office was an important factor in compelling the President to narrow his demands in Oregon.

(1)

Credit for the peaceful settlement of 1846 is in very great measure due directly to Lord Aberdeen. To have effected a satisfactory adjustment of a thirty years old dispute in the face of the difficulties he had to contend with was a great achievement. The Prime Minister, Sir Robert Peel, himself only less peace-loving than the Foreign Secretary, had in the Cabinet to hold the balance between the Duke of Wellington, always suspicious of France and quick to see that country's share in all manifestations of anti-British feeling in/

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1. "Mr. McLane told me he had informed his Government we should not be in office on the 1st July, and that no time was to be lost. The conduct of my predecessor and expected successor with regard to the Ashburton Treaty had filled Mr. McLane with the greatest alarm, which, I presume, was shared by the Government of the United States." Aberdeen to Pakenham. 30th June. 1846, in F.O. 5/809.

in any part of the world, and Aberdeen, always anxious to preserve peace. ⁽¹⁾ In the Oregon negotiations the Foreign Secretary was given a completely free hand, and Peel's correspondence with him reveals the confidence reposed in Aberdeen by the Prime Minister.

Aberdeen wanted to wean the United States away from France. He desired an accumulation of British acts and expressions of friendship for the United States in order to prepare the Government and public in America to discard their suspicion of British diplomacy. His appointing the energetic and pacific Pakenham was the first move in this direction; his decision not to intervene in Texas was another; likewise his declaration on California; his early notice to Delane of the Cabinet's decision on repeal of the Corn Laws in order that the 'Times' might catch the United States' mail was also in accord with this side of Aberdeen's policy. Yet he knew that by surrendering the area between the 49th parallel and the Columbia he was making a great sacrifice, and he was fully aware, not only that Britain's claim to it was more sound, but also that this part of Oregon with its population overwhelmingly British was the most important part of the entire Oregon territory.

On the whole, British diplomacy in conducting the Oregon controversy lacked enterprise and vigour. With the possible exception of Canning, Great Britain in the negotiations over Oregon produced no diplomatist possessing the fervour or fanatical/

1. In his correspondence with Aberdeen the Prime Minister uses Wellington's arguments, giving them as his own, to convince Aberdeen of French duplicity; in his private correspondence with Wellington Peel uses Aberdeen's arguments to cool Wellington. So completely did the Foreign Secretary appear out of sympathy with the other members of the Cabinet upon the question of preparations for possible war with France that in September, 1845, he even offered to resign and make way for a less pacific Foreign Minister. See Peel MSS.

fanatical nationalism of John Quincy Adams or James Knox Polk. The most representative British negotiators in the controversy were Castlereagh, Canning and Aberdeen, while the ablest and most representative American negotiators were Adams and Polk. Never did the British representatives become extreme in their demands; always were they on the side of compromise; invariably, as Buchanan remarked, the British Government played the part of the lion, though generally a quiescent one, and never that of the fox.

Neither side had a clear title to the Oregon territory. Britain was first to recognise this and once she had done so she remained firm in her determination to settle by compromise a dispute which obviously demanded such a mode of adjustment. On the other hand, whereas in 1818 Rush and Gallatin claimed for the United States only a title as valid as Britain's, Polk and Buchanan in 1845 put forth a claim to exclusive sovereignty over all Oregon. This erratic diplomacy illustrates the obstacles with which British negotiators were confronted.

All the abler diplomatic strokes were American - the insistence that Fort Astoria was a national possession, the encouragement of immigration into Oregon, the alliterative campaign cry of 1844. Throughout the negotiations of thirty years Great Britain gained but one victory, namely, the recognition that navigation of the Columbia was not restricted to a period of years, and this she secured by playing the lion - not the fox.
(1)

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1. The British press consistently derided the Government's handling of the controversy. "Our diplomatists," said the 'Spectator,' "could not penetrate below the technicalities and sophistries of the American argument, to the fundamental principles that should have governed the question." (Edition of 1845, 326). 'Fraser's Magazine' denounced the "extreme easiness of British ministers - the neglect, the ignorance and incapacity of certain of the individuals they employed as diplomatists in the course of the negotiations." (April, 1843, p. 484). Cf. 'Morning Chronicle', passim.

fox.

There was one aspect in which British diplomacy was consistent throughout the dispute - in emphasis upon the commercial issues involved. Great Britain's first interest in the Pacific coast was essentially commercial, and after the amalgamation of the North West and Hudson's Bay Companies in 1821 it so happened that the interests of Government and Company coincided. That is the chief reason for the consistent co-operation between the two during the ensuing twenty years, and it also explains the Government's anxiety to exalt the concrete point of honour. From the day that Canning consulted what he called the 'furry and the finny tribes' - the Hudson's Bay Company and the whalers - the Government took no important step in Oregon without consulting the commercial issues involved.

One other aspect of the Oregon negotiations deserves notice. In diplomacy chance must always be an important factor. Good fortune in the choice of negotiators and, particularly, ability to take advantage of fortuitous circumstances exert a definite influence. It is a characteristic of the Oregon negotiations that this factor of luck seldom favoured the British. It was, for instance, purely a matter of American good fortune that Vancouver sailed past the mouth of the Columbia River, while very shortly afterwards the American, Gray, discovered it and established the basis of an American claim. In 1803, when British and American negotiators had agreed upon an amicable adjustment of the boundary line, the acquisition of Louisiana intervened to complicate the settlement by apparently strengthening the United States' claims. Jefferson perceived the importance of the acquisition and was quick to dispatch Lewis and Clark on their search of the source of the Columbia.

The wording of Article 1 of the Treaty of Ghent which/

which sanctioned the restoration of conquests was unfortunate. The United States' Government were alive to its significance and possibilities, and once again the British Government were outwitted. The retrocession of Astoria as a national possession was insisted upon and, unluckily again, Castlereagh's general policy produced in him a yielding mood. It was unfortunate, too, that the Americans managed to establish themselves at Astoria a very short time before the British North West Company arrived there. When eventually a positive policy was adopted in the Oregon controversy, its champion, Canning, passed away before he could settle the dispute, his early death paving the way for the unfortunate policy of procrastination adopted by the Foreign Office.

Palmerston might have effected a very favourable settlement had it not been that he was not interested in the dispute and that his relinquishment of office synchronised with the extended American immigration into Oregon and the increased importance which that territory consequently acquired. It was unfortunate for Britain that, owing to the growth of the American settlements in Oregon, resort to the extremity of war became the only possible method of securing her entire claim. It was therefore still more unfortunate, if it be granted that Oregon was worth a war, that her foreign policy was in the hands of her most pacific Foreign Secretary acting under an equally peace-loving Prime Minister.

Pakenham's summary rejection of Polk's offer of July, 1845, when the controversy was approaching an amicable solution, was decidedly inopportune inasmuch as it gave Polk an excuse for adhering publicly to the terms of his election campaign cry so that Britain was made to appear a humble supplicant for peace. Great Britain's ill fortune reached a climax/

climax in 1846, The prevalent agricultural distress and the necessity for repeal of the Corn Laws, with its attendant foreign policy of peace, rendered war impossible and undermined the whole British position.

Considering, therefore, the unfavourable effect of this series of misfortunes, the limitations imposed by the negotiations of his predecessors, the urgency of peace, and the views of the British public in 1846, one concludes that the terms secured by Lord Aberdeen were hardly deserving of harsh censure. It is true that he realised he was surrendering a large area of land to which Great Britain had the superior title and which was inhabited by a mere handful of Americans, but it should be remembered that, had no settlement been effected before the Fraser River Gold Rush of 1857-58, when so many prospectors from the south entered British Columbia that the population became overwhelmingly American, not only the area south of the 49th parallel but also that west of the Rockies up to 54° 40' would almost certainly have been lost to Britain; and it should also be remembered that, though the British Government were fully aware that they were giving up territory wherein lay extremely valuable harbours and a host of places like Admiralty Inlet, Whidbey Island and Puget Sound, all with unmistakably English names and associations, they had in 1842 gained a diplomatic victory over the United States when the northeastern boundary had been adjusted at Washington. They could afford, therefore, to redress the balance by allowing the Americans to gain a northwestern boundary success in 1846. This redress was imperative to maintain the phenomenon of a 3,000 miles long totally undefended boundary.

APPENDICES TO PART I

I. NOOTKA SOUND CONVENTION

II. TERMS OF CESSION OF ASTORIA IN 1818

III. CONVENTION OF 1818

IV. CONVENTION OF 1827

V. TREATY OF 1846

VI. MAP

APPENDIX I

NOOTKA SOUND CONVENTION

NOOTKA SOUND CONVENTION

ARTICLE I.

His Catholic Majesty, besides having restored the ship 'Argonaut,' the restoration of which took place in the port of San Blas in the year 1791 [1790], agrees to pay as indemnity to the parties interested in it the amount of two hundred and ten thousand hard dollars in specie, it being understood that this sum is to serve as compensation and complete indemnification for all their losses, whatever they may be, without any exception, and without leaving the possibility of a future remonstrance on any pretext or motive.

ARTICLE II.

Said payment shall be made on the day on which the present convention shall be signed by the commissioner of His Catholic Majesty in the presence of the commissioner of His Britannic Majesty, which latter shall give at the same time an acknowledgment of payment consistent with the terms enunciated in the former article and signed by the said commissioner for himself and in the name and by the order of His Britannic Majesty and of the said interested parties. And there shall be attached to the present convention a copy of the said acknowledgment of payment, executed in the proper form, and likewise of the respective full powers and of the authorization of the said interested parties.

ARTICLE III.

The ratifications of the present convention shall be exchanged in this city of London within a period of six weeks from the date of its signature, or before if possible.

APPENDIX II

TERMS OF CESSION OF ASTORIA IN 1818

TERMS OF CESSION OF ASTORIA IN 1818

"In obedience to the command of H. R. H. the prince regent, signified in a despatch from the right honourable the Earl Bathurst, addressed to the partners or agents of the North-West Company, bearing date of the 27th of January, 1818, and in obedience to a subsequent order, dated the 26th July, from W. H. Sheriff, Esq., captain of H. M. ship, Andromache, We, the undersigned, do, in conformity to the first article of the treaty of Ghent, restore to the government of the United States, through its agent, J. P. Prevost, Esq., the settlement of Fort George, on the Columbia River."⁽¹⁾

6th Oct., 1818.

(signed)

F. Hickey, Capt. H. M. Blossom.

J. Keith, of N. W. Co.

1. Greenhow, op. cit., Appendix, p. 453.

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APPENDIX III

CONVENTION OF 1818

CONVENTION OF 1818 (20th October)

ARTICLE II.

It is agreed that a line drawn from the most north-western point of the Lake of the Woods, along the 49th parallel of north latitude, or, if the said point shall not be in the 49th parallel of north latitude, then that a line drawn from the said point due north or south, as the case may be, until the said line shall intersect the said parallel of north latitude, and from the point of such intersection due west along and with the said parallel, shall be the line of demarkation between the territories of the United States and those of his Britannic majesty; and that the said line shall form the boundary of the said territories of the United States, and the southern boundary of the territories of his Britannic majesty, from the Lake of the Woods to the Stony Mountains.

ARTICLE III.

It is agreed that any country that may be claimed by either party on the north-west coast of America, westward of the Stony Mountains, shall, together with its harbours, bays and creeks, and the navigation of all rivers within the same, be free and open for the term of ten years from the date of the signature of the present convention, to the vessels, citizens and subjects, of the two powers; it being well understood that this agreement is not to be construed to the prejudice of any claim which either of the two high contracting parties may have to any part of the said country, nor shall it be taken to affect the claims of any other power or state to any part of the said country; the only object of the high contracting parties, in that respect, being to prevent disputes and differences among themselves.

APPENDIX IV

CONVENTION OF 1827

CONVENTION OF 1827 (6th August)

ARTICLE I.

Provides for the continuance of the agreement to joint occupation of 1818.

ARTICLE II.

It shall be competent, however, to either of the contracting parties, in case either should think fit, at any time after the 20th of October, 1828, on giving due notice of twelve months to the other contracting party, to annul and abrogate this convention; and it shall, in such case, be accordingly entirely annulled and abrogated, after the expiration of the said term of notice.

ARTICLE III.

Nothing contained in this convention, or in the third article of the convention of 20th October, 1818, hereby continued in force, shall be construed to impair, or in any manner affect, the claims which either of the contracting parties may have to any part of the country westward of the Stony or Rocky Mountains.

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APPENDIX V

TREATY OF 1846

TREATY OF 1846 (15th June)

PREAMBLE.....

ARTICLE I.

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

ARTICLE II.

From the point at which the forty-ninth parallel of north latitude shall be found to intersect the great northern branch of the Columbia River, the navigation of the said branch shall be free and open to the Hudson's Bay Company, and to all British subjects trading with the same, to the point where the said branch meets the main stream of the Columbia, and thence down the said main stream to the ocean; with free access into and through the said river or rivers; it being understood, that all the usual portages along the line thus described, shall in like manner be free and open.

In navigating the said river or rivers, British subjects, with their goods and produce, shall be treated on the same footing as citizens of the United States, it being, however, always/

always understood, that nothing in this Article shall be construed as preventing, or intended to prevent, the Government of the United States from making any regulations respecting the navigation of the said river or rivers, not inconsistent with the present Treaty.

ARTICLE III.

In the future appropriation of the territory south of the forty-ninth parallel of north latitude, as provided in the First Article of this Treaty, the possessory rights of the Hudson's Bay Company, and of all British subjects who may be already in the occupation of land or other property lawfully acquired within the said territory, shall be respected.

ARTICLE IV.

The farms, lands and other property of every description, belonging to the Puget Sound Agricultural Company on the north side of the Columbia River, shall be confirmed to the said Company. In case, however, the situation of those farms and lands should be considered by the United States to be of public and political importance, and the United States Government should signify a desire to obtain possession of the whole or any part thereof, the property so required shall be transferred to the said Government at a proper valuation, to be agreed upon between the parties.

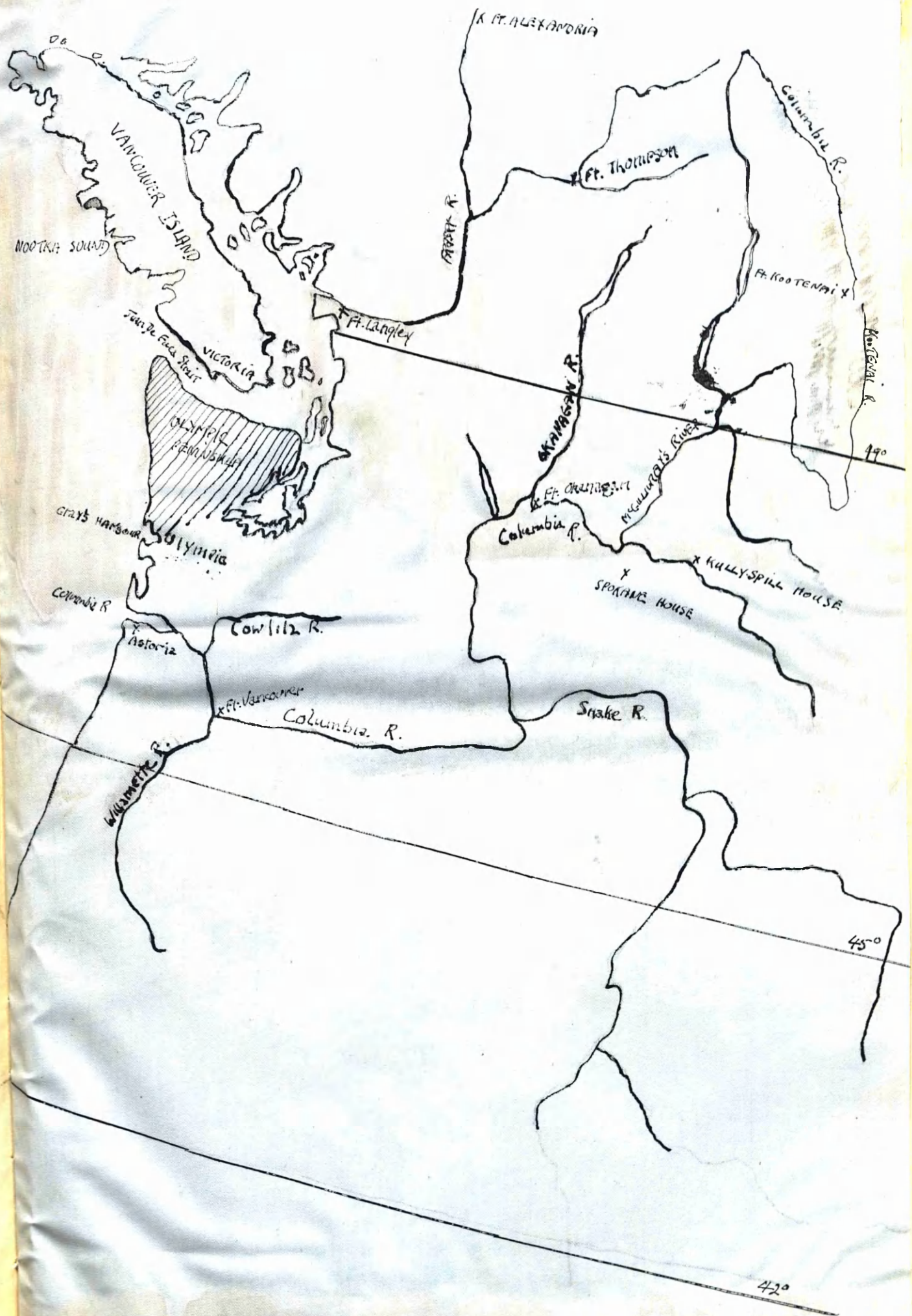
ARTICLE V.

Terms of ratification.

-/-/-/-/-/-

MAP OF OREGON

THE OREGON TERRITORY



GREAT BRITAIN AND THE EVOLUTION OF THE WESTERN PART OF
THE INTERNATIONAL BOUNDARY OF CANADA

Part 1

PART II

THE SAN JUAN OR WATER-BOUNDARY CONTROVERSY

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INTRODUCTION

The anxiety of both countries in the later stages of the Oregon Treaty negotiations to secure a speedy settlement - the Peel Government because of the imminence of their giving up office, and the Polk Government because of the outbreak of war between the United States and Mexico - meant that the Oregon Question was not finally or completely cleared up in 1846. The draft of the Oregon Treaty prepared by Lord Aberdeen neglected to make a precise demarcation of the boundary line between the mainland of British Columbia and Vancouver Island. Each side interpreted the Treaty in its own way and decided that the channel most suitable to its territorial advantage was that meant by the Treaty. When it is pointed out that this involved right to possession of the strategically important Island of San Juan which, by controlling the entrance to Puget Sound, was deemed of vital importance by the American Government, and which, by controlling communication between British Columbia and Vancouver Island, was awarded equal importance by the British Government, it will be seen how the Treaty laid the foundation of a new territorial dispute.

Within the quarter-century immediately subsequent to the signing of the Oregon Treaty many attempts were made, and a variety of methods used, to settle the new dispute. These methods, which included the appointment of a joint commission in 1856-57, were unfortunately all unsuccessful. More than once conflicts in the disputed area threatened to involve the two countries in war, and only the good sense of certain military and naval officers prevented an outbreak.

Ultimately, the negotiators of the Treaty of Washington in 1871 agreed to refer the dispute to the arbitration of the German Emperor, who in October, 1872, decided in favour of the United States' position.

CHAPTER I

THE NEW DISPUTE

1. Origin and Earliest Stages.

The authors of the Oregon Treaty of 1846 could never have suspected that the obscure phraseology of their work would produce a new boundary quarrel which would more than once during the following generation threaten to precipitate a war between Great Britain and the United States. The complacency with which Lord Aberdeen and Sir Robert Peel accepted their removal from office would not have been so easy had they foreseen that the Treaty - one of their few crumbs of comfort in surrendering power - was to produce a quarrel almost as acrimonious as that over Oregon.

The first article of the Treaty had decided that the boundary line along the forty-ninth parallel should run "to the middle of the channel which separates the continent from Vancouver's Island and thence southerly, through the middle of the said channel and of Fuca's Straits, to the Pacific Ocean." The negotiators had apparently neglected the fact that there was more than one channel west of 49°, but the ink on the Treaty was barely dry when the Hudson's Bay Company hastened to advise the Government of this and to warn them of a possible conflict over claims. Accordingly, Sir J. H. Pelly interviewed Lord Palmerston, the new Foreign Secretary, on 29th July, 1846, and gave him his opinion of the questions likely to arise from the treaty of the previous month. He explained that the space between 49° and 48° 20' (where the Strait of Juan de Fuca opens) contains numerous islands with passages between them, but he opined that there could/

could be not a doubt that the 'largest' passage - "that used by Vancouver" - was meant as the boundary. At Palmerston's behest, Pelly put his views in writing and sent them to the Foreign Office.⁽¹⁾

The Government took no action, however, until a despatch from Mr. Pakenham, Ambassador at Washington, dated 17th March, 1847, served to remind them that the line of demarcation ought to be more accurately defined. Continuing the co-operative policy pursued throughout the Oregon negotiations, the Foreign Office at once got in touch with Sir George Simpson of the Hudson's Bay Company and desired him to prepare a memorandum on the Treaty of 1846. The result was a document that does little more than advise that, since more than one channel exists west of the mainland, a commission should be appointed to determine which one was meant by the Treaty.

The cumbersome and slow Foreign Office machinery had thus been set in motion with the result that the Permanent Under-Secretary, H. U. Addington, who had been at the Foreign Office since 1842, that is, during the most contentious years of the Oregon Question, prepared for Lord Palmerston a memorandum on the new subject of the Pacific Water-Boundary. He presages trouble over the islands west of British Columbia unless the two countries agree that 'channel' means navigable channel, in which case two naval officers - one British and one American - could effect an agreement. If, however, the 'channel' be taken to mean the whole water area between the continent and Vancouver Island he subscribes to Simpson's view that a commission will be necessary to trace a line down/

1. Pelly's letter giving the gist of his conversation with the Foreign Secretary appears in F.O. 5/809.

down the middle of the channel on the same principle "as
 the islands in the St. Lawrence."⁽¹⁾ Palmerston's note
 attached to the memorandum says, "Suspend negotiations till
 Admiralty reports received," and Pakenham was told a fort-
 night later that the Admiralty survey of the disputed area
 being still unfinished, and the greater part of the terri-
 tory still unexplored,⁽²⁾ he was to do nothing meantime.

In December of that year Mr. John F. Crampton,
 who succeeded Pakenham in Washington, was instructed to
 obviate future disputes by securing a speedy arrangement
 of the Pacific coast boundary. It was believed that only
 one channel had been hitherto surveyed and used, namely,
 that laid down by Vancouver in his chart, and it seemed
 reasonable to assume that in employing the word 'channel'
 the negotiators of the Oregon Treaty had in view this par-
 ticular channel. Palmerston expressed the hope, therefore,
 that this channel would be mutually agreed upon, though he
 instructed Crampton to remind the American Secretary of State
 that its adoption would mean more islands falling to Great
 Britain than to the United States. Enclosed with Palmerston's
 despatch was a copy of instructions to commissioners which
 advised the use of Vancouver's chart as the basis of any
 deliberations.⁽³⁾

Crampton duly carried out his instructions and
 Secretary Buchanan in reply asked for an offer in writing,
 intimating at the same time that there was little likelihood
 of inconvenience arising. He had never seen Vancouver's
 chart and hesitated therefore to adopt its line as the
 geographical/

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1. Dated 30th March, 1847, in F.O. 5/809.
 2. Palmerston to Pakenham, No. 25, 19th April, 1847, in same.
 3. Details of these instructions are given below, pp.19-20.

geographical channel; while negotiating in 1846, however, he had taken the channel mentioned in the Treaty to mean
(1)
'main navigable channel.'

If Great Britain was slow to act, the United States' Government were not less so. Crampton's note to Buchanan suggesting the appointment of commissioners was dated 13th January, 1848, but no mention of the matter was made by the Americans until the autumn of the following year when Crampton sought an answer to his earlier note. Secretary Clayton, in reply, informed him that Congress was to be asked to make the necessary appropriation if it acceded to
(2)
the choice of commissioners. Unfortunately, nothing was done yet.

The Governments having failed to act, their respective subjects who were directly concerned in the allocation of the disputed islands proceeded to play their part in the controversy. In the winter of 1852-53, therefore, United States' settlers on the islands in the area between the mainland and Vancouver Island asserted claims on behalf of their country to possession of the islands in question. This presented a problem for Governor Douglas of Vancouver Island, and, thoroughly alarmed, the Governor hastened to
(3)
write to the Colonial Office for instructions.

The Colonial Office seems to have been unfamiliar with the subject and so assistance was sought from the Foreign Office. Lord Clarendon, the Foreign Secretary, simply/

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1. Crampton to Palmerston, No. 2, 13th January, 1848, in F.O. 5/809.
 2. Crampton to Palmerston, No. 91, 29th October, 1849, in F.O. 5/809.
 3. Douglas to Sir John Pakington, 9th December, 1852, in same. Mr. (afterwards Sir) James Douglas was both Hudson's Bay Company employee and Government servant from 1851 to 1858. From September, 1858, to March, 1864, he was Governor of both Vancouver Island and British Columbia. For accounts of his life see Coats and Gosnell, 'Sir James Douglas', Toronto, 1926, and W. N. Sage, 'Sir James Douglas and British Columbia,' Toronto, 1930.

simply instructed Crampton that he was not to mention the affair to the United States' Secretary unless it was deemed important enough to demand urgent settlement; otherwise, it was to be allowed to remain in the background at a time when several urgent and likely to be protracted questions - notably the Fisheries dispute, British maritime claims, the rival positions in Central America, - were pending between Great Britain and the United States.

This did nothing to lighten the burden of Governor Douglas whose position was becoming increasingly difficult as Americans persisted in their attempts to settle on the disputed islands. He continued to resist all these endeavours because he realised that the three main islands in the Haro Archipelago, San Juan, Lopez and Orcas, were all very valuable, not only on account of their strategic situation with respect to Vancouver Island, but also on account of their productive salmon fisheries, forests of timber, and great extent of arable land. Furthermore, in 1853 Washington Territory was separated from Oregon, and Island County which included the islands adjacent to the Haro Channel, became part of Washington Territory. To keep possession of these valuable territories and maintain them as de facto dependencies of Vancouver Island by means of hired labourers was a task of great magnitude. San Juan was the most important of the three islands; fourteen miles long and approximately $4\frac{1}{2}$ broad, it has a surface area of 54 square miles. Less than seven miles from Vancouver Island this important island lies only eighteen miles from Victoria.

While the Government hesitated to move, the situation in the disputed area continued to assume a more grave aspect. Douglas's despatches became more and more alarming, and the sequel was the despatch of instructions to/

to him by the Hudson's Bay Company to secure possession of the islands of Lopez and San Juan, both of which were to be occupied and turned to some use by the Company's servants. The plan obviously aimed at anticipating official United States' action. (1)

Eventually, a letter from Douglas to the Colonial Office dated 24th December, 1853, allied with representations from the Company, and the fear that the Governor might take a false step in resisting the squatters, convinced the British Government of the gravity of the situation. The Queen's Advocate was instructed to examine the legal position, while the Foreign Office was asked for its views. Addington seized the opportunity to compose a new memorandum, much more interesting and comprehensive than the last.

Starting off with the astounding statement that, in the negotiations of 1846, the present trouble was foreseen, "but this consideration being of less importance than the conclusion of the Treaty, the Treaty was concluded and signed," the memorandum goes on to reiterate the statement that Rosario Strait is the navigable channel meant by the Treaty. Douglas has acted quite correctly in dispossessing the American squatters, and it would be politic for him to continue to do so without 'ostentation' or force. (2)

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1. Hudson's Bay Company to Douglas, September, 1853; copy as Enclosure 2 in Appendix A of Colonial Office memorandum of November, 1872, in F.O. 5/1473. Douglas at once sent Captain Stuart to take possession of Lopez Island with authority to give grants of land; it was apparently realised that haste was necessary. After the Ebey incident (*infra*) no attempts were made to allot grants of land; evidently the Company understood that, the Americans having demonstrated the vigour with which they maintained their claim, they had no right to do this.
 2. 27th February, 1854, in F.O. 5/809.

2. The Ebey Incident.

Now follows one of those peculiar incidents with which the history of the western part of the United States abounds. An American Collector of Customs, J. M. Ebey, was appointed in the spring of 1853 by the Executive of Washington Territory to the charge of Puget Sound District. Zeal of office moved the new appointee, who arrived on 3rd May, to threaten to seize property of the Hudson's Bay Company on San Juan Island. Governor Douglas countered this action by sending Charles Griffin, a Company employee, in December, 1853, to form a settlement at the expense of the Company. Free grants of land were unsuccessfully offered to British subjects after attempts to sell land had ended in failure. Griffin was made a Justice of the Peace with instructions to apprehend any person breaking the peace in order that he might be able to treat the United States' Collector as a common offender. ⁽¹⁾ Ebey, not to be intimidated, answered the British attempt to establish jurisdiction on the island by placing on it a United States' Customs Inspector.

The potential danger of the situation is obvious, and the Government seem at last to have become infected with some of Douglas's anxiety. Accordingly, Crampton was instructed to obtain an adjustment without further delay, copies of the despatches of Douglas being enclosed with the instructions. He was to learn if the United States were inclined to conclude a settlement, and, if they were, he was to express Great Britain's readiness to appoint a commissioner to act upon/

1. Douglas to Company, 30th January, 1854, copy in F.O. 5/809, and Douglas to Colonial Office, 27th February, 1854. San Juan had been occupied by the Hudson's Bay Company for the first time in July, 1845, and settled by their servants for the first time in 1850. By the terms of a royal grant of the previous year the Company had undertaken to defray the expenses of all civil and military establishments on Vancouver Island.

upon the instructions prepared by Palmerston in December, 1847. Crampton duly communicated to Secretary Marcy an outline of the instructions he had received, but once again the United States failed to pass an appropriation bill.

While attempts at a diplomatic adjustment were thus frustrated, the situation on San Juan was rapidly heading towards a crisis. When Griffin warned Ebey off the island, the American disappeared but sent an Indian with a message suggesting an interview with Griffin. The latter welcomed the request, but he reminded Ebey that his instructions were imperative and to be strictly observed.

The Inspector of Customs appointed by Ebey reached the island on 5th May and encamped behind the establishment of the Hudson's Bay Company. He refused to be dislodged, and when a constable with half a dozen men tried to arrest him, he produced a revolver and defied them. (1) Griffin thereupon wrote to Douglas for authority to arm and to arrest the Inspector. (2) The Governor replied that, while the Inspector's presence was not desirable, to arrest him would be a mistake unless he actually broke the law.

The truth is that Douglas's zeal had been somewhat tempered by his recently securing a copy of Crampton's letter to Secretary Buchanan of 13th January, 1848, in which it was admitted that some difficulty might arise in deciding which of the channels leading from the Gulf of Georgia ought to be adopted for the boundary, an unfortunate admission, according to the Governor, showing a "lamentable want of information on the question at issue." Yet it was a fact which/

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1. Griffin to Douglas, 7th May, 1854, enclosure 4 in Douglas to Newcastle at Colonial Office, 17th May, 1854, in F.O. 5/809.
 2. Idem, enclosure 5.

which might greatly embarrass the British Government. He became cautious, therefore, and was not disposed to push matters.

Douglas had been disappointed in the terms of the Oregon Treaty which he had deemed a concession to the Americans, and now it seemed that fresh and equally humiliating concessions were to be made. It had never before occurred to him to doubt the legality of the British position that Rosario Channel formed the boundary line west of the mainland, but he was alert enough to recognise the implications of Crampton's letter. His natural inclination was to seize the property and defy the Americans, but he realised how difficult it would be to obtain his Government's sanction for any hasty, ill-considered move. These sudden clashes of conflicting interests, which usually appear to those on the spot to be remediable only by resort to force, very often assume a calmer and much less frightful appearance when considered and pronounced upon by Government officials far removed from the scene.

That is precisely what happened in the case under review. Crampton complained to Secretary Marcy of Ebey's aggression. Marcy replied in incredulous tone that he would institute inquiries and promised that, if Ebey had exceeded his authority, he would be officially censured. This was followed by an official denial from Governor Stevens of Washington Territory that there was any danger of seizure of property. (1) It was possible, admitted Stevens, that a Customs Inspector had been stationed on San Juan because the Americans considered the island to be United States' territory/

1. A copy of Marcy's reply to Crampton is enclosed in the latter's No. 192, 24th July, 1854, in F.O. 5/809. Copies of both letters are printed in Sen. Ex. Doc. No. 172, 36th Cong., 2nd Sess.

territory, but he was emphatic in asserting that there was not the least likelihood that the possessory rights of the Hudson's Bay Company would be interfered with.

The Ebey incident, while of little moment intrinsically, proved to be the spur necessary to rouse the two Governments. Its direct sequel was the despatch of instructions to Crampton to bring the affair to the notice of Marcy as a proof that the settlement of the boundary between the possessions of Great Britain and the United States in those parts was of "urgent importance."⁽¹⁾ The incident also served to hasten the appropriation bill through the House of Representatives; unfortunately, however, the Senate rejected it. This was a source of disappointment for Britain at a time when, engaged in the Crimean War, she was particularly anxious to maintain peaceful relations with the Americans. She feared that the recurrence of trouble on the Pacific coast might precipitate war, but after the failure of the United States to appoint a commissioner to define the boundary line she had to be content with taking steps towards obviating another clash of interests in those parts. Fortunately she found Marcy sympathetic, and it was agreed that both Governments should instruct their chief agents on the Pacific north-west coast to warn their subordinates to act with extreme forbearance.⁽²⁾

Thus, in a despatch to the terms of which appeal was subsequently made quite frequently in the course of the next/

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1. Clarendon to Crampton, No. 179, 9th August, in F.O. 5/809.
 2. In spite of the action of the two Governments the next year produced another dangerous situation. A party of Americans under Sheriff Barnes of Whatcom County, of which San Juan constituted a part, arrived on the island on 30th March and demanded payment of taxes - eighty dollars in all. Satisfaction being refused, they seized a number of rams, and, numerically stronger and in possession of revolvers, they had no difficulty in enforcing their wishes. They were able successfully to resist all Griffin's attempts to wrest the sheep from them. Griffin complained to Governor Douglas, who in turn complained to Governor Stevens. See Douglas to Colonial Office, 18th May, in F.O. 5/809. Stevens's answer is printed in Sen. Ex. Doc. No. 172, 36th Cong., 2nd. Sess., pp. 116-117.

next few years, the United States' Secretary of State informed Governor Stevens of Washington Territory that "the title ought to be settled before either party should attempt to exclude the other by force, or exercise complete and exclusive Sovereign Rights within the fairly disputed limits." Mr. Crampton, acting under instructions from home, wrote in similar strain to Sir Edmund Head, Governor-General of Canada.⁽¹⁾

So far, then, the Water-Boundary dispute had been treated more or less casually by both interested Governments, but this is explained by the remoteness of the object in dispute, the procrastinating policy traditionally followed by the United States in controversies with Britain, the latter's apathy in colonial matters, and the country's pre-occupation with much more pressing problems. San Juan could not be expected to have the same significance in the eyes of the Colonial Office as it had in those of Sir James Douglas. It was apparent that only when, if ever, a local clash of interests threatened to expand and involve greater issues would either Government seek a final settlement.

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1. A copy of Marcy's letter to Stevens is Enclosure 1, Crampton's to Head is Enclosure 4, and Head's reply is Enclosure 5 in Crampton's despatch to Lord Clarendon, No. 156, 30th July, 1855, in F.O. 5/809. A copy of Marcy's letter also appears as Letter No. 1, House Ex. Doc. No. 65, 36th Cong., 1st Sess. and also as Letter No. 1 in Sen. Ex. Doc. No. 10, 36th Cong., 1st Sess.

CHAPTER II

EXTERNAL INFLUENCES

Throughout the latter part of the Oregon dispute and the whole of the San Juan controversy three concurrent movements - that for the annexation of Canada to the United States, that of anti-imperialism in England, and that of 'Manifest Destiny' in the United States - were most prominent. Each had a direct effect upon the official attitude to the San Juan dispute, and appreciation of the weight of their combined influence makes it a matter of extreme wonder that Canada remained a part of the British Empire.

In Anglo-American relations Canada was Britain's weak spot. On the one hand, the protagonists of the 'Manifest Destiny' idea strongly resented Britain's control of the vast area to the north; on the other, British Liberals strongly resented the claims of Canada upon the mother country, and they looked forward to the time when Canada should be free of British control. Liberal Governments were, to say the least, apathetic in their attitude to Canadian affairs and many Americans mistakenly accepted this as evidence of general weakness in British foreign policy. Only very strong provocation would justify a British Government - Liberal or Conservative - fighting a war which would jeopardise Lancashire's great cotton trade to retain defenceless Canada. The Americans early perceived this and they were accordingly inclined to be arrogant in their attitude to Great Britain. They believed, and many Englishmen shared their belief, that it had become a maxim of policy with England/

England that all controversies with the United States must
(1)
be in some way amicably settled.

Of comparable, though not so persistent, influence and importance was the annexationist movement in Canada. After the Rebellion of 1837, for instance, the leaders who escaped to the United States received enthusiastic support in their attempts at recruiting forces to invade Canada. In 1849 the annexationist movement reached its zenith, and was very surprisingly supported by the Canadian Tories. Chagrin at loss of office, the passage of the Rebellion Losses Bill, dislike of the French-Canadians, were all factors in encouraging this attitude.

Moreover, the effect of the introduction of Free Trade in Great Britain had a disastrous influence on Canadian commerce and induced Canadian business men to look southward for redress. The Repeal of the Corn Laws in 1846 had driven Canadian produce down the New York channels of communication, destroying the revenue which Canada expected to derive from canal dues, and ruining at once mill-owners, forwarders, and merchants. The consequence was that private property became unsaleable in Canada, while the United States' tariff wall meant that Canadian produce could find no market to the south.⁽²⁾ To aggravate matters, British money and labour went to the United States to make railways and develop industries while Canada was ignored.

Fortunately, with the return of prosperity in the 'fifties after the failure of the diverse annexationist groups to/

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1. "The idea that, happen what may, England will never really declare war with this country has become so deeply rooted that I am afraid nothing short of actual hostilities would eradicate it." Lord Lyons, British Ambassador at Washington, to Lord John Russell, 21st September, 1859, quoted in Lord Newton, 'Lord Lyons,' I, 20, London, 1913. Cf. Lord Selborne, 'Memoirs,' I, 203, London, 1898.
 2. Walrond, 'Letters and Journals of James, Eighth Earl of Elgin,' p. 60, London, 1872, quoted in H. L. Keenleyside, 'Canada and the United States,' p. 122, New York, 1929.

to unite on a common policy, the movement suffered temporary extinction and was never again revived, at least in Eastern Canada, with so much hope of success. Still it could be used, and was used, to unsettle Canadians and make them dissatisfied with the imperial connection. Annexation became chiefly the cause of a minority of malcontents whose influence waned with the winning in 1854 of reciprocity, which "gave to Canada most of the advantages of annexation without its defects."

Running parallel to the 'Manifest Destiny' movement in the United States was the anti-colonial agitation in England. Early in the century the Philosophical Radicals applied their principles to the theory of colonial government and found that to protect the colonies, keep them in dependence and prevent them from smuggling, fleets and armies were necessary, and for these Great Britain had to pay because the colonies yielded no revenue. ⁽¹⁾ The 'Westminster Review' in 1830 called colonies "impediments to commerce, drawbacks on prosperity, pumps for extracting the property of the many for the benefit of the few, the strongholds and asylums of despotism and misrule."

It was the belief of free traders that the application of their ideals would lead to the loss of the colonies. Moreover, it was inevitable that the larger colonies at least should become independent in the course of time; American, Spanish, and Portuguese example all pointed that way. As the colonies grew, they would naturally seek independence to develop their ideals and enhance their power.

The general public was of course little exercised over the question and, as we have seen, knew next to nothing of/

1. R. L. Schuyler, 'The Rise of Anti-Imperialism in England,' in the Political Science Quarterly, 37, 467.

of the geography and importance of England's colonial possessions. Parliament was often 'counted out' when colonial affairs were under discussion. Colonial policy before 1867 was in the hands of professional politicians and permanent officials. Whatever public interest did arise was confined to humanitarian societies.

Statesmen in the middle of the century, if they did not actually favour the grant of independence to the colonies, were almost unanimously convinced that ultimate separation was inevitable and that diplomacy should aim at making the parting as amicable as possible. Thus the private papers of Sir Robert Peel and Lord Aberdeen confirm the conclusion of a recent writer that Peel, beyond affirming a desire to remedy specific grievances, was unprepared to make any radical change of Imperial policy. He regarded the Empire "primarily as a liability, an addition to the burdens, heavy enough without it, of government and of defence."⁽¹⁾ Even Disraeli, later staunch Imperialist, exasperated at Canada's refusal in 1862 to organise a local militia, was moved to ask, "What is the use of these colonial deadweights which we do not govern?"

Most conclusive evidence of the consistent attitude of successive governments to colonial development is to be found in the views of the Permanent Under-Secretaries at the Colonial Office. During the period 1836 to 1871 there were but three such officials there: Sir James Stephen (1836-1847), Herman Merivale (1847-1859), and F. C. Rogers (later Lord Blachford) (1859-1871).

In Stephen's eyes, for instance, the colonies were useful for absorbing the mother country's surplus population/

1. W. P. Morrell, 'British Colonial Policy in the Age of Peel and Russell,' pp. 29-31, Oxford, 1930.

population, but he considered some of them to be a 'wretched burden,' and favoured the development of colonial self-government as a step towards independence. ⁽¹⁾ The object of the Colonial Office was to encourage the colonies to prepare for independence for their own sake, at the same time to relieve the mother country of her large share - usually ninety per cent - of the cost of colonial administration and defence; the connection should last just as long as the connection was profitable to both countries; separation which was inevitable ⁽²⁾ should come amicably.

The colonies, according to this commonly held view, were a damnosa hereditas which constituted a grave danger to the equanimity of the mother country because their contiguity to foreign countries introduced persistent and unnecessary causes of war. Canada in particular, as the neighbour of the United States, was a constant source of diplomatic trouble, and the frequent incidents that arose between Great Britain and the United States produced a feeling of exasperation and annoyance in the mother country. Nothing could be more provoking than the threat of war with the Americans in the place and manner most disadvantageous to Great Britain, on behalf of a colony which was of little intrinsic value and whose people at one time or another spoke glibly of annexation to the United States.

We can well understand, therefore, the irritation of the British Government when incidents on San Juan began to disturb their composure. The island was a powder barrel which caused them grave anxiety and, especially after it was occupied by United States' troops in 1859, there was acute/

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1. W.P. Morrell, op. cit. p. 45.
 2. G.E. Marindin, 'Letters of Lord Blachford,' pp. 299-300, London, 1896. Cf. H.E. Egerton, 'Short History of British Colonial Policy,' p. 317, London, 1932, and H. Merivale in the 'Fortnightly Review,' February, 1870.

acute danger of an explosion. The continuous and oft-expressed concern, therefore, of diplomatists like Lord Lyons, British representative in Washington during the extremely thorny period from 1858 to 1865, about the situation on the Island (1) is hardly surprising.

On the United States side there was the expansionist movement inspired by the phrase 'Manifest Destiny', a phrase which had originated in 1845 in the height of the Oregon controversy. It had appeared in the "Democratic Review," whence it was transferred to the House of Representatives debate on Oregon. It was asserted that the best and strongest title to Oregon was by the right of the United States' 'manifest destiny' to "overspread and to possess the whole of the continent which Providence had given them for the development of the great experiment of liberty and federated self-government entrusted to them." (2) The phrase took an important place in the national vocabulary, and it became the battle-cry of expansionists from Polk to Seward and Sumner.

It is obvious that the three movements mentioned would have their effect upon the solution of the San Juan problem. 'Manifest Destiny' made the possession of the Island an essential of a vigorous policy which exalted territorial expansion, and it was not until the expansionist movement was on the wane that, as will be seen later, the United States' Government displayed the real desire for settlement that was so necessary for agreement. The comparative equanimity with which territorial cession on the American continent would have been viewed by Britain in the middle of the 19th century concurred with the spasmodic evidences of an annexationist movement in Canada to encourage, generally, official inaction and apathy.

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1. See Lord Newton, 'Lord Lyons,' *passim*.
 2. Quoted by J. W. Pratt, 'The Origin of Manifest Destiny,' in *American Historical Review*, XXXII, pp. 795-798.

CHAPTER III

THE WATER-BOUNDARY COMMISSION

In 1856 at a time eminently suitable for adjustment of the boundary controversy the United States made a move towards settlement. The Fisheries dispute, which had been a recurring source of irritation since 1783, was temporarily dormant owing to the operation of reciprocity, while that other source of periodic trouble, the Right of Search, ceased almost for the first time to be an issue when the Crimean War ended. The annexation of Canada, which had seemed certain in the winter of 1855-56 as the result of Republican agitation, of the withdrawal of regular forces from Canada and of the irritation caused by the efforts of Canadians to recruit men in the United States for service in the Crimea, was no longer imminent, particularly when strong forces were dispatched to Canada after the war. In addition, a satisfactory solution of the Central American quarrel between the United States and Britain was pending.

On 11th August Congress passed an Act empowering the President to appoint commissioners and to take other necessary steps to define the Water-Boundary. Intimation of this action was conveyed to the Foreign Secretary, Lord Clarendon, by Mr. G.M. Dallas, United States' Minister in London, and Clarendon welcomed the news. (1)

Captain Prevost and Captain Richards, the latter as Chief Surveyor and Astronomer under the instructions of Prevost and as second-in-command, were to be the British commissioners, their appointment dating from 20th December, 1856. (2) Clarendon drew up their instructions, and in them a/

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1. Dallas to Clarendon, 28th August, in F.O. 5/812.
 2. Clarendon to Prevost, No. 1, in F.O. 5/810. Richards was to conduct a survey of the Haro Archipelago.

a brief review of the attempts to settle the controversy is followed by directions to Prevost on the manner of procedure, this part of the instructions being identical with those prepared by Palmerston in 1847. First of all, the commissioners are to determine where the forty-ninth parallel strikes the sea; then to trace the line westward to the middle of the channel between the mainland and Vancouver Island, seeking to obtain Point Roberts for Great Britain; the line thus reaches the Gulf of Georgia, through the middle of which it runs, until it ceases to be the only channel.

"So long as there is only one channel separating the continent and Vancouver's Island, no doubt can be entertained; and therefore the centre of the Gulf of Georgia, as far as the latitude where it ceases to be the only channel, and the centre of the Strait of Fuca till it ceases also to be the only channel between the continent and Vancouver's Island appear to Her Majesty's Government to be fixed points in the line of boundary - and it is only as regards the space between these two points that any difference of opinion as to the proper channel can exist."⁽¹⁾

Great Britain has always considered these islands of the Haro Archipelago to be appendages of Vancouver Island and, whatever may be their intrinsic importance, it cannot be questioned that their possession by Great Britain must contribute appreciably to the quiet possession of Vancouver Island.

If agreement is not reached upon the Rosario Channel as the line of boundary, the commissioners are to attempt to settle upon another channel among the group of islands/

1. See map in Appendix.

islands between Vancouver Island and the Haro Channel because the controversy must be settled. If they think Rosario Channel is not substantiated by the Treaty of 1846, they are free to adopt any other 'intermediate' channel which they may discover. Richards is to make an accurate survey of the area to ascertain if there exists another navigable channel among the islands between the mainland and Vancouver Island. If they cannot come to an understanding with Mr. Campbell, the American commissioner, and if they are satisfied of the soundness of the British case, they are to propose that both countries' commissioners should draw up a statement of their position and present these to their respective governments.

Prevost sailed from England on 23rd December, 1856, and arrived at Esquimalt, Vancouver Island, on 14th June, 1857, while Campbell arrived on 20th June. The two exchanged copies of their instructions before beginning their discussions on 27th June. ⁽¹⁾ Several formal talks followed at which it was mutually admitted that through the Gulf of Georgia and through the Straits of Fuca there would be no difficulty in tracing the boundary line, but as to the direction in which it should proceed through the space situated between these waters the opinions of the respective commissioners were diametrically opposed. In short, Campbell stood out for the Haro Channel; Prevost demanded Rosario as ⁽²⁾ the line of boundary.

Prevost rested his claim more particularly upon the wording of the Treaty, while Campbell tended rather to argue upon contemporaneous evidence which sought to explain the/

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1. Prevost to Clarendon, No. 2, 30th June, 1857, in F.O. 5/810. A printed copy appears in Sen. Ex. Doc. No. 29, Serial No. 1316, p. 5.
 2. Prevost to Foreign Office, No. 7, 7th December, 1857.

the intentions and views of the negotiators and others directly concerned in the signing and ratification of the Oregon Treaty. Campbell produced copies of Mr. McLane's despatches of May, 1846, along with reports of Senator Benton's speeches, to prove that the United States had in mind the Haro Channel when concluding the Treaty. (1)

Campbell argued that the boundary line defined by Lord Aberdeen in his despatch of 18th May, 1846, could not possibly be "tortured into" a line running through the middle of Rosario Strait. It follows that, since Aberdeen's line was not clearly marked, one must fall back upon the motive which induced deflection from the 49th parallel. This motive was simply to give Vancouver Island to Great Britain; indeed, the Foreign Secretary's actual words are: "thus giving to Great Britain the whole of Vancouver's Island and its harbours." Finally, contend the Americans, if there was any possibility of doubt concerning the interpretation of the Treaty of 1846 the British Government which framed it ought/

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1. McLane, in his despatch of 18th May, 1846, recounts the substance of an interview with Lord Aberdeen in the course of which the Foreign Secretary had explained the "probable" terms of his proposition for the conclusion of the dispute over Oregon. In his despatch McLane definitely mentions the Haro Channel as that to be offered as boundary. A copy of the despatch is to be found in F.O. 5/1472. Senator Benton says the line established by the first article of the Treaty "follows the parallel of 49 degrees to the sea, proceeds to the middle of the channel, and thence, turning south, through the channel de Haro (wrongly written Arro on the maps) to the Straits of Fuca; and thence west through the middle of that Strait to the sea. This is a fair partition of these waters, and gives us everything we want, namely, all the waters of Puget Sound, Hood's Canal, Admiralty Inlet, Bellingham Bay, Birch Bay and with them the cluster of islands, probably of no value, between de Haro's channel and the continent." From report of a speech by Benton delivered in the Senate on 15th June, 1846, during the debate on the Oregon Treaty, quoted by Prevost to Clarendon, No. 7, 7th December, 1857, in F.O. 5/810. A copy appears in the Appendix to the Congressional Globe, 29th Cong., 1st Sess., p. 867, quoted in 'Papers Relating to the Treaty of Washington, Vol. V, Washington, 1872.

ought to have taken all possible steps to preclude a state of doubt and uncertainty. Campbell maintained also that not only American but even English contemporaneous evidence is clearly on the side of the United States, and the letters of Palmerston, Aberdeen and Pakenham do not sustain the British argument.

Prevost, on the other hand, rested the British position almost entirely upon the words of the Treaty, and concluded that Rosario Channel was the only line which could be justified after a study of the wording. His reasons were:

1. Rosario is the navigable channel of direct communication from the Gulf of Georgia to the Straits of Fuca situated most adjacent to the continent and is consequently the channel "which separates the continent from Vancouver's Island."
- 2.. Rosario Channel is a direct continuation of the channel of the Gulf of Georgia and answers the words, "thence southerly through the middle of the said channel."
3. It admits of the channel being carried through it with less departure from 'southerly' than any other channel.

In rebuttal of the United States' arguments the British commissioner continues:

1. Campbell claims that the islands between the continent and the Haro Channel are natural appendages of the continent. "I reply that in the Treaty I find two fixed points named, the Continent on one hand, and Vancouver's Island on the other, and that I conceive the Continent must be de facto the Continent, as much as Vancouver's Island is de facto Vancouver's Island."
2. Campbell refuses to admit that Rosario Strait is peculiarly a direct continuation of the channel of the Gulf/

Gulf of Georgia but maintains it to be a continuation only in common with other channels. Local experience, argues Prevost, is on the British side for the uninterrupted body of water flowing from the Gulf of Georgia through the Rosario Strait causes a regularity of current not experienced in the other channels.

3. If 'southerly' were taken in the strict sense, the Treaty would become a nullity is the claim of the Americans, for the term related equally to the Strait of Fuca, where it was impossible the boundary line could be run in a southerly direction, and they argued that the term must therefore only be used generally and in opposition to 'northerly.' Prevost answers that where the wording of a treaty can be strictly adhered to, this must be done; where it cannot, the evident intention of the treaty should be sought. He quotes from Vattel to illustrate and drive home his contention.
4. Benton's and McLane's testimony, admits Prevost, is entitled to some weight, but their evidence is merely secondary. The terms of the Treaty were drafted by Great Britain, but no mention is made of the Haro Channel to explain the nature of Benton's and McLane's testimony. Prevost educes two possible explanations; Benton may have used Wilkes's map of 1845 and was misled by it because in carrying the eye along from the termination of the boundary line on the eastern side of the Rockies it rests naturally upon Birch Bay, and Haro Strait is so conspicuously marked that it appears to be the only direct channel between the mainland and Vancouver Island that turns into Fuca Straits. ⁽¹⁾ Alternatively, Benton may have relied upon the terms of McLane's despatch of 18th May, 1846.

Campbell/

1. C. Wilkes, 'Narrative of United States Exploring Expedition,' 5 vols., Philadelphia, 1845.

Campbell proved adamant and so, in consonance with his instructions to suggest an intermediate strait as the boundary channel, Prevost suggested - merely as a compromise, he was careful to point out - that the channel situated nearly midway between the Rosario Strait and Haro Channel should be taken as the channel through which to run the line of demarcation. (1) Campbell refused to entertain this suggestion, however, and Prevost had accordingly to postpone discussion pending fresh instructions from home. (2) Unfortunately, the home Government were in no hurry to issue fresh instructions and, beyond formal approval of his efforts and a promise of further instructions, Prevost heard nothing more until 1859. (3)

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1. Prevost to Clarendon, No. 7, 7th December, 1857, in F.O. 5/810. This channel was not yet known to be navigable.
 2. Copies of the correspondence between the two commissioners are enclosed in Prevost's despatch just mentioned. The enclosures are:
 1. Prevost to Campbell, No. 1, 28th October.
 2. Campbell to Prevost, 2nd November.
 3. Prevost to Campbell, No. 2, 9th November.
 4. Campbell to Prevost, 18th November.
 5. Prevost to Campbell, No. 3, 24th November.
 6. Arrowsmith to Hudson's Bay Company, 29th September.
 7. Campbell to Prevost, 28th November.
 8. Crampton to Buchanan, 13th January, 1848.
 9. Prevost to Campbell, No. 4, 1st December, 1857.
 10. Campbell to Prevost, 2nd December, 1857.
 11. A map showing all claims. A photostat copy of this map may be found in the Appendix to this monograph.
 3. Campbell's letter to Prevost of 4th December denouncing alleged restrictions in the instructions to Prevost is Enclosure 1 in Prevost's despatch to Clarendon of 16th December, 1857. Campbell's final letter and Prevost's answer are Enclosures 1 and 2 in Prevost's despatch to Clarendon of 2nd January, 1858. Copies of all the above are also to be found in Sen. Ex. Doc. No. 29, Serial No. 1316, pp. 5 - 47.

CHAPTER IV

BRITAIN REVIEWS THE POSITION AND MAKES AN OFFER

1. Departmental and Other Opinions.

The failure of the commissioners to effect a settlement was most disappointing, particularly since a new factor had made itself known while the Boundary question lay in abeyance between the Governments and their representatives. The year 1858 produced the Fraser River gold rush and gave British Columbia and the adjoining islands an importance they had never before enjoyed. The discovery of gold along the banks of the Fraser River attracted throngs of gold-miners from the corners of the earth to British Columbia and the adjacent islands. The great majority of the newcomers, however, were Americans and the population of the United States' towns on the Pacific Coast was severely depleted. Since all prospective gold-miners had to procure a licence at Victoria, that settlement increased almost overnight to the status of a city. It became obvious that British Columbia, Vancouver Island and the adjacent islands would thenceforward assume a prominent place in North America and, what was more important, many squatters, the great majority of them Americans, settled, 'staked their claims' on the islands of/

of the Haro Archipelago, openly declared the territory to belong to the United States, and refused to budge. ⁽¹⁾ The stage was set, therefore, for another act in the disturbing drama enacted by the two Governments.

Fortunately, the British Government perceived the danger and took immediate and comprehensive steps to effect a solution. The whole problem was such a perplexing one for them that strict unanimity of departmental opinion could not be secured. Copies of Prevost's despatches were sent to the Admiralty and to the Colonial Office in an attempt to amass all available evidence and arrive at the best possible course to be pursued. Throughout 1858, therefore, there was considerable inter-departmental correspondence.

The Colonial Office advised arbitration as the best means of settling the controversy, ⁽²⁾ while the Admiralty attempted to shelve the question by reminding Lord Clarendon that no purely naval question was at issue. The Lords of the Admiralty went so far, however, as to opine that the line meant by the framers of the Oregon Treaty was to follow the middle of the whole area between the continent and Vancouver Island. It seemed obvious to them, therefore, that the object of the commissioners should be to trace the most convenient line by which the whole Strait could be divided between the two countries, and could be continued as nearly/

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1. Urging a speedy solution the Colonial Secretary pointed out to the Foreign Office the danger that the Americans would "increase their demands in proportion to the delay which allows the popular feeling in America to be fed and swollen by accounts that must stimulate cupidity." Colonial Office to Foreign Office, 24th August, 1858, in F.O. 5/813.
 2. Colonial Office to Foreign Office, 6th March, 1858, in same. Arbitration was tantamount to shirking or, at least, shelving the issue. When in August, 1858, Lord Stanley was succeeded at the Colonial Office by Bulwer Lytton, a more positive policy was adopted, and the new Secretary concurred with the increasingly prominent view that San Juan was indispensable to the safety of Vancouver Island; that is, the risk of a possible adverse decision by an arbiter could not be taken.

nearly as possible along the middle of the whole strait dividing the continent from Vancouver Island.

Haro Channel does not satisfy the Treaty proviso that the "navigation of the whole of the said channel and straits south of the forty-ninth parallel of north latitude remain free and open to both Parties." Clearly, argue the Lords of the Admiralty, the channel meant is the whole area between the mainland and Vancouver Island. This channel begins above, and is greater than, Haro. If the latter had been meant, words of restriction would have been inserted excluding the free navigation of that part of the channel given to the United States. For similar reasons Rosario Strait does not completely satisfy. Therefore the Lords of the Admiralty feel that it would be an advantageous settlement of the question if the boundary line were laid down so as to give to Great Britain the Island of San Juan and they think that this line might be fairly accepted as a compromise line by the United States. Should that not be conceded, they would advise that the question be settled even by accepting the Haro Channel as the line of boundary. The important consideration is that the United States are the gainers by the question's being left open, every day adding to the number of American settlers in the disputed territory. The precise line of boundary is of little importance, but the Admiralty insist that free navigation of the whole water area must be secured to Great Britain. (1)

The opinion of Sir Richard Pakenham, who had been British Ambassador at Washington in 1846, was also secured./

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1. Admiralty to Foreign Office, 8th April, 1858, in F.O. 5/813. This Admiralty attitude remained the same throughout the dispute. See their letter to the Foreign Office after Richards's survey report had arrived in London: 9th April, 1859, in same. Of course their preponderating naval influence in the Pacific made them ready to ridicule any fears for the safety of Vancouver Island.

secured. Copies of the instructions to Prevost, the latter's report on them, the despatches of Lord Napier, Ambassador at Washington, the Colonial Office letter of 20th March, 1858, and the Admiralty letter of 8th April, all were sent to him for his observations. Pakenham's conclusion, a very valuable and important one, was that neither Haro nor Rosario would exactly fulfil the conditions of the Treaty, which according to their literal tenor would require the line to be traced along the middle of the channel, "meaning, I presume, the whole intervening space " He was certain that no mention had ever been made of Haro Channel in the course of the negotiations.

Sir Richard goes on to assert his belief that neither Lord Aberdeen nor Mr. Buchanan nor Mr. McLane possessed at that time a sufficiently accurate knowledge of the geography or hydrography of the region in question to enable them to define more accurately what was intended to be the line of boundary than is expressed in the words of the Treaty. Besides, states Pakenham, it is certain that Buchanan signed the Treaty with McLane's despatch before him and that he made no mention whatever of Haro Strait as that through which the line of boundary should run as understood by the United States' Government. He advises that, since a direct line, as obviously desired by the Treaty, cannot be conveniently adopted because it would run partly overland, the next best course to pursue would be to trace the line in the direction coming nearest to that required by the Treaty. (1)

Preparations/

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1. Pakenham to Foreign Office, 19th April, 1858, in F.O. 5/813. Lord Aberdeen, Foreign Secretary in 1846, to whom the Government wrote in 1858 for corroboration of Pakenham's views declared that he was certain that it was the intention of the Treaty to adopt as line of demarcation the mid-channel of the Straits without any reference to islands, the position and indeed the very existence of which had hardly at that time been accurately ascertained. He had "no recollection of any mention having been made during the discussion of the Canal de Haro or indeed any other channel than those described in the Treaty itself." See Sir Arthur Gordon (Aberdeen's son) to Lord John Russell, 21st August, 1859, in F.O. 5/814.

Preparations were made to go over the whole issue at the Foreign Office, arrangements being made for Viscount Palmerston, not at this time a member of the Government, and Lord Stanley, Colonial Secretary and son of the Prime Minister, to discuss the position with Lord Malmesbury, the Foreign Secretary, on 20th April. Copies of the correspondence sent to Pakenham, the latter's reply thereto, and a memorandum by Mr. Hammond, Permanent Under-Secretary at the Foreign Office, were all set before the three statesmen.

Hammond's memorandum is important because, being the work of a permanent official who had been in personal contact with the controversy for many years, it carried great weight with the members of the Cabinet. The dominant note of the memorandum, namely, its insistence upon the importance of retaining the Island of San Juan, became the basis of the Government's policy in the dispute. Hammond saw San Juan as the really important island, and Britain ought to stand out for it. He advised that the middle channel, as coming most nearly within the strict definition of the Treaty of 1846, might first be suggested and, if refused, arbitration could be pressed for. If both these proposals were refused, Hammond would go the length of intimating that England would act upon her interpretation of what was right, and she would continue to hold the Island of San Juan as a solely British possession. (1)

After discussion, it was finally decided to make no proposal till the conclusion of Captain Richards's survey, since whatever was done would be better done with full knowledge/

1. Hammond's memorandum is in F.O. 5/813. He also makes the significant statement that "we ought to come to an early decision and require an early decision on the part of the United States and not allow them to play their usual game of procrastination at which they always win."

knowledge, particularly since it could be safely assumed that the Americans would not voluntarily forego any portion of their pretensions. Moreover, if resort were to be had to arbitration, it would be wise to have a clear knowledge of the chances resulting from a survey before deciding on the course to be taken.

2. Richards's Survey Report.

Both the Colonial Office and the Foreign Office, therefore, awaited the report of Captain Richards with considerable impatience. The Colonial Office saw the danger to British Columbia and Vancouver Island if there was an adverse report upon the usefulness of Rosario Strait, while the Foreign Office perceived the danger of having to recede from their strong position or, alternatively, of having to submit to an arbitrator a question which they feared might be decided against them.

The chart and report of the survey party were finally dispatched on 30th November, 1858, and reached the Foreign Office in the following January. The report came as a bombshell, for in the Foreign Secretary's own words they went "to establish the American claim that the Canal de Haro was the best navigable channel."⁽¹⁾

The report commences with a comparison of the three main channels, Haro, Rosario, and the Middle Channel,⁽²⁾ sometimes called Douglas Strait. Rosario Strait, the report points out, varies in width from one and one-third to six miles, with an average width of two miles. It has strong tides; it contains two great dangers to navigation in/

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1. Memorandum of 3rd February, 1859, in F.O. 5/813.
 2. Strictly speaking, one can apply the name 'Douglas Strait' only to a passage which forms a part of the Middle Channel.

in the shape of two giant rocks. Its depth varies from twenty-five to thirty-five fathoms. Haro Strait, on the other hand, is two and a half miles at its northern entrance, and it is on the whole wider and deeper than the other two. The middle channel is much inferior in capacity, yet is safe enough for steamships. Its tides are strong at the southern entrance, and there is a narrow inlet. All three channels present considerable difficulties to sailing vessels - chiefly, danger and great delay. As regards steamships, however, the passages are quite safe during the day and could be lighted at night.

But three points are particularly stressed:

1. Vessels passing through the Strait of Juan de Fuca and bound for the Fraser River or Nanaimo would unquestionably take the Haro Strait as, by doing so, they would save a distance of from twelve to fifteen miles.
2. Haro Strait from its position with reference to British ports must be almost entirely used by British vessels.
3. "To the commerce of British Columbia, to the rising port of Nanaimo, which probably for many years will be the great coal depot to the coasting trade, which will rapidly rise into importance so soon as Vancouver's Island is open to the enterprise of the Agriculturist and the Settler, this Strait is of equal interest."⁽¹⁾

It will be seen, therefore, that Richards's report is of very great importance in the controversy because, by proving the middle channel to be navigable, it gave the British Government a valuable, if dangerous, alternative to Rosario Strait in the negotiations. At the/

1. Richards's report appears in F.O. 5/813; a complete copy may be found in the Appendix to this essay.

the same time, by demonstrating the essential superiority of Haro Strait, it weakened the confidence of the Government in the British position and made possible, if it did not actually encourage, the ultimate mismanagement of the British case.

3. The Strategic Importance of San Juan.

The disappointing nature of the survey report compelled the Government to reconsider their attitude. They could not publicly admit, without serious loss of prestige, that from the point of view of navigability and accessibility their claim to Rosario Channel as the line of boundary was difficult to substantiate. They examined the utilitarian aspect of the problem, therefore, and arrived at the conclusion that, if they could secure rightful possession of the Island of San Juan, they might save their faces and at the same time strike a decisive blow for the safety of Vancouver Island about which the Colonial Office, in particular, was so much exercised. After the receipt of the report of Captain Richards in January, 1859, therefore, the 'Water-Boundary Question' became for Great Britain the 'San Juan Question.'

Mere considerations of the phraseology of treaties and the weighing of the pronouncements of statesmen became of minor significance when the naval and military importance of the Island of San Juan fell into the balance. Both Governments were aware of the strategic position of the island and both attached to it an almost exaggerated military value. It was becoming increasingly evident, as Canning had said, that "the trade of the East was that most susceptible of advancement." Vancouver Island/

Island, with its excellent harbours, and also the mainland in the region of the modern city of Vancouver, which even then promised to be the commercial centre of the North Pacific, were several hundred miles nearer the East than San Francisco.

The value of Vancouver Island was also well known. It has on all sides safe and commodious harbours; it is well supplied with fresh water; it is covered with excellent timber; its splendid climate, with a warm, dry summer, short winter, and heavy dews to take the place of rain, make it an enviable possession. There is an abundance of coal of first class quality, while salmon, cod, and herring abound in its waters. Gold had been found, and after the 'strike' in the adjacent Fraser River area, the Island was likely to be rich in this respect too.

The key to the possession of this valuable island was the 'Kronstadt of the Pacific' - San Juan - and therefore every effort must be made to retain it. It is not too much to state that it was this evaluation on the part of officials that gave the whole question of the boundary west of the mainland the importance it ultimately achieved, and delayed settlement of a problem that might otherwise have been quite unobtrusively adjusted. The Joint Commission of Captain Prevost and Mr. Campbell had been foredoomed to failure because the principals on both sides had allowed their views to become coloured by their conception of the Island of San Juan as a military and naval stronghold.

Campbell in his researches had come upon the report of General Persifer F. Smith who had visited the region in 1849-50 and on his return had represented to the President the immense importance of the islands in the Haro Archipelago. He asserts that "these islands [San Juan, Orcas/

Orcas and Lopez] form a naval harbour that may be defended against any force if they are fortified as they may be, and the nation that disposes of them thus will absolutely command not only Queen Charlotte's Sound but all those splendid harbours in our territory on the waters of Admiralty Inlet and Puget's Sound, as well as those on the Straits of Juan de Fuca and the navigation of that inlet. These harbours are the best on the Pacific coast, for, with the timber that covers the hills bordering on them, and the coal in the adjacent territory as far south as Grey's Harbour, they possess the great advantage of a rise and fall of tide of twenty-one feet, rendering the construction and use of docks easy and cheap."⁽¹⁾

In 1859 General Totten, Chief Engineer of the United States' Army, was sent to the San Juan region to report upon suitable naval and military sites there. In his report to the War Department he confirmed the views of the earlier experts, and expressed the opinion that possession of San Juan was absolutely essential to the United States to compensate for the loss of Vancouver Island. His expert opinion became the adopted view of the American Government which realised conclusively that without the San Juan group of islands there could be no escape from the paralysis that adverse naval predominance - predominance that Great Britain consistently maintained in that area - would impose on all coasts and waters inside Cape Flattery.⁽²⁾ In short, only by adopting the Haro Strait as line of boundary would the United States secure compensation for Britain's advantageous position./

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1. Quoted by Campbell in a letter to General Cass, 25th September, 1858, in Sen. Ex. Doc. No. 29, 40th Cong., 2nd Sess., I, 52. As early as 1855 Captain George Stoneman of the Dragoons and Lieutenant W.H.C. Whiting of the Engineers had reported in very similar terms to the United States' Government.
 2. Idem, p. 134.

(1)
position.

The vehemence with which these views were expressed and the universality with which they were held by American experts justify the importance attached by the United States' Government to possession of San Juan. They of course had faith in the justice of their abstract claim to the Island, but realisation of its strategic value fortified them and made them unwilling to hear of compromise.

Captain Prevost, on his part, had been deeply impressed by the Island's strategic position. He saw a menace to the safety of the whole region in the rapidity with which Washington Territory was being settled and in the fast increasing interests of the United States in the Pacific. England must control Vancouver Island as a counterpoise, and Prevost, as a naval expert, realised that possession of San Juan as a wall of defence lying in the line of direct communication between Vancouver Island and British Columbia was essential to the peaceful occupation of the naval base on Vancouver Island. (2) The British Government/

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1. Sen. Ex. Doc. No. 8, 41st Cong., 1st Sess., Vol. 1, 2. The views of General Totten were subsequently adopted in toto by the United States' Board of Engineers who concluded that "our sole and exclusive possession of Rosario Straits will be of no appreciable military value to us if Great Britain be allowed to possess the island of San Juan The possessor of the south extremity of the island of San Juan can easily close the entrance to the President's Passage at will. By establishing a military and naval station at Griffin Bay, on the southeastern shore of San Juan Island, we shall be able to overlook those inner waters equally with Great Britain from Esquimalt harbour, and thus counterbalance the preponderance she is seeking to establish. Excluded from this harbour we shall find no substitute for it, for no harbour of sufficient capacity for vessels of war is to be found east of this point short of Rosario Straits. A harbour in Rosario Strait will not enable us to overlook these inner waters equally with Great Britain." - Idem.
 2. Prevost to Hammond, 13th April, 1858, in F.O. 5/810. Prevost in turn had been influenced by Hudson's Bay Company reports placed before him by the Governor stressing the Island's strategic value. See Colonial Office to Foreign Office, 26th September, 1856, - F.O. 5/812.

Government at once adopted Prevost's opinion. It is to be remembered that, in the middle of the 19th century at least, Vancouver Island was potentially more valuable than the mainland of British Columbia. To lose the islands lying between Vancouver Island and the mainland meant for Great Britain the loss of the only navigable channel for sailing vessels, inasmuch as the navigation of this channel was commanded by San Juan. (1)

It was impressed upon the Government, therefore, that they would realise the aims of the different Government departments if they gained the middle channel as boundary and thus secured absolute possession of San Juan. They could justify their tacit surrender of the claim to Rosario Strait as line of boundary by officially endorsing the views of Lord Aberdeen and Mr. Pakenham and insisting, accordingly, that the negotiators of 1846 had meant the line of demarcation to divide equally between the two countries the whole area lying between the mainland and Vancouver Island. Richards's report had proved the existence of a navigable middle channel which, if it was not ideal from the mariner's point of view, was nevertheless a fair compromise line which by dividing the whole area into two approximately equal parts would surely be acceptable to the United States. What the Government neglected to notice, however, was that the United States also were aware of San Juan's importance, and the Americans were not prepared to accept the islands east of the middle channel as adequate compensation for surrendering San Juan.

4. The British Offer of 1859.

Lord Malmesbury was succeeded at the Foreign Office in June, 1859, by Lord John Russell, and the new Secretary/

1. Of the total population of British Columbia - 14,000 - fully two-thirds lived on Vancouver Island.

Secretary soon got to grips with the Water-Boundary problem. He adopted the views of his predecessors as to the necessity for "honourable compromise" and, forgetting the tactical blunder inherent in the offer of a proposition which surrendered, perhaps not positively, the line of the Rosario Strait, he suggested, after adumbrating the British arguments for Rosario, the middle channel as the boundary. At the same time he took the risk of completely alienating the United States by asserting that, no matter what the circumstances, Great Britain was determined to maintain her right to the Island of San Juan; whatever adjustment of the line of boundary might be effected, the United States must relinquish their claim to that island. Britain was prepared to give up Orcas and Lopez Islands, but she insisted that all three channels in the region between Vancouver Island and the mainland should remain free and open to both countries.

Apparently quite unaware that the United States also placed a high value upon San Juan, Lord John expressed himself as unable to believe that the Americans could refuse this attractive compromise offer. Before formulating it he was at some pains to have his proposition reviewed by Lord Palmerston, the Prime Minister, and the Duke of Newcastle, the Colonial Secretary. All agreed that, if the proposition were rejected, the only possible solution was arbitration, in which case Great Britain would fall back upon her claim to the line of the Rosario Strait. ⁽¹⁾

It will be noted that Britain is continuing her former policy of being first to suggest a proposition in detail, though this offer of Lord John Russell simply reiterated the compromise plan presented by Captain Prevost nearly/

1. The despatch to Lord Lyons at Washington of 24th August, 1859, containing the proposition appears in F.O. 5/813. For the line see the map in Appendix.

nearly two years previously. Unfortunately, the offer was still not acceptable to the United States, and more unfortunately from a British point of view, the British Government could be sure that in future negotiations with that country the reserved British claim to the line of Rosario Strait would be ignored and the line of the middle channel would be adopted as a proposition to be whittled down. The Americans, in negotiating with England, always seemed to consider the offer of compromise as a sign of weakness, and the confidence with which they asserted and held their views increased in direct proportion to the extent of the British concessions. (1)

On the day that Lord John Russell sent off his despatch to Lord Lyons another 'Confidential' despatch, 'seen by Lord Palmerston and the Queen,' was forwarded to Captain Prevost, advising him of the new proposition, and declaring his position as commissioner to be in abeyance pending the development of the negotiations in Washington. (2)

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1. The Prevost plan was suggested before the Richards survey report was received because it was then officially believed, or at least hoped, that a middle channel would be found. An incident illustrates this. Mr. Campbell, while at Washington in January, 1858, for the purpose of impressing upon his government the strategic importance of San Juan, had several discussions upon the Water-Boundary with Lord Napier, the British Ambassador. The latter suggested that, provided a middle channel were found, it might be accepted as an "amicable compromise," though the suggestion was made by Napier "without committing either my Government or myself, or any other person, to a renewal of it at any subsequent period should it not now be accepted." See Campbell to Cass, 20th January, 1859, printed in Sen. Ex. Doc. No. 29, 40th Cong., 2nd Sess., Vol. 1, p. 75.
 2. 24th August, 1859, in F.O. 5/813.

CHAPTER V

THE CELEBRATED HARNEY INCIDENT

1. Trouble on San Juan.

We have seen how Britain was once more embarked upon a diplomatic method of settling the San Juan dispute, but before discovering the fate of Lord John Russell's offer it is necessary to notice developments on the disputed Island, because shortly before the despatch of the offer a crisis had been precipitated on San Juan itself, and word of this was on its way to England while the new British proposition was being conveyed to the United States. Serious complications were produced by an episode of the type referred to by Lord Clarendon when he wrote: "The over-zeal and the over-desire to make political capital without reflecting on the consequences, of employees, have caused difficulties which put the firmness and good faith of both governments to the test

"(1)
..... The attention of the world was for the first time attracted to the Haro Archipelago by this incident which almost produced war between the United States and Great Britain. The incident, which revolved round the intervention of the American General Harney, has never satisfactorily been explained and has been variously interpreted.

The disputed Island had been occupied by the Hudson's/

1. Clarendon to Buchanan, 13th October, 1859, 'Works of James Buchanan,' VI, 333, London, 1856-60.

Hudson's Bay Company since December, 1853, while a number of Americans had also found their way there. The Company used the Island as a sheep-rearing centre and fishing station. In 1854 along with other adjacent islands it was organised as Whatcom County and treated by the Americans as United States' territory. Taxes were assessed regularly and it was estimated in May, 1859, that the Company owed 935 dollars as arrears of taxation. The Hudson's Bay Company refused, of course, to recognise any right in the American authorities to tax their land. (1)

An American citizen named Lyman Cutler landed on San Juan in April, 1859, and proceeded to establish a farm there. (2) On 15th June Cutler was unwise enough to shoot a pig belonging to the Hudson's Bay Company because, so he alleged, it was destroying his crops. That same day Mr. A. G. Dallas, Director and President of the Council of the Company in America, landed from the Company's ship, 'Beaver,' accompanied by two other officials named Fraser and Tolmie. On the following day Charles Griffin, resident Company representative on the Island since 1853, called upon Cutler. The latter was under the impression that the three colleagues of Griffin had come from Vancouver Island specifically to demand retribution from him; actually, according to Dallas, he and his friends, who were visiting the Island of San Juan solely for reasons of trade, owed their presence there on that particular day entirely to coincidence.

The/

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1. See letter of H. R. Crosbie, temporary United States' magistrate on San Juan, to General Cass, July, 1859, in House Ex. Dec. No. 77, 36th Cong., 1st Sess.
 2. He later swore that he owned 160 acres; but Mr. Dallas, ridiculing such a statement, said that Cutler merely had a small potato patch. See copy of Cutler's affidavit enclosed with Harney to Scott, 16th September, in F.O. 5/818, and Dallas to Harney, 10th May, 1860, in same. It is printed as enclosure to No. 27, Lyons to Cass, in Sen. Ex. Doc. No. 10, 36th Cong., 1st Sess., pp. 49-50.

The position of the Hudson's Bay Company on the north-west coast and, in particular, on San Juan and the other islands of the Archipelago was becoming delicate, and there is some justification, therefore, for the exasperation their agents must have felt. American squatters who sat down in the midst of sheep runs were overrunning territory which the Company had controlled for years, and while the boundary controversy existed they were unable to do more than register mere formal protest. The Company had thousands of head of cattle and sheep on the Island of San Juan, and squatters were threatening their hard-won security. It is more than likely, then, that Dallas's attitude towards Cutler was the reverse of friendly. At any rate, Cutler resented his manner, and swore in an affidavit that Dallas had demanded a hundred dollars from him under penalty of arrest and trial in Victoria. Dallas, on the other hand, denied all mention of money and threat of arrest. Cutler produced a revolver and threatened to shoot if an attempt were made to arrest him. The English thereupon left the Island.

In accordance with instructions from the Colonial Office, Major John de Courcy was taken to the Island on 27th July and installed as resident British magistrate there. The next day he read his commission to the British settlers. Obviously, the position was dangerous and liable to develop rapidly./

1. See Captain Michael de Courcy (spelled 'Courcey' in a number of despatches), senior naval officer at Vancouver Island, to Rear Admiral Baynes, Commander-in-Chief of the British forces in the Pacific, dated 5th August, copy enclosed in Baynes's despatch to the Admiralty, 8th August, 1859, in F.O. 5/813. Harney states that there were 25 American families on San Juan, that is, about 100 persons. Prevost speaks of 7 British inhabitants, and de Courcy corroborates. Harney's statement seems an undoubted exaggeration; there is certainly no indication in the Foreign Office records of this adverse disproportion. H. R. Crosbie, who arrived on 29th July, found 29 actual settlers, while Pickett (infra) speaks of seeing less than 30 settlers. Douglas, who was well qualified to know, claimed that up to 1859 there was only one American on San Juan; in that year "a few more" came.

2. The Advent of General Harney.

Cutler had communicated his version of the incident to American officials in Washington Territory, with the result that General Harney, Commander-in-Chief of the Pacific Division of the United States' Army, on 18th July ordered Captain G. E. Pickett to proceed from Fort Bellingham to San Juan Island with a force of soldiers. He was instructed to protect the American citizens from Indians and to stop "British interference." His small initial force was to be increased until it eventually numbered from four to six companies. ⁽¹⁾ General Harney had consulted with Governor I. I. Stevens of Washington Territory upon the substance of a petition presented to Harney by American citizens on San Juan. The petition complained of attacks on their property by Indians and demanded military protection. Stevens seems to have given his blessing to Harney's initial steps; indeed, his biographer conveys the impression that Harney was acting upon the advice of ⁽²⁾ the Governor.

John de Courcy, the British magistrate, demanded to know by what right Pickett, who appeared on 27th July, had presumed to land. The American replied that the question was not within his (de Courcy's) rights but, since his reason was generally known, he had no objection to informing him that he was acting in accordance with Government orders. De Courcy replied that he was trespassing on British property, and/

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1. Harney to Pickett, 18th July, 1859, letter No. 4, Sen. Ex. Doc. No. 10, 36th Cong., 1st Sess., pp. 6-7. There were four military camps in the Pacific north-west: at Fort Vancouver, Fort Bellingham, Fort Steilacoom and Fort Townsend.
 2. H. Stevens, 'Life of General Isaac I. Stevens,' 2 vols. particularly II, 292-3, New York, 1900.

and warned him off. Pickett's retort was to introduce Mr. H. R. Crosbie, the United States' stipendiary magistrate on the Island, who in his turn warned Major de Courcy (1) against acting upon his instructions.

Governor Douglas was placed in a quandary because this occupation by Pickett on the advice of General Harney appeared to have Government sanction. He had directed his actions during the previous five years by the terms of the Colonial Office despatch of 21st September, 1854, advising him to treat the islands in the Haro Archipelago as British property, and later by the Marcy-Crampton arrangement of 1855, which sanctioned joint occupation, but these did not comprehend the contingency that had just arisen. "Trusting that the exhibition of an overwhelming force might prevent resistance and probable effusion of blood," he asked Captain Michael de Courcy, senior naval officer in the region, for a powerful vessel to stop the American landing. Captain Hornby of the British ship, 'Tribune,' was sent immediately. He was instructed by Douglas to sail at once for San Juan with a body of marines to prevent the further landing of United States' troops, to erect military works, and to assist the civil power. He was to call upon Pickett and outline to him his instructions. When Hornby called at the American camp, however, he was unable to find Pickett, and he decided to take no steps to prevent the landing before interviewing him. (2)

On the 31st Douglas held a conference with
Captain/

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1. De Courcy to Douglas, 29th July, enclosed in Douglas to Colonial Office, 5th August, in F.O. 5/730.
 2. Hornby to his wife, 31st July, 1859, in Mrs. Fred Egerton, 'Admiral Sir Geoffrey Phipps Hornby, p. 64, Edinburgh, 1896.

Captain Richards of the Boundary Commission and Captain Michael de Courcy. The two naval officers were strongly against the employment of force against the American troops and advised milder measures. Douglas, while still of opinion that a display of force would best suit the circumstances, realised that it would be difficult for him to take any action without the cordial support of his naval allies. Accordingly, he agreed to modify his instructions to Hornby, revoking that part which commanded him to prevent the United States' forces from landing and to erect military works on San Juan. The British magistrate on the Island was also instructed not to issue any process against the troops on San Juan. (1)

The Legislative Council of British Columbia was asked to approve the newly made decision and, with a single dissentient, did so on 1st August. The Council was prompted by different motives from those of the British naval officers. To the Council the evidence that the United States' occupation of San Juan was a federal move appeared overwhelming, but there were no reliable forces at hand to repel a federal action, for the great majority of the inhabitants of British Columbia and Vancouver Island were Americans, and in the event of an outbreak there would be "insurrectionary and filibustering movements." The local militia could not be depended upon, and the British authorities could not hope to maintain sovereignty for more than a short time. (2)

On the same day the Governor issued a proclamation to the effect that "the sovereignty of the Island of San Juan/

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1. Douglas to Colonial Office, 1st August, in F.O. 5/730. Captain de Courcy left for San Francisco on 5th August so that Hornby became senior naval officer in the region.
 2. Address of Legislative Council, 1st August, 1859, enclosure in Douglas's despatch of same date to the Colonial Office in C.O. 305/11.

Juan, and of the whole of the Haro Archipelago, has always been undeviatingly claimed to be in the crown of Great Britain "

On 2nd August Governor Douglas instructed Hornby to land troops on San Juan in order to sustain the British claim to the Island, for the purpose of maintaining the national honour, and for the protection of British subjects. At the same time, Hornby was to enter into "full and frank communication" with Pickett. ⁽¹⁾ The delicacy of Hornby's position is obvious. The following day, accompanied by Commissioners Prevost and Richards, he called upon Captain Pickett. The deputation demanded to know if General Harney was acting upon authority from Washington when he commanded Pickett to occupy San Juan; they protested at the United States' claim; they suggested joint military occupation of the Island by British and American troops. Pickett's answer was that, so far as he knew, Harney had acted upon orders from superiors, and he refused to consent to a joint occupation because his instructions did not provide for that. ⁽²⁾

3. The Crisis Passes.

The interview between the two groups of officers seems to have been most friendly, and Hornby had no hesitation/

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1. Douglas to Hornby, 2nd August, Enclosure 1 in Douglas to the Colonial Office, No. 31, 8th August, 1859, in F.O. 5/730.
 2. Copies of the correspondence dealing with this interview appear as enclosures in same:
 - Enclosure 1, Douglas to Hornby, 2nd August.
 - " 2, Hornby to Douglas, 4th August.
 - " 4, Hornby to Pickett, 3rd August.
 - " 5, Pickett to Hornby, 3rd August.
- The last two are printed in Sen. Ex. Doc. No. 10, 36th Cong., 1st Sess., pp. 16-17.

hesitation in deciding to disobey Douglas's orders of the day before. He apparently felt that the honour of the flag was not at stake and that to have precipitated a war by landing marines would have been, in view of the overwhelming superiority of the British naval forces in that region, to give a distinct moral advantage to the United States. The British would have appeared as aggressors, ready to take unfair advantage of temporary weakness, and would therefore have been successful only in uniting American public opinion against their cause. In view of the Foreign Secretary's statement of the same month that Great Britain was not prepared to negotiate unless possession of San Juan was guaranteed to her, there could be no complaint if this arrogant proviso, following so soon a naval or military attack upon the Island itself, were misconstrued.

It would be unfair to say that Governor Douglas was actuated by other than patriotic motives, but it is right to note that he was exasperated at the Americans. He had been a servant of the Hudson's Bay Company since boyhood until he became Governor of Vancouver Island. The Company had engaged in stern economic battle with the Americans on the Pacific coast and had not, in Douglas's opinion, been satisfactorily compensated for losses sustained by virtue of the terms of the Oregon Treaty of 1846. The type of American with whom he came in contact was not of the most respectable, and he could be excused for looking upon the American squatters with something very much like contempt. He understood how quickly that type would seize upon any concession or lack of vigour as evidence of weakness. Had he stopped to consider the situation calmly and in its widest aspects, he must have seen the wisdom of Hornby's deliberate failure to implement his instructions. Had these been/

been acted upon, war would almost have been inevitable. Douglas did not desire war, though had hostilities been necessary to overawe the American force on the Island he would not have hesitated to commence them. Pickett's words go to show that with the presence in the region of the predominant British naval force, he would have contented himself with a "most solemn protest" if a British army of occupation had been dispatched; but, in his opinion, the Island was "large enough for both of us." ⁽¹⁾ Douglas remained firmly of the opinion that the United States' force would make no attempt to resist a British landing ⁽²⁾ on San Juan.

By refusing to imitate Harney's warlike measures Hornby was acting in consonance with the pre-Harney agreement that neither country was to exercise exclusive sovereignty in the disputed Archipelago. Harney's action, whether or not inspired from Washington, was in itself indefensible, and to imitate it would have been to stoop to the level of a firebrand who did not pause to weigh the consequences of his actions. Verbal protest, supported by an overwhelmingly superior force, ⁽³⁾ was a much more dignified manner of meeting/

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1. Prevost to de Courcy, 5th August, enclosed in Admiralty to Foreign Office, 3rd October, in F.O. 5/730.
 2. Douglas to the Colonial Office, No. 4, 22nd August, 1859, in C.O. 305/11. "..... vigorous measures on our part would soon dispose of the question in our favour; a policy of national concession is always mischievous and in the case of these colonies dangerous." Sir George Simpson, a keen judge of character, said of Douglas that he was "well qualified for any service requiring bodily exertion, firmness of mind and the exercise of sound judgment, but furiously violent when roused." See D. MacKay, 'The Honourable Company,' p. 219, London, 1937.
 3. There were four British men-of-war in the vicinity of San Juan and Vancouver Island, and Admiral Baynes arrived on 5th August on the 'Ganges' to make the number five. See his despatch, No. 107, to the Admiralty, copy in F.O. 5/730. Steps were taken at once to increase this force, a first-class frigate and a vessel of the size of the 'Clio' being sent to the troubled area. See Foreign Office to Admiralty, 2nd October, 1859, in same.

meeting the situation, much more in keeping with the detached deliberation expected of a responsible Government official.⁽¹⁾

It must be remembered that the temper of the English inhabitants of British Columbia and Vancouver Island was inclined to be short. Among them the clamant cry was, "Why were not troops landed?" This also was the tenor of the debate and address of the Legislative Assembly, and the colony's newspaper, 'The British Colonist,' published an editorial under this heading in its issue of 17th August.

Captain Hornby knew enough of western Americans to comprehend the possibility that the whole Harney demonstration was initiated without the cognisance of the United States' Government; in other words, Americans sometimes acted like this to "get their names up." Yet Pickett, evidently under genuine misapprehension, seems to have been at pains to assure Hornby that he was acting on instructions from Washington; "I have endeavoured to impress them with the idea that my authority comes directly through you from Washington," he informed Captain Pleasanton, the United States' Adjutant-General in Oregon.

While Hornby debated the issues, General Harney was not inactive. To the Douglas protest he replied that he had sent Pickett to protect American citizens residing on/
on/

1. Hornby to his wife, 5th August, 1859, in Egerton, op. cit., p. 65. Hornby's tactful policy was subsequently ratified by the Government, Douglas being told that he had acted wisely in refraining from sending a force to San Juan. See Colonial Office to Douglas, 30th September. According to Hornby peace was preserved owing "to my good judgment in not following the Governor's instructions" See Hornby to his wife, 1st November, in Egerton, p.65. This is corroborated by two other actual witnesses, viz., D. G. B. Macdonald, attached to the Government survey staff of British Columbia, in his 'British Columbia and Vancouver Island,' London, 1862, and Matthew Macfie, 'Vancouver Island and British Columbia,' p. 31, London, 1865.

on the Island from the insults and indignities which the British authorities and the Hudson's Bay Company's officials had recently offered them by sending a British warship from Vancouver Island to convey the "chief factor" of the Company to San Juan for the purpose of seizing an American and transporting him by force to Vancouver Island to be tried by British laws. (1)

This explanation furnished to the British authorities was followed next day (7th August) by one to the United States' Adjutant-General. An account of the origin of the dispute is given, this time stress being laid upon the fictitious threat of the Company to turn the Indians upon the innocent American settlers, an old canard that could always be relied upon to rouse the Americans. Mention is also made of the "overbearing, insulting, and aggressive conduct" of the British executive officers. In conclusion, the Adjutant-General is reminded that it would be well for the British Government to know that the American people of the Pacific coast will never sanction any claim the British may assert to any other island on Puget Sound than Vancouver Island. (2)

Although the affair had not progressed exactly as Harney had intended, the tactful, dilatory policy of Captain Hornby being calculated to offset and nullify the General's plans, he nevertheless remained undaunted. Consequently, he decided to increase his numbers on San Juan, and he followed up his explanatory letter to the British authorities and his apologia to his superiors in Washington by ordering Colonel Silas Casey to proceed from Fort Steilacoom/

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1. Harney to Douglas, Enclosure 5 in Baynes to Admiralty, No. 110, 12th August, in Egerton.
 2. Copy enclosed in Lyons to Foreign Office, No. 74, 28th February, 1860, in F.O. 5/815.

Steilacoom to San Juan with reinforcements. Casey duly arrived with nearly 200 men, and at once sent for Hornby. Not satisfied with that, he determined to go straight to the chief authority and on the following day made the twenty-five miles journey to Esquimalt for the purpose of discussing matters with Rear Admiral Baynes who commanded the British Fleet in the Pacific Ocean. Baynes, however, recognising the fact that Casey was a subordinate officer, declined (1) the invitation to visit the American.

Douglas's answer to Harney's new moves, and more directly to Harney's explanatory letter to him was his very clever and temperate letter of 13th August. The letter begins with a courteous, if slightly sarcastic, expression of thanks for Harney's "frank and straightforward manner" of explaining why his troops had occupied San Juan. An unhesitating and unqualified denial of the facts outlined by Harney is given, for no British ship had ever been sent to convey the chief factor or any officer of the Hudson's Bay Company to San Juan for the purpose of seizing an American citizen. If he has acted illegally, the Governor reminds Harney that all his actions have been in accord with Secretary Marcy's letter to Governor Stevens of July, 1855. (2) If he has overstepped the bounds laid down in that letter, surely, insists Douglas, the most sensible step for Harney to take would have been to communicate with him and to seek redress before making the precipitate and extreme move of military occupation. Harney had very recently - on 18th July - seen him personally in Victoria, when/

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1. Baynes to Admiralty, 12th August, 1859, No. 110, in F.O. 5/730. A copy of Casey's note to Baynes is enclosed; a copy also appears as enclosure to Sen. Ex. Doc. No. 10, 36th Cong., 1st Sess., pp. 16-17.
 2. Supra, p. 11.

when he did not even mention the Cutler incident. Concluding, the Governor feels that the first essential to resumption of the status quo is the withdrawal of the American force from San Juan.

Harney took no notice of the letter, and the Americans continued with the erection of military works on the Island with the result that by the middle of August they had a formidable fort manned by over 400 men together with a considerable number of artificers and labourers. In Douglas these preparations excited an overpowering impulse to retaliate, and he can be forgiven for his attitude expressed by the words, I told you so. ⁽¹⁾ The manner in which the United States were strengthening their position daily must have created doubts and misgivings in British official circles, for it would obviously be a difficult matter to dislodge them from the Island once they were firmly established there. On the other hand, the occupation ⁽²⁾ of San Juan was in British eyes quite an illegal act, and their confident hope that justice and common sense would prevail convinced the Colonial Office that there was no need for alarm. The Government's course was clear; they must approve, and share the responsibility for, the policy adopted/

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1. He seems never to have changed his original opinion and wrote home on 22nd August, "I confess with regret that my views differ essentially from those expressed by Rear Admiral Baynes I feel assured that a bold and resolute stand, as I proposed in the first instance, would have nipped in the bud the project, increased the influence and dignity of this Government, and prevented collisions which a policy of concession may precipitate." See Douglas to Colonial Office, 22nd August, in F.O. 5/815.
 2. British subjects had been warned that if they settled on San Juan they did so at their own risk. The Company had been given, by their charter in 1849, the exclusive right to sell land "at a reasonable figure" in Vancouver Island and the adjacent islands. No British subjects other than Company servants ever settled in this area; a despatch to Douglas by the Colonial Secretary, Sir. W. Molesworth, dated 13th August, 1855, distinctly disavowed on the part of Great Britain any intention to sanction the colonisation of the area.

adopted by Baynes and Hornby, regardless of its wisdom. If the British forces had been inferior, Douglas's advice must have been followed to save the national honour; the British force being greatly superior, the British line of action was what the Colonial Secretary termed "one of forbearance, not timidity." It is to be remembered that the disproportion of forces in the region of San Juan was still very considerable. There were 5 British men-of-war with 1,940 men and 167 cannon, as against 5 American companies with 461 men and 17 cannon. (1)

4. Government Intervention.

Douglas, in an attempt to enlist the aid of an additional powerful agency, wrote to Lord Lyons, British Ambassador in Washington, tracing the origin and development of the whole Harney incident. Lyons, receiving the letter on 3rd September, acted with alacrity. He telegraphed the details home, and personally broached the matter that day to General Cass, the United States' Secretary of State. Cass assured the Ambassador that he had heard nothing of Harney's attack on San Juan. To Lyons's subsequent suggestion that Cass should send a positive injunction to the American troops to cause no trouble on the Island the Secretary retorted that Harney's seizure did not affect in any way the diplomatic progress of the settlement of the dispute, inasmuch as he was prepared to guarantee the immediate evacuation of the United States' troops if the Island were awarded to Great Britain. Lyons was particularly careful to avoid raising any collateral point of debate which might have/

1. Sen. Ex. Doc. No. 10, 36th Cong., 1st Sess., p. 29.

have added to the difficulty of inducing the United States' Government to replace matters at the Island of San Juan on the footing which had been so disturbed by General Harney. (1)

While Cass's reply to Lord Lyons does not appear too reassuring, it is to be noted that the Secretary acted with despatch in silencing Harney. On the very day of Lyons's protest Cass wrote to the General intimating that "the President was not prepared to learn that you had ordered military possession to be taken of the Island of San Juan or Bellevue. Although he believes the Strait of Haro to be the true boundary he had not anticipated that so decided a step would have been resorted to without instructions." In addition, Harney was instructed to inform the British officials on San Juan that he had not been attempting to prejudge the question. (2)

A fortnight later the United States' Government showed how seriously they viewed the situation by sending orders through the War Department to General Winfield Scott, Commander-in-Chief of the United States' Army, to take personal command of the situation on San Juan. The letter of instructions to Scott reviews the whole controversy and at the outset advises him that much will be left to his own discretion. He is reminded that the President's main object is to preserve the peace and prevent collision until the question of title can be adjusted by the two Governments. The President abhors the possibility of the two nations being thrown into war over the possession of a small island. Only in the remotely possible event of Great Britain's seizing/

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1. Lyons to Lord John Russell, No. 189, 13th September, and 3rd October, 1859, in F.O. 5/814.
 2. Secretary of War to Harney, 3rd September, printed as Letter 15, Sen. Ex. Doc. No. 10, 36th Cong., 1st Sess. This despatch was shown to Lord Lyons before being forwarded: see F.O. 5/715.

seizing and occupying the Island would it be necessary to
defend the national honour by an appeal to arms. (1)

General Scott arrived at Fort Vancouver on 20th October, 1859, and soon got into communication with Governor Douglas. On the 25th he suggested the establishment of a joint military occupation of San Juan, but Douglas in a friendly note declined, suggesting in turn that there be a joint civil occupation, the existing resident magistrates to be furnished with assistants. Scott soon found himself unable to subscribe to Douglas's plan and, insisting upon his own proposal, he enclosed a project of settlement whereby the two countries should agree to joint military occupation with 100 men each. Douglas found such an arrangement incompatible with his instructions, and informed Scott that, pending further advice from home, he would be unable to proceed with the negotiations. (2)

Both Douglas and Scott had perfectly sound reasons for their respective positions. If joint civil occupation were established, the status quo would thus be resumed and the incident would be closing with complete American surrender; the evacuation of their troops would be tantamount to public repudiation by the United States of Harney's actions and would be most humiliating. Scott realised, too, that San Juan came within the jurisdiction of/

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1. War Department to Scott, 16th September, 1859, printed in Sen. Ex. Doc. No. 10, 36th Cong., 1st Sess. pp. 161-2. The basis of the instructions to Scott was, so Cass assured Lyons, Marcy's letter of 14th July, 1855, (*supra*, p. 11). See Lyons's cipher despatch of 15th September, 1859, in F.O. 5/813.
 2. Copies of the Douglas-Scott correspondence appear as enclosures in Douglas's despatch to the Colonial Office of 19th November, 1859, in F.O. 5/915. They are:
Scott to Douglas, 25th October;
Douglas to Scott, 29th October;
Scott to Douglas, 2nd November;
Douglas to Scott, 3rd November.
See also enclosures to Letter No. 23, Sen. Ex. Doc., *idem*, pp. 59-75.

of Washington Territory, not yet constituted a state but possessing considerable independence of the federal Government, and to withdraw the federal forces would be to risk leaving the future in the hands of irresponsible demagogues and notoriety-seeking military officers. Vancouver Island stood in somewhat the same position with respect to Great Britain. The colonial Government, answering in parallel to a territorial body in the United States, had not acted imprudently in the recent controversy, but this was because the Governor acted upon the advice of the Legislative Council and ignored that of the Legislative Assembly who shouted "Why were troops not landed?" Nor was there any guarantee that in the absence of pacific men cognisant of the larger issues threatened - men like Hornby and Baynes, whose presence during the progress of the Harney affair had been more or less accidental - the firebrands of British Columbia and the men with private axes to grind would remain in the background.

The best arrangement would perhaps have been to set aside both military and civil occupation and to leave the Island unoccupied by both countries until the question of title was settled. Scott's mission was, by his very appointment, sufficient repudiation of Harney, who was, after all, an accredited United States' official. To the American public, too, withdrawal of all troops from the disputed area might have seemed absolute submission to British dictation.

Britain could be completely satisfied with joint military occupation because the Americans, by peacefully accepting the arrival of British troops, would be admitting their denial of any claim to exclusive jurisdiction/

diction. Furthermore, since Scott was instructed to act upon the terms of the Marcy letter of July, 1855, there was adequate guarantee that the United States' Government were not claiming exclusive sovereignty. The British Government, therefore, as soon as they learned from Lyons of the impasse on San Juan, decided to advise Governor Douglas to concert with General Scott, and to act upon any proposition he might make for joint occupation of the Island, each to place the same number of troops there. A despatch with these instructions was forwarded by the Colonial Office. (1)

Meantime General Scott had sought to remove from the scene a more concrete cause of British annoyance. On 15th November he intimated to General Harney that "it might be a great relief to the President to find you, by your own act, no longer in that command." (2) Harney, however, refused to accept the proffered command of the Department of the West, professing his belief that Scott was acting wholly on his own responsibility, and not under Government instructions.

Ultimately, on 21st March, 1860, (3) 100 British troops under Captain Bazalgette were landed on San Juan, taking possession of the southern end of the Island opposite to that occupied by 100 United States' troops under Captain Hunt, an officer "remarkable for firmness, discretion and courtesy."/

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1. Dated 16th November, 1859; copy enclosed in a Colonial Office letter to the Foreign Office dated 24th November; Douglas received the despatch on 26th January, 1860. He and Baynes decided not to carry out the instructions until they had heard something of the progress of the San Juan negotiations in Washington. Besides, the absence of Scott retarded their progress.
 2. Sen. Ex. Doc. No. 10, Letter No. 230, 36th Cong., 1st Sess.
 3. Admiral Baynes says the 21st. See his despatch to the Admiralty of 28th March, 1860, in F.O. 5/815. Scott, on the other hand, in his letter of 16th May to the Secretary of War says 20th March.

courtesy." Bazelgette's instructions forbade him to interfere in any way with American citizens on San Juan; he was to recognise American and British subjects as possessing equal rights; he was to keep in frank and open communication with Captain Hunt.⁽¹⁾

5. The Re-appearance of Harney.

General Harney, though thus unceremoniously thrust into the background, did not remain there long. The limelight exerted a too powerful influence over him and this time his love of notoriety proved fatal to the success of his career. His action in 1859 had very nearly precipitated war, but his success as a chauvinist was dependent upon British ignorance of his true character and an erroneous tendency to give undue importance to his status. His efforts in 1860, therefore, did not prove so formidable.

On 10th April, 1860, Harney instructed Captain Pickett to return to San Juan in place of Captain Hunt, and to resist any British attempt to deny the authority of Washington Territory over the Island. Pickett duly landed on San Juan on the last day of the month, Hunt returning to Washington Territory. Pickett's first act was to send a copy of his instructions to Captain Bazelgette.⁽²⁾ The advice to treat San Juan as part of Washington Territory was wholly inconsistent with Scott's arrangements for joint occupation/

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1. Baynes to Admiralty, 28th March, 1860, in F.O. 5/815. Approval of these instructions by the Foreign Secretary was intimated on 17th May, 1860.
 2. Copy enclosed in Lyons to Russell, No. 204, 7th June, in F.O. 5/815. The gist of Harney's advice is that Scott, who had gone to Washington on 11th November, had left no orders to grant a joint military occupation. Scott had made the offer, but Great Britain declining it (which was untrue), the transaction was concluded.

occupation, and Bazelgette, as soon as he saw its significance, hastened to report the facts to Admiral Baynes. The latter deemed it speedier to achieve something by acting through Washington, and he accordingly communicated the details to Lord Lyons there. The Ambassador demanded that General Cass, the United States Secretary of State, should take immediate measures to avoid a clash. Cass, seriously perturbed and furiously angry, undertook to give a written answer completely satisfactory to Her Majesty's Government. He assured Lyons that his Government absolutely rejected and disavowed
(1)
General Harney.

When Governor Douglas heard of the extraordinary nature of Harney's latest instructions, he concluded, and wrote home to the effect that, till the question of title was settled, the best move would be to draw up a convention and to withdraw the civil magistrates of both sides, as no civil jurisdiction could properly exist within the region
(2)
so long as its possession remained in dispute. This advice had not reached London when the Foreign Secretary, acting immediately upon receiving news of the new contretemps, instructed Lord Lyons to make a convention with General Cass in the sense of General Scott's proposition, that is, a temporary and provisional arrangement with magistrates withdrawn or with defined limits of jurisdiction.
(3)
Douglas was duly informed of this development, and he and Scott proceeded to provide for joint military occupation of San Juan.

The United States' Government were obviously alarmed/

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1. Lyons to Russell, No. 204, in F.O. 5/815.
 2. Douglas to Newcastle, No. 24, 7th May, 1860, in same.
 3. Russell to Lyons, 20th July, 1860, 'Seen by Lord Palmerston and the Queen,' in same.

alarmed at Harney's latest outbreak and on 8th June, 1860, he was summarily recalled and ordered to report in Washington. And so faded from the scene, in not very graceful fashion, the individual who had almost succeeded in making possession of the apparently unimportant little Island of San Juan the cause of a war between two great nations.

6. Review and Significance of the Harney Incident.

Harney's actions and motives throughout had been most questionable. He had not hesitated to lie in order to strengthen his case, and his letters to subordinates and to Douglas had been full of discrepancies and misstatements. He had sought to strengthen his hand by inducing others to believe that his instructions originated with his superiors in Washington. ⁽¹⁾ It was quite untrue that A. G. Dallas had been taken to San Juan on a British man-of-war for, as Harney well knew, Dallas was not a Government official and therefore had no right to use a Government vessel. In order to improve his position, Harney made it appear that Dallas was Chief Factor of the hated Hudson's Bay Company; this again was false. His attempt to excite American indignation by alleging that the Company had united and incited the Indians to attack the Americans on the Island, resuscitation of an old canard which had been thoroughly exposed, is another example of his lack of scruple. It was ridiculous, surely, to expect anyone to credit the necessity of sending several hundred soldiers/

1. Hornby to Douglas, 4th August, 1859, in F.O. 5/730. Campbell, the United States' Boundary Commissioner, for instance, was convinced until 14th August that Harney was acting on instructions from Washington. See his letter to Harney of that date in Sen. Ex. Docs. 1316, 29.

soldiers to protect a few Americans on a small island.

It has been suggested that the incident of 1859-60 was used by Harney, Governor Stevens, and Pickett with a view to precipitating a war between the United States and Great Britain in the hope that such a war would rally to the American flag, and unite in battle, the sections that could not agree on the issue of slavery. It was believed that "the first British gun that should launch its thunder against the Pacific Coast would echo and re-echo across the continent and send its reverberations to the remotest limits, North, South, East and West."⁽¹⁾ There seems to be more than a grain of truth in the suggestion that Harney's southern sympathies made him a war-monger, and it is significant that he initiated the whole affair shortly after word came to the Pacific of the war in Italy. The chaos of the Crimean War and the recrimination that followed it had lowered British prestige which was unfortunately not improved later by the Indian Mutiny. The year 1858 seemed certain to find England involved in a continental war, and many outsiders, Harney among them, thought she would find it impossible to keep out of the war in Italy. Harney wrote to his superiors on 19th July, 1859, describing San Juan, pointing out its extreme military importance - "it is as important to the Pacific States as Cuba is to those on the Atlantic" - and mentioning the citizens' petition.

The Harney incident, though signally failing in its purpose, left bitterness and suspicion in its wake and, as long as the condition of United States' politics allowed men like General Harney to act on their own initiative in/

1. L. C. Pickett, 'Pickett and His Men,' pp. 123-24. Atlanta, 1899.

in matters of international concern, there was real danger to San Juan and Vancouver Island and British Columbia. The views of the British inhabitants of the region were coloured by their attachment, present or past, to the Hudson's Bay Company, which had for some time been at loggerheads with the United States' authorities in the West. The Company's agents could never forget that the whole area had once been their free locus operandi and to many of them, notably those of the older generation, the Americans were no more than interlopers. The temper of such individuals was as short as their memory was long. These British inhabitants of British Columbia had urged Governor Douglas to meet force with force, and it was a great disappointment to them that troops were not used to resist the American occupation of San Juan.

There was a large American population in British Columbia, in some of the adjacent islands, and more particularly in the neighbouring part of the United States. This population was very mixed and included a large number of fugitives from justice who were ready for any opportunity to attack the civil power. The militia of British Columbia was insufficient to cope with this large body of Americans and, ultimately, to offset the influence of these people and in order to be prepared for the possible arrival on the scene of another Harney, the War Office, at the instigation of Lord John Russell, released a battalion of troops from China early in 1861 for service in British Columbia.

The Hudson's Bay Company's connection with the Harney incident was an indirect one. The Company had no right to give grants of land on San Juan, and their attempts first to sell the land and later to give it away were illegal/

illegal and contrary to the British Government's specific instructions. Their agents had done everything possible to discourage American squatters and, by doing so, they were, perhaps negatively, exercising exclusive sovereignty, which they had no right to do while the title to the Archipelago was in dispute. At the same time it must be remembered that the Company suffered from the erratic nature of Government policy. They were instructed to send settlers to San Juan in 1853 and to treat the Island as a British possession, and less than two years later they were informed that the title to the Island was in dispute, and they must therefore make no grants of land there. ⁽¹⁾ The Company's direct connection with the Harney episode was an innocent one. Their very presence in Oregon and British Columbia was obnoxious to super-patriots like General Harney, and the latter's attempt to identify the Company with Indian attacks was an astute, though totally unworthy, move to secure support for his action in sending troops to the Island.

1. This was made abundantly clear later, in 1862, when certain British settlers wanted to buy land on San Juan from the British Government. The Government informed them that they could not sell the land, nor would they permit them to settle there even at their own risk.

CHAPTER VI

DIPLOMATIC NEGOTIATIONS 1859-61

1. The United States Reject the Offer of August, 1859.

The terms of Lord John Russell's San Juan boundary compromise proposal of August, 1859, have already been noted. ⁽¹⁾ On 12th November the answer of the United States' Government was communicated by the American Ambassador, Mr. Dallas, to Lord John. The Americans, therefore, had had plenty of time to consider the terms of their answer; moreover, they were able to have before them the correspondence incidental to the Harney affair as well as the terms of the Scott-Douglas agreement.

Secretary Cass commences his reply with an assurance of the President's keen desire for settlement of the problem, but follows up with what seems to be a justifiable objection to the Foreign Secretary's declaration that the British Government are already determined, under any circumstances whatsoever, to maintain their right to the Island of San Juan; on that they are determined to accept no compromise. "If this declaration is to be insisted on, it must terminate the negotiation at its very threshold, because this Government can permit itself to enter into no discussion with that of Great Britain, or any other power, except upon terms of perfect equality" Cass feels sure that Great Britain will withdraw or explain/

1. Lyons communicated the proposal of 24th August to Cass on 12th September. *Supra*, p. 36.

explain the offensive statement. After recapitulating old arguments, Cass goes on to argue that even Sir Richard Pakenham, one of the negotiators of the Oregon Treaty, says that neither Rosario nor Haro Channel was intended in 1846. How, then, can Britain maintain that Rosario Channel alone was intended? She is prepared to accept the middle channel which Lord John admits to be inferior, but this is because the British Government need San Juan which they deem to be of no value to the United States. Cass denies the latter contention, and, while admitting that both Great Britain and the United States made concessions in 1842 and again in 1846, he cannot agree that there is in the present case any need for a policy of mutual convenience. (1)

This note of General Cass became the subject of "serious consideration" by Her Majesty's Government and, pending preparation of a complete answer, Lyons was instructed to remove from the President's mind the unfavourable impression created by the Russell despatch. When the meaning of a treaty is clearly in favour of a certain interpretation, argues the Foreign Secretary not very convincingly, but the interests at stake are unimportant, a point may willingly be yielded for the sake of peace. When the interests are high and the meaning is clear, however, concession cannot be expected. (2)

The complete British answer was finally composed and sent to the American Secretary. It starts off by hastening to assure the United States' Government that the proposition of the previous August had been forwarded many days before the Foreign Office received news of the Harney/

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1. F.O. 5/814; also printed in Sen. Ex. Doc. No. 10, 36th Cong., 1st Sess., pp. 231-240.
 2. Foreign Office to Lyons, 29th November, 1859, in F.O. 5/814.

Harney intervention. Had the Government been aware of the proceedings at San Juan, they could not have acted upon their intention to propose a friendly compromise of the question until an assurance had been given that the actions of General Harney were not approved. The nature of the instructions to General Scott, however, makes it possible for Great Britain to continue negotiations.

Once again the old contentions are set forth and expounded, though the Foreign Secretary also manages to introduce one or two new arguments. Briefly, the burden of the British argument is that the expressed intention of contemporary negotiators is as strong for the British as for the American position. But, once again, Great Britain appeals more particularly to the actual words of the Treaty of 1846 which stipulate that the boundary line is to run along the "middle of the said channel;" and "when you say along the middle of the road you do not mean one side of the road." The object of the Treaty was not to enable vessels to reach the Pacific Ocean by the shortest route; that object is provided for by the other part of the Article which provides that the navigation of the "whole of the said channel and straits south of the 49th parallel shall remain free and open to both parties."

If the United States are awarded San Juan they will control both Rosario and Haro Channels. San Juan is, therefore, a defensive position if in the hands of Great Britain; but it is an aggressive position if in the hands of the United States. The latter may fairly be called upon to renounce aggression; but Great Britain can hardly be expected to abandon defence.

Cass/

1. F.O. 5/814; "Confidential."

Cass found this reply unsatisfactory, and in his answer of 4th February, 1860, forwarded to Mr. Dallas for transmission to the British Government, he protested that Lord John had not withdrawn his demand that Great Britain must have the Island of San Juan. Since he has abandoned the claim to Rosario Channel for that of the middle channel, the issue is narrowed to possession of the island, and to declare that it will not be ceded is to end discussion peremptorily. In any case, thinks the American Secretary of State, England has attached too great importance to this Island. She has overrated its military value; it does not command Haro Strait; no fortifications erected upon the coast of the channel can ever control its navigation. (Here Cass's arguments are directly counter to the views of the experts, American and British). To conclude, since Great Britain insists upon retaining San Juan, there is no need for further discussion and the President can only decline to continue negotiations. (1)

The Foreign Secretary, on receipt of this snub, hastened to assure the United States' Government that they had entirely misconceived the purport of his declaration about San Juan. Britain had proposed compromise without prejudice to her claim to Rosario Channel as boundary. In effect, she maintained that either Rosario Channel or the middle channel answers the terms of the Treaty, but never Haro Channel. (2) This apology proved acceptable to the United States, and they now declared their willingness to proceed with negotiations. (3)

Accordingly,/

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1. F.O. 5/815; also printed as Letter No. 20 in Sen. Ex. Doc. No. 10, 36th Cong., 1st Sess.
 2. Russell to Lyons, No. 63, "Seen by Lord Palmerston," 9th March, 1860, in same.
 3. Lyons to Foreign Office, No. 126, 2nd April, 1860, in F.O. 5/815.

Accordingly, General Cass forwarded to London still another despatch on the San Juan controversy. He saw, and reminded Dallas, how the British position was weakened by their proposing the middle channel as the line of demarcation. In August Lord John Russell had demanded Rosario Channel as the line, but in substantiation of his claim he had quoted Lord Aberdeen and Sir Richard Pakenham, both of whom were firm in their conviction that they had meant in 1846 to establish a line midway along the whole space intervening between the mainland and Vancouver Island. Yet in December Lord John had plumped for the middle channel, that is, for the channel of Aberdeen and Pakenham. To increase the confusion, the Foreign Secretary had in March, 1860, declared his readiness to accept either Rosario or the middle channel. In other words, said Cass, he had proposed three different lines, omitting one only - Haro Channel - which Benton, McLane and Buchanan had mentioned so specifically. "The whole subject in question," concludes the Secretary of State, "is the Island of San Juan and a proposal which gives the Island to Great Britain is a proposal to surrender the whole American claim, and not, in any sense of the term, a proposition for compromise." (1)

2. A Threatened Impasse.

Cass's letter left little to say on either side yet the summer of 1860 seemed most propitious for a settlement of the San Juan controversy for, after Villafranca, Great/

1. Cass to Dallas, No. 252, 23rd April, 1860, communicated to Lord John Russell by Mr. Dallas on May 10, copy in F.O. 5/815; also printed in Sen. Ex. Doc. cit. pp. 57-59.

Great Britain had her hands free, and there was nothing in foreign or domestic politics to suggest that she might be involved in war. Conditions in the United States also were propitious for a settlement. The Presidential election campaign was under way and, almost for the first time in history, no party sought to make political capital by stirring up Anglo-American hatreds. The peaceful settlement of the Central American controversy, a quiet Canadian border after reciprocity, and the surrender of British maritime claims had all helped to smooth ruffled feelings and to produce the calm necessary for successful negotiations. The failure of General Harney to precipitate a rupture was an excellent augury, while the approaching visit of the Prince of Wales to Washington at the invitation of the President was bound to foster amity between the two peoples. (1)

The British Government felt that their San Juan offer of 1859 had been modest and reasonable, and they seemed to be surprised at the United States' rejection of their line of compromise. They realised too late that by suggesting this line they had weakened their case, for the Americans could be expected to use the compromise offer as the basis of all subsequent negotiations. The rejection of the British offer made it very difficult to know what new proposition ought to be put forward. Neither country favoured the principle of arbitration in/

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1. 'The Cambridge History of Foreign Policy,' p. 282, London, 1923. For an account of the diplomacy of the Central American dispute see S. F. Bemis (editor), 'The American Secretaries of State and Their Diplomacy,' VI, New York, 1927. For a discussion of Canadian - American relations at this time see L.B. Shippee, 'Canadian-American Relations,' Toronto, 1939.

in the present case, and even if a third power were appealed to, upon what was it to arbitrate? The two countries could hardly ask an outsider to decide the meaning of words their representatives had jointly composed. It would surely be ironic if Great Britain and the United States had to call upon a third power to tell them what they had meant in 1846. Yet the attempt to settle the question by commissioners had failed completely and absolutely. The Foreign Office was fully aware that the words of the Treaty of 1846 were the British vantage-ground, while the American argument rested mainly upon contemporaneous evidence. To lose sight of the Treaty was to lose San Juan. The deliberations of the British Government reduced themselves, therefore, to the single question as to whether it would be wise for Great Britain, as a last resort, to be rid of a troublesome dispute and to end their "nervousness" about their troops on the Island of San Juan, to suggest arbitration.

Arguments had been pretty well exhausted on both sides and, while it was true that the Americans had written last and an answer to them was necessary, the United States had made no new proposition counter to the British offer of December, 1859, an offer which the Foreign Secretary considered the last word in compromise. Undoubtedly, therefore, it rested with the Americans to make an offer. Great Britain was not disposed to propose arbitration, but she rather hoped the United States would suggest it.

3. Britain Again Initiates Negotiations.

Ultimately, when it had become obvious that the United States were determined to make no suggestions to end the dispute, the British Government on 22nd November, 1860,/

1860, decided to instruct Lord Lyons to propose arbitration to the United States' Government. The subject matter of the arbitration was to be the true meaning of the words of the Treaty of 1846, or, "if the precise line intended cannot be ascertained, is there any line which will furnish an equitable solution of the difficulty, and is the nearest approximation that can be made to an accurate construction of the words of the Treaty?" For arbitrator the United States might choose the King of Norway and Sweden or the President of Switzerland. (1)

This instruction was followed by a copy of a convention from the Foreign Office to Lord Lyons covering the reference of the dispute to arbitration. Article 1 recapitulates the terms of the Treaty of 1846 and mentions the failure of the commissioners in 1857-59 to reach an agreement. It calls for reference of the controversy to an arbitrator within three months of ratification of the convention. Article 2 empowers the arbitrator, if he rejects both Rosario and Haro Channels as Boundary, to choose the channel most nearly approximating to that meant by the words of the Treaty. Article 5 calls for the payment of 500,000 dollars to the Hudson's Bay Company as compensation for the surrender of the latter's rights. (2)

Circumstances were opposed to immediate acceptance of the convention by the United States because a new government were due to assume office in March, 1861, and the Senate/

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1. Russell to Lyons, 22nd November, 1860, in F.O. 5/815. There is no subtlety about the phraseology; the hint that a middle channel will satisfy Great Britain is unmistakable.
 2. Russell to Lyons, No. 18, 25th January, 1861, in F.O. 5/816A. In Article 3 of the Oregon Treaty the United States pledged themselves to respect the possessory rights of the Company in Oregon. If they were to be sold, it was to be "at a proper valuation to be agreed upon between the parties." For the history of the negotiations over the claims see R. R. Martig, 'Hudson's Bay Company Claims,' in Oregon Historical Review, XXXVI, pp. 60-69.

Senate were unlikely, with such a short time remaining, to vote the necessary large sum of money. Judge Black, who had succeeded Cass as Secretary of State, promised, however, to ask the Senate if they considered arbitration desirable, and if they would empower the arbitrator to draw his own line. This meant that the claims of the Hudson's Bay Company were not to be put to the Senate, though Judge Black ought to have secured Lyons's consent to this omission. The Senate duly considered the matter, but nothing was done. Black expressed himself as sanguine, however, that the incoming administration could secure, if they chose, a positive and favourable answer to the questions asked, and he added that he would, in giving up the charge of his Department to his successor, say to him that he had never seen a case, during his whole experience of public affairs, in which arbitration was so properly applicable or so imperatively called for. (1)

The new Lincoln administration, which took up office on 4th March, 1861, had William H. Seward as Secretary of State. Seward's record, to say the least, did not indicate that he would be very anxious to settle any outstanding difficulties with England. He belonged to that class of American politicians which sought to make political capital from Anglo-American relations. Lyons, who was distrustful of him, while he did not think that Seward would go to war, considered that he would take every opportunity "to play the old game of seeking popularity by displaying violence towards us " (2) At the same time, Seward/

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1. Lyons to Russell, No. 88, 3rd March, in F.O. 5/816A.
 2. Lyons to Russell, Private, 7th January, 1861, in Lord Newton, 'Lord Lyons,' I, 30, London, 1913. Even during the minor Central American dispute Seward had spoken threateningly of "war and favoured making positive demands upon Great Britain." See F. Bancroft, 'The Life of W. H. Seward,' I, 485, 2 vols., London, 1900. Seward had more than once advocated the acquisition of Canada.

Seward possessed some knowledge of Europe and European politics. He had travelled there, and had met some of the leading statesmen. Moreover, he had served on the important Senate Committee on Foreign Relations, and knew a good deal, therefore, of the diplomatic relations between the United States and the great powers of Europe. (1)

Lyons was in something of a dilemma because he was anxious to settle the San Juan controversy before another Harney should appear; but his instructions made settlement contingent upon a satisfactory agreement upon the Hudson's Bay Company's claims. The Company could be exacting and clamant, and the directors of the Company might feel that, if their claims were separated from the San Juan discussion, their cause was being wantonly abandoned by the Government. (2)

Contrary to expectation, Seward appeared willing enough to settle the Water-Boundary dispute, but he was not so willing to discuss the claims of the Hudson's Bay Company. He laid the matter before the Senate, but that body adjourned on 1st April without having answered his questions. The obstacle to acceptance of the convention was the proposal to allow the arbitrator to draw a line of his own, and the Committee on Foreign Relations absolutely declined to recommend the adoption of this proposal. Yet this clause was so vitally important to Great Britain's interests that to abandon it would almost constitute surrender of the whole British claim.

There was still a feeling in the United States that/

1. T. H. Lothrop, 'William H. Seward,' p. 297, New York, 1896.
 2. Lyons to Russell, 'Private,' 4th March, 1861, in F.O. 5/816A.

that the bargain made by them in 1846 was not a good one, and the new generation of Senators, remembering the 'Fifty-Four Forty or Fight' campaign and the subsequent withdrawal to the 49th parallel, however obvious might be the advantage of the settlement arrived at in 1846, could only reach one conclusion, namely, that Great Britain had scored a diplomatic victory in 1846. There was, therefore, slight hope of ratification by the Senate, while so disposed, of any convention which would allow an arbitrator to draw a new line of compromise.

Should the arbitrator be unable to determine the line, Britain would be thrown back upon her claims as they existed prior to 1846, which would allow the United States to make effective use of their argument that the Oregon Treaty prescribed a line which deviated from the 49th parallel no more than enough to give Vancouver Island to Great Britain. The latter had to choose, therefore, between submitting the question to arbitration at the risk of losing San Juan and, on the other hand, allowing the continuance of the joint occupation of the Island with all its attendant risks and inconveniences.

Finally, as had been anticipated, the Senate's decision was in favour of arbitration, "but without power to establish any line but that provided for in the Treaty."⁽¹⁾ The Foreign Office thereupon prepared the draft of yet another convention which asked the President of the Swiss Confederation to decide the line of the Treaty and which sought also to settle the Company's claims.

1. Lyons to Russell, No. 124, 1st April, 1861, in F.O. 5/816A.

4. The Civil War Intervenes.

Unfortunately, the American Civil War intervened to prevent any further progress. The Senate, due to convene on 4th July, were then expected to vote upon the questions submitted for their consideration; but when both houses met they decided to postpone discussion of all business unconnected with the Civil War. British hopes were thus once more dashed, and Lord Lyons had to be content to remain in the background with his scheme till a favourable opportunity for its presentation should arise. The Civil War did indirectly, however, solve one difficulty. Britain had always been afraid that the joint occupation of San Juan might produce an eruption - Lyons had spoken more than once of being "a little nervous about our company of marines on San Juan"⁽¹⁾ - but soon after the outbreak of hostilities in the United States Captain Pickett was ordered to reduce⁽²⁾ by half his force on the Island. There was little fear that such an inferior force would precipitate trouble.

In December, 1861, advice was sent to Lord Lyons to take no steps to hasten the negotiations about San Juan because Great Britain was by then too deeply involved in incidents arising from the Civil War, and it was realised that the safe course was to prevent questions arising if possible. It was realised, too, that the arbiter might find no line that fitted the words of the Treaty, and that, consequently, the principal point in dispute might after all not be brought to a settlement. It was comprehended, moreover, that in the subsisting state of the United/

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1. Newton, op. cit. I, 43, London, 1913.
 2. At first he was instructed to withdraw all his troops from San Juan but before completing arrangements for evacuation his orders, owing to threats from the Indians, were countermanded, and he was told to halve his force. Pickett to Bazelgette, 25th June, enclosed in Admiral Maitland's despatch to Admiralty, 9th July, 1861, in F.O. 5/816.

United States, the San Juan dispute was hardly important enough or exciting enough in the eyes of the Americans to be made the grounds of a quarrel with Great Britain. As a matter of fact, United States' opinion was totally opposed to war, and even the anti-British Seward was on the side of peace after the 'Trent' incident and did not like "the look of the spirit he had called up. Ten months of office had dispelled many of his illusions. " (1)

There was little fear that a war over San Juan would be precipitated from the British side for Great Britain was confirmed in a policy of neutrality, the maintenance of which produced more than one 'incident.' She had no economic motive for intervention because, though the cotton operatives of Lancashire suffered greatly, adjustment and compensation were obtained from war profits. Her governing classes favoured Southern aspirations but sympathy was not profound enough to justify war; indeed, it was thought to the end that the South would achieve independence without outside aid and England would have welcomed a divided North and South. Moreover, of paramount importance to Britain were fear and suspicion of Napoleon III whose star reached its zenith between 1860 and 1866.

The importance of San Juan during the Civil War lay in the danger of trouble arising there and spreading to complicate settlement of one of the several provoking 'incidents' produced by the war. Fortunately, the 'Trent' incident "cleared the air; Seward now appeared in the new role of conciliator; an Anglo-American war had been faced and found disagreeable to both Governments; and the British Cabinet was stiffened in its policy of neutrality." (2)

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1. Lyons to Russell, Private, 23rd December, 1861, in Newton, op. cit., I, 69.
 2. S. E. Morison, 'History of the United States,' II, 203. Cf. Lord John Russell, 'Recollections and Suggestions,' p. 276, London, 1875.

CHAPTER VII

PROGRESS IN THE POST-CIVIL WAR PERIOD

1. Lord Lyons's Last Attempt at Settlement.

Though San Juan was of too minor importance to receive much consideration during the early part of the Civil War it was not allowed to fall completely out of sight. In March, 1863, for instance, a member of Parliament named Longfield wanted to know what progress had been made towards a settlement of the dispute. He was rewarded with a brief review of the controversy, but it was explained to him that, since the dispute was not settled, the relative correspondence could not be made public. With respect to the Island itself the attitude of the British Government was that, pending agreement on its possession, they must decline to sell any land on it and must continue to dissuade their subjects from settling there. (1)

Lord Lyons began to feel that the difficulty might be cleared up in spite of the interference of the Civil War and, writing optimistically on the subject in the same month that Longfield posed his question in Parliament, he wrote home for instructions. Though there had been no great change in the feeling of the Senate, they might be induced to consider the second convention sent by Lord John/

1. Colonial Office Memorandum dated November, 1872, in F.O. 5/1473.

John Russell, which they had not seen and wherein it was stipulated that an arbitrator should determine the line meant by the Treaty.

The home Government was not very enthusiastic about originating a proposition on the San Juan issue, though they were prepared, if Secretary Seward mentioned the subject, to stand out for the demarcation of what they termed an 'equitable' line. (1) Thus matters stood throughout 1863, until the friendly nature of the Presidential Message of December, 1863, prompted them to instruct the Ambassador once again to ask Seward if he thought the time propitious to settle the controversy by means of arbitration. (2) The Secretary when approached welcomed the mention of arbitration and expressed his hope that the Senate would agree to this method of adjustment. He undertook to moot it as soon as the Hudson's Bay Company's claims were settled. (3)

Following this development Lord Lyons was instructed to insist "as much as possible" that the arbitrator should have power to fix a line as nearly as possible in accordance with the description in the Treaty, if he found himself unable to find a line strictly meeting its terms. Lyons was not to sign any convention which did not give this discretionary power to the arbitrator. As arbitrator Lord John suggested the Swiss President, or the King/

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1. Russell to Lyons, No. 191, 9th April, 1863, 'Seen by Lord Palmerston and the Queen,' in F.O. 5/816A.
 2. Russell to Lyons, No. 637, 24th December, in same.
 3. Russell to Lyons, 4th February, 1864, in same. A joint commission had been arranged for in July, 1863, to settle the Claims controversy. The commission did not meet until January, 1865, but the Company's case was not concluded until August, 1868. The final award was promulgated in September, 1869.

King of Holland, or the King of Sweden, or the King of Italy; in short, almost any ruler but the Czar of Russia. (1)

To explain the term 'equitable boundary,' Lyons furnished Seward with a copy of Lord Russell's despatch of January, 1861, to the effect that the arbitrator should not depart from the true meaning of the Article as it stands, if he is able to deduce that meaning from the words of the Article, those words having been agreed to by both parties and having been inserted in a Treaty ratified by both Governments. No matter whether the referee gives a positive decision for one of the lines or chooses a line as the nearest approximation to an accurate construction of the Treaty, his decision is to be accepted as final and conclusive. (2)

Seward seems to have consulted influential Senators before making any attempt at formal presentation of a convention to the Senate. At any rate, he entered into no negotiations with Lyons, either because the views of the Senators consulted were adverse, or because there was at that time, as the outcome of England's attitude during the Civil War, a revival of the feeling of irritation in the United States against Great Britain. Whereas at the beginning of the Civil War, with all boundary disputes except that of San Juan removed, relations between the two countries had been more cordial than for some time, by the end of the War a strong anti-English sentiment had developed in both North and South. The former could not forgive Great Britain for recognising the South, for allowing the 'Alabama' to escape/

1. Russell to Lyons, 4th February, 1864, in F.O. 5/816A.
2. Lyons to Russell, No. 184, 11th March, 1864, in same.

escape, for the frequently manifested Southern sympathies of her upper classes, for the humiliation suffered in the 'Trent' affair. The South, on the other hand, resented Britain's refusal to recognise Southern independence, though nearly gained, and her refusal to interfere in the war. (1)

Events in the immediate post-war years did nothing to improve relations. To the Americans British prestige in Europe seemed at a low level, and after her conduct in the Danish quarrel United States' newspapers reiterated in strong terms their old conviction that Britain would never fight again. After the Civil War the United States' merchant marine failed to rise up, and Britain was blamed for this, although the truth was that, because of the United States' protective tariff, Britain could build ironclads much more cheaply than the Americans.

Once again, therefore, attempts to settle the San Juan dispute ended in failure, and the controversy languished for a considerable time thereafter. Fortunately, the relations between the British and American occupation forces on the disputed Island were of the friendliest, though the danger of local trouble precipitating an international struggle remained real. One or two minor incidents which seriously tried the patience of the officers in charge did arise, but on the whole remarkable forbearance was displayed by both sides when trouble seemed imminent. (2)

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1. Keenleyside, op. cit., pp. 137 ff. "It is equally manifest that the sympathy of the whole American people goes with such movements [sedition in Ireland] for the reason that there is a habitual jealousy of British proximity across our northern border, and especially for the reason that this nation indulges a profound sense that it sustained great injury from the sympathy extended in Great Britain to the rebels during the civil war." Seward to Adams, Confidential, No. 1952, 28th March, 1867, printed in 'Foreign Relations,' 1866-67, Pt. I, p. 75.
 2. There was, for example, the Hughes incident of 1867. For details see the relative correspondence, viz., Seymour to Oldfield, 3rd January, 1867, Enclosure 3 in Seymour to Carnarvon, 4th January, in F.O. 5/816B. See also Halleck to Oldfield, 21st January, 1867, in same.

2. San Juan Linked with the Naturalization Question.

Unfortunately, the prospect of settlement did not improve with the passage of time because the delay in settling the dispute had served to introduce a number of additional thorny problems, some of which were deemed more pressing and dangerous. The celebrated Alabama Claims question, for instance, was considered the most clamant, while the rights and position of naturalized citizens and the long-standing Fisheries Question were officially given equal prominence with the San Juan controversy.

The Naturalization Question, which the United States now decided to link diplomatically with San Juan by insisting that it was to be satisfactorily settled before the Water-Boundary dispute was tackled, was particularly difficult because it was directly concerned with Ireland. (1) After the Civil War many Fenians who had taken part in the fighting returned to Ireland. Some became involved in the Fenian Brotherhood campaign of 1866 and 1867, and among the number arrested for seditious activities were several naturalized Americans. The activities of the Fenians, their drilling in the United States, their periodic attempts to invade Canada, and the apathy of the United States in suppressing this organisation concurred in endangering the peace which nominally existed between the countries.

Briefly the position of the United States' Government on the question was that they asserted their belief/

1. "It happens that every considerable surge of popular discontent that disturbs the peace of Great Britain affects that portion of our people who have derived their descent from Ireland, and this emotion, in no inconsiderable degree, affects by sympathy the whole population of the United States." Seward to Johnson, No. 2, 20th July, 1868, Foreign Relations, Pt. 1, Vol. I, p. 329.

belief in the absolute right of expatriation and maintained that, with the exception of eligibility for the Presidency, their naturalized citizens were on terms of equality with native-born Americans. Great Britain, on the other hand, based her actions on the dictum 'once an Englishman, always an Englishman,' and refused to recognise as American citizens those Irishmen who had become naturalized subjects of the United States.

The problem became a subject of discussion in English newspapers and the Government were speeded to action by the introduction in the House of Representatives of the Banks Retaliation Bill at the end of 1867. This drastic measure provided that "when a naturalized American was arrested by a foreign government upon the allegation that naturalization in the United States did not operate to dissolve his allegiance to his native sovereign the President should be empowered to order the arrest and to detain in custody any subject or citizen of such foreign government who might be found within the jurisdiction of the United States."⁽¹⁾ It is obvious that, had this Bill become law, the prospect of amicable adjustment of the outstanding disputes between the two countries would have been negligible for a considerable time.

The promising part of the position was that Secretary Seward really desired to settle the outstanding matters of difference between England and the United States because he realised that any one of them - the Naturalization and the San Juan Questions in particular - might at any moment/

1. Quoted in R. L. Morrow, 'The Negotiation of the Anglo-American Treaty of 1870,' *American Historical Review*, XXXIX, pp. 663-681.

moment become a subject of "exciting controversy." (1)
He was prepared to conclude a treaty with Great Britain on the lines of a naturalization arrangement concluded with Prussia in March, 1868, but when the terms were submitted to the law officers of the crown for their opinion many objections arose; when they were instructed to draft a treaty they asked for an extended period to study the problem. (2) Fortunately again, the question became less urgent with the gradual release of Irish-American Fenians and with the alteration of the Banks Bill in the Senate so as to make the retaliatory clause quite innocuous. (3)
The delay for which the law officers were responsible was no longer dangerous.

3. An Agreement Concluded at Last.

In spite of the disappointing developments in the situation after the Civil War, a solution was at last in sight. Reverdy Johnson who replaced Charles Francis Adams at the Court of St. James in June, 1868, was soon on good terms with Lord Stanley, and a protocol adjusting the Naturalization Question was signed on 9th October, 1868. Within a few days a protocol on the San Juan dispute was also concluded, though, in harmony with Seward's instructions that the Naturalization Question was to have precedence over the Alabama Claims and San Juan disputes, the San Juan arrangement/

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1. Seward to Adams, 13th January, 1868, Foreign Relations, 1867-68, Pt. 1, Vol. I, p. 141.
 2. F.O. 83/2225, quoted in Morrow, op. cit., p. 669.
 3. Morrow, op. cit., p. 674.

arrangement was made contingent upon the Naturalization Question being finally settled to the satisfaction of the United States. (1)

Article 1 of this San Juan protocol agrees to refer the dispute to some friendly sovereign to be chosen within three months, while Article 2 contains the very valuable stipulation that Great Britain so strenuously insisted upon: "If such Sovereign or State should be unable to ascertain and determine the precise line intended by the words of the Treaty, it is agreed that it shall be left to such Sovereign or State to determine upon some line which, in the opinion of such Sovereign or State, will furnish an equitable solution of the difficulty and will be the nearest approximation that can be made to an accurate construction of the words of the Treaty."

Article 3 stipulates: "But the Referee shall not depart from the true meaning of the Article as it stands, if he can deduce that meaning from the words of that Article " and Article 5 makes agreement inoperative until the Naturalization Question is satisfactorily settled between the two Governments. (2)

When on 14th January, 1869, the protocol was converted into a convention to be ratified within a year, there remained only ratification by the Senate to allow the arbitrator to begin his task.

Feeling in the United States, however, was now opposed to submission of the San Juan controversy to arbitration./

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1. Idem, 877. Cf. Seward to Johnson, No. 20, 23rd September, 1868, in Foreign Relations, 1867-68, Pt. I, Vol. I, p. 354.
 2. A copy of the protocol appears in F.O. 5/816B. Article 5 was omitted from the subsequent convention.

arbitration. The opinion that Great Britain had outwitted the Americans in 1846 was widely held, and it was argued that Article 5 of the agreement of 1868 was merely a device to surrender United States' claims to the Island of San Juan in return for a satisfactory adjustment of the Naturalization Question. The citizens of Washington Territory, who reminded the Senate that the United States had in 1846 conceded the area between 49° and 54° 40' for the sake of peace, presented a memorial to that body urging that nothing be done in the direction of ratification. The Pacific coast Senators and their allies, led by Senator Howard of Michigan, who in April, 1869, made a violent anti-English speech, were very determined in their opposition with the result that, in spite of the efforts of Senators favourably disposed towards England, decision upon the convention was from time to time deferred until eventually the time for ratification - a year - had expired without the subject having been considered by the Senate. This development was, to put it mildly, extremely disappointing to the British Government.

They seemed to feel that they had been shabbily treated and a very stiffly worded despatch, 'seen by the Cabinet,' was prepared for Sir Edward Thornton, British Ambassador at Washington, who was to show it to the American Secretary. At the same time, J. L. Motley, the United States' Minister in London, was told that the British Government regarded the Senate's neglect to consider for ratification the San Juan convention before 14th January a frank discourtesy. The Secretary of State in the Grant Administration, Mr. Hamilton Fish, seriously perturbed at the development, immediately issued instructions to Motley on the subject. (1)

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1. Thornton to Clarendon, No. 52, in F.O. 5/1469.

His explanation for the failure to consider the San Juan convention was that it was linked with the Naturalization Question, and though Article 5 of the protocol had been omitted from the subsequently signed convention, his Government expected Great Britain to keep a promise which was a "solemn agreement not to be waived by implication or by inference." When Reverdy Johnson had been sent to England it had been made clear that the Naturalization Question came first, and he had been told frankly to state to Lord Stanley, with whom he negotiated, that until that difficulty was removed, any attempt to settle any of the existing controversies between the two countries would be unavailing. Great Britain, he pointed out, had agreed in the Naturalization protocol of 9th October, 1868, to introduce measures in Parliament for a speedy settlement. This had not been done in spite of the fact that Parliament had sat from 16th February to 11th August, 1869. The United States had not pressed the matter because of Britain's preoccupation with the Irish Disestablishment question. (1)

This, in turn, demanded an explanation from the British Government, and that also was forthcoming. Lord Clarendon, the Foreign Secretary, pointed out that the Claims convention and the San Juan convention were sent to the Senate without any reference to the Naturalization Question. The Senate had rejected one on its demerits and had postponed consideration of the other. The British Government had set up a Royal Commission to go into the intricacies of the Naturalization problem and its report of/

1. On 1st March, 1869, Mr. Gladstone outlined to the House of Commons the terms of his bill for the disestablishment of the Irish Church; the third reading in the Commons was successfully negotiated on 31st May. After its passage through the Lords the Bill received the Royal assent on 26th July. It will be seen, therefore, that the session had been almost wholly occupied with Irish disestablishment.

of an extremely complicated subject was not presented till February, 1869. Other engrossing matters took precedence over it, and so nothing had been done till the current month. ⁽¹⁾ Once more, therefore, an impasse had developed and, with both sides disgruntled, the possibility of settlement seemed more remote than for some time.

The Civil War had not killed 'Manifest Destiny' and in the years immediately afterwards the annexation of Canada to the United States became the aim of many eminent Americans. Seward, arch-expansionist, had kept it alive and he had an able ally in Charles Sumner, Chairman of the Senate Foreign Relations Committee, who wanted to acquire "the whole zone from Newfoundland to Vancouver," though he wanted to secure it peaceably. President Grant later thought the absorption of Canada to be both inevitable and desirable, and in his opinion Canada could be taken in thirty days. ⁽²⁾ The purchase of Alaska in 1867, "a lucky chance, the only fruit of Seward's multifarious projects for expansion," was in expansionist eyes a step towards the acquisition of Canada, while the achievement of Canadian federation in the same year was a reverse which expansionists sought quickly to nullify. The plan of annexing Canada in liquidation of the Alabama Claims was then conceived, and secret agents were sent into ⁽³⁾ Canada who were to labour in the direction of annexation.

Secretary Hamilton Fish held similar views, but his intimate relations with Thornton convinced him that annexation was unlikely to be a simple matter. He understood the British Liberal position that Canada herself must determine the/

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1. Clarendon to Thornton, 11th March, 1870, in same.
 2. Allan Nevins, 'Hamilton Fish,' New York, 1937, p. 216.
 3. The most important of these agents was James W. Taylor who was sent by Seward at the end of 1869 to the Red River Settlement in Western Canada. The settlement had become economically linked with Minnesota, and the inhabitants were on the point of rebellion in the late 'sixties. Taylor's task was to see that the rebellion moved in favour of annexation. See H. M. Wriston, 'Executive Agents in American Foreign Relations,' London, 1929, p. 742 ff.

the duration of the connection with the mother country. Fish hoped that Britain would grant independence to Canada, thus leaving the question of annexation to be settled between the Canadians and Americans. This must be achieved by the exercise of tact and conciliation. (1) He wanted to adjust all disputes with England, await the latter's voluntary liberation of Canada, and then move for annexation. (2)

Fish's attitude towards the San Juan problem underwent a number of changes. At first, his optimistic view concerning the imminence of annexation made settlement of San Juan in favour of the Americans quite certain, but his subsequent modification of opinion on the major difficulty of annexation compelled him to modify his views and hopes on San Juan. He arranged with Thornton that he would surrender his annexation demands and would arbitrate the Alabama Claims if Great Britain which, so Thornton had assured him, attached no importance to the possession of San Juan would relinquish her claims upon the Island. (3) Later, when Sir John Rose was sent by Gladstone to sound the American Government upon the outstanding disputes between Britain and the United States, Fish retreated still further and agreed to work for the submission of San Juan to arbitration on the understanding that, if he failed, England should cede the Island. (4)

4. The Union of British Columbia and Vancouver Island.

With the diplomatic situation so depressed, it is disappointing to note that the situation in British Columbia itself at this period was also approaching the hopeless/

1. Nevins, op. cit., p. 223.
 2. Fish consistently sought a 'cordial understanding' with Britain. Nevins, p. 384.
 3. Fish, Diary, 26/9/70, quoted by Nevins, p. 425.
 4. Nevins, p. 441.

hopeless stage. Between 1866 and 1870 the annexation of British Columbia seemed not only possible but inevitable. In 1846 there had been a slight prospect of the surrender of the colony, but in 1868 it was doubtful whether England either wanted, or would be able, to retain it. ⁽¹⁾ Though British Columbia was completely cut off from the rest of Canada its people wanted federation with Upper and Lower Canada. Vancouver Island, on the other hand, which had been absorbed in 1866 in an attempt to forestall annexation to the United States, was overwhelmingly in favour of annexation. At the end of 1869 a memorial seeking annexation was prepared by the inhabitants and presented to President Grant, who, in spite of his private predilections, was unable to take any ⁽²⁾ action.

The colony was on the verge of bankruptcy, and many of the colonists argued that solvency would be best regained by annexation to the United States. A considerable portion of the population of the area since 1858 had been American, while Americans across the border were studying the passing events very closely. It was suggested that the colony should be transferred in liquidation of the ⁽³⁾ Alabama Claims. Such a transfer was not so improbable or impracticable as it might seem, particularly since the Government of the day, Mr. Gladstone's (1868-74), were avowed subscribers to the view that the allegiance of colonies to the mother country was purely voluntary; the day of parting should be postponed as long as possible; when it should inevitably come, it should be made as pleasant/

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1. H. L. Keenleyside, op. cit. p. 155. Cf. C. Martin, 'The United States and Canadian Nationality,' in the Canadian Historical Review, March, 1937, pp. 1-11.
 2. Nevins, p. 386.
 3. Keenleyside, p. 160.

pleasant as circumstances would allow; let the colonies be the judges of the duration of the connection. ⁽¹⁾ The Gladstone Government did not merely theorise; they put their theories into practice. British garrisons were withdrawn from Australia and New Zealand, while Mr. Edward Cardwell, who was at the War Office under Gladstone, was able to boast that, within his first two years of office, he had reduced the number of British soldiers in the colonies from 49,000 to 18,000 and the military expenditure on them from £3,400,000 to £1,900,000. ⁽²⁾

The British Columbia crisis passed in 1870 when the Canadian Government took over the rights of the Hudson's Bay Company in the territory between the colony and Canada. ⁽³⁾ A transcontinental railway thus became possible and, with such a concession guaranteed, British Columbia joined Confederation in 1871. San Juan, deemed so essential to the safety of British Columbia, thus came under the wing of the Dominion Government, and the colonists felt that the new guardians were likely to be more conscientious than the old. There was always before them the unfortunate example of the State of Maine, which by the Treaty of 1842 had been thrust like a wedge between the provinces of New Brunswick and Quebec, and they feared that San Juan might be allowed to form a similar salient ⁽³⁾ between Vancouver Island and British Columbia.

The annexation of Canada to the United States, which would have solved the San Juan question at a stroke, became less and less practicable as time went on. The failure/

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1. See Lord Newton, *op. cit.* I, 292. Cf. J. Morley, 'Life of Gladstone,' I, 363. Clarendon wrote on 1st June, 1870, "We can't throw them off, and it is very desirable we should part as friends."
 2. J.A. Marriott, 'England Since Waterloo,' p. 411, London, 1929.
 3. The Canadian Privy Council in June, 1870, considered the position of San Juan with respect to British Columbia and agreed the loss of San Juan would mean the loss of British Columbia. C.O. to F.O., 30/7/70, in F.O. 5/1469

failure to arrange a new reciprocity treaty in 1866, the exasperation in Canada at the Fenian raid of that year and the failure of the United States' Government to pay for the damage caused by the Fenians, the collapse of the Riel Rebellion in Western Canada in the summer of 1870, the growing feeling of irritation between the United States and Canada over fisheries, the Manitoba-Dakota boundary dispute, conflicting transportation rights on railways crossing the Canadian-American border, all had developed by 1870 to a climax with the despatch to London of Mr. Alexander Campbell, Postmaster-General in the Cabinet of Sir John A. Macdonald, to negotiate with the British Government for a common front against the United States. Thus were shattered the dreams of Grant, Sumner, Fish and so many others.

CHAPTER VIII

NEGOTIATIONS AT WASHINGTON: 1871

Continental complications were rapidly gathering for Great Britain in the winter of 1870-71, and it was particularly expedient for her to arrive at agreement on all outstanding controversial matters with the United States. Bismarck was regarded with suspicion in England where it was well known that he wished to establish intimate relations with the Americans in order to neutralise British influence, and he welcomed the opportunity to trade upon the Alabama Claims and other disputes to achieve his aim. (1) The progress of Prussia, which stood for ideas the very reverse of those which Britain cherished, was a great threat to the position of leadership which England had fairly consistently maintained in Europe since Waterloo. The death of Lord Clarendon and the advent of the peace loving Lord Granville to the Foreign Office meant a conciliatory American policy.

As has been noted, the Naturalization Question had been the greatest obstacle to a settlement of the San Juan controversy after the Civil War, but in August, 1870, it/

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1. See, *passim*, the private papers of Lord Granville in the Foreign Office. Granville inclined very strongly towards France, and he suspected Bismarck at every turn. Bismarck had agreed to use his good offices to induce Britain to settle the Alabama Claims in return for Canada. See Nevins, p. 224.

it was disposed of when ratifications were exchanged and an agreement representing the triumph of the United States' position was reached. This success was encouraging to the American Government who were undoubtedly keen for a peaceful settlement of all outstanding differences.

The celebrated question of the Alabama Claims was now chiefly responsible for the absence of completely cordial relations between the two countries. The Americans asserted that Great Britain should be held responsible, not only for damage inflicted upon individuals by British cruisers and their tenders during the Civil War, but also for expenses, notably increased insurance charges, incidental to prolongation of the war. The connection between the San Juan question and the Alabama Claims was simple: Great Britain would not settle the Claims unless by arbitration, while the United States refused to arbitrate either the Claims or the San Juan problem. In September, 1870, Secretary Fish suggested to Thornton that if Britain would cede San Juan the Americans might agree to arbitrate the Claims, but Thornton rejected this proposition on the ground that San Juan involved a 'point of honour.' The British Government would readily and freely surrender the Island, but only after the opinion of an arbitrator had been taken. ⁽¹⁾ Unfortunately, on the American side there was the vocal West to reconcile, and the politicians of that part of the Union frowned upon the risks of arbitrating San Juan.

Public opinion in Great Britain favoured the adjustment of all Anglo-American disputes, and responsible newspapers like the 'Times' and the 'Spectator' began a campaign towards that end. Both the Prime Minister, Mr. Gladstone/

1. Fish's Diary: 26/9/70: quoted in Nevins, p. 426.

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1. Fish's Diary: 26/9/70: quoted in Nevins, p. 426.

(1)
Gladstone, and the Foreign Secretary, Lord Granville, wanted a settlement, but their difficulty was to decide upon the best means of negotiation. Experience had shown that adjustment by convention was hopeless because of the difficulties of ratification, and that direct negotiations were too slow and ineffective. The time for sending a special mission in the Ashburton manner was inopportune, and on the advice of Lord Tenterden, Under-Secretary for Foreign Affairs, therefore, it was finally decided to propose the appointment of a joint commission to compose all outstanding differences between the two countries. (2) This proved acceptable to Fish who immediately set out to convert the President, Cabinet, and Senate Foreign Relations committee to his view. In spite of the strong opposition of Sumner, he was able early in 1871 to report to Thornton that the way was clear for the meeting in Washington of a joint commission to discuss all matters of difference, notably the Alabama Claims, the San Juan boundary and the Fisheries.

At the subsequent negotiations in Washington Great Britain was represented by Earl de Grey and Ripon, a member of the Cabinet, Sir Stafford Northcote (later Earl of Iddesleigh), Governor of the Hudson's Bay Company, Sir Edward Thornton, Minister at Washington, Professor Mountague Bernard of Oxford, and Sir John A. Macdonald, Prime Minister of Canada. The United States were represented by Justice Samuel Nelson, Secretary Fish, Judge Ebenezer R. Hoar, former Attorney-General, General Robert Schenck, Minister to Great Britain, and Senator G. H. Williams of Oregon.

The British commissioners began by proposing arbitration as the best method of settling the San Juan dispute, but the American representatives retorted that there was no/

1. Morley, op. cit., II, p. 7.
2. Memo. of 21st November, 1870, in F.O. 5/1331. Tenterden was actually only senior clerk at the Foreign Office, but very shortly afterwards he was promoted Under-Secretary.

no hope of the Senate's agreeing to submit the question to an outsider. They pointed out that, by using one of the methods sometimes employed by Congress for rejecting a proposed measure, namely, by refusing to take the Clarendon-Johnson Convention into consideration, the Senate had shown clearly that they were totally opposed to arbitration. Surely, it was argued, the British and American commissioners were as competent to come to a decision as any arbitrator. (1)

The British representatives refused to agree that an adjustment could be arrived at without outside assistance, but they professed themselves willing to listen to the United States' arguments. This friendly gesture produced a long, amicably conducted discussion upon the meaning of Article 1 of the Treaty of 1846 and the intentions of the negotiators of that Treaty. With the exception of some newly-discovered letters of Edward Everett, United States' Minister in London in 1845, neither side was able, however, to adduce any fresh evidence.

Lord de Grey, leader and spokesman of the British commission, announced the next day that he and his colleagues had perused the new evidence, but found that it could not alter their views. He asked for an explanation of the United States' seemingly incomprehensible opposition to arbitration, a method of adjustment which was acknowledged to be fair and reasonable by eminent men in both countries.

The American answer was that there was a feeling in the Senate and in their country that the United States' negotiators in 1846 had been misled; that Lord Aberdeen, after having conversed with Mr. McLane, the American Ambassador, on 15th May, 1846, when it had been agreed that the/

1. F.O. 5/1300. The feeling against arbitration in the United States was general. As a memorial signed in Washington Territory had it: "Having already conceded from the line of 54° 40' to that of 49° for the sake of peace, neither the honour nor the interests of the United States will suffer by a further surrender of right."

the Haro Channel should form the boundary, immediately thereafter sent for Sir J. H. Pelly of the Hudson's Bay Company and proceeded so to word his despatch (which accompanied the draft) of 18th May to Mr. Pakenham that the phraseology of the Treaty could afterwards be strained to the interpretation put upon it in subsequent negotiations by the British Government.

This slanderous and grossly untrue statement, so unworthy of the American negotiators, roused de Grey to high indignation, and he rejected "unhesitatingly, positively and in the strongest manner" the imputation which was thus cast upon the integrity and good faith of a statesman who had always borne a most unblemished reputation. The allegation had the immediate effect of stiffening the attitude of the British Commission, and, instead of receding from their position, they now demanded that the United States should suggest a mode of settlement alternative to arbitration.

This was met by the novel and alarming suggestion that the whole Treaty of 1846 should be abrogated and negotiations begun to draft a new one. The American spokesman, Secretary Fish, deplored the existence of a treaty which was open to ambiguous interpretation and, since the United States could never be party to any treaty which might leave the passage of the straits under the absolute command of Great Britain, the most sensible course would be to negotiate a new treaty.

Such a drastic step would have meant the restoration of the position established in 1818 and was, of course, quite unacceptable to Great Britain. The old 'Fifty-Four Forty or Fight' agitation would have been resuscitated, and there would have been a renewal of the great bitterness engendered/

engendered in the period between 1844 and 1846. The British commissioners could hardly believe that the Americans were serious in their proposal and considered it to be made on strategic rather than genuine grounds. Without reference to the Foreign Office they rejected it, but they resolved to meet stratagem by stratagem. They dropped discussion, therefore, of the San Juan question and went on to arrange the Fisheries articles. Their plan was to proceed with the other subjects of discussion until the point of final settlement was reached, when they would intimate that, if the United States still refused to arbitrate the San Juan problem, the whole negotiation must fall to the ground. (1)

By 9th April the negotiators had reached agreement on the Alabama Claims, but the settlement of the Fisheries articles was delayed by the pertinacity of Sir John A. Macdonald, Canada's first representative on an international tribunal. He refused to accept the terms of adjustment agreed upon by his colleagues on the Commission, declining to entertain the proposition that Canada should be offered free fish and a sum of money as the equivalent of the 'inshore' fisheries, or that no free fish should be offered but the amount to be awarded should be settled by arbitration. (2) While de Grey sought to convert Macdonald, the Commission returned to discussion of the San Juan articles.

Fish/

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1. F.O. 5/1299: approved by the Foreign Office on 22nd March. Twice during the negotiations Fish was unsuccessful in seeking summarily to settle the controversy by proposing the cession of all or part of British Columbia in return for a money payment or adjustment of the Alabama Claims. See Fish, Diary, March 16, 18, 1871, quoted in Nevins, 480.
 2. Though Macdonald ultimately signed the Treaty he remained convinced that Canadian interests in the Fisheries "had been sacrificed, or made altogether of secondary consideration, for the sake of getting a settlement of the Alabama and San Juan matters." Thus he wrote Cartier on 6th May after the signing of the Treaty. See J. Fope, 'Sir John A. Macdonald,' 2 vols., London, 1894, II, p. 115.

Fish had seen de Grey privately, and had intimated that, if the Claims and Fisheries disputes could be settled upon "terms somewhat reasonable", he would work for referring San Juan to arbitration. (1) This view was endorsed the next day by President Grant, and Fish set to work to convert leading Senators. Earl de Grey, after communication with his Government, was able to inform Fish that he had an official assurance that the American proposition of free fish and a moneyed payment, the amount to be determined by arbitration, was acceptable to Britain. (2)

Lord Granville, Foreign Secretary since the death of Lord Clarendon in June, 1870, had intimated to de Grey that the British Government would be content if necessary with the adoption of the middle channel as the water-boundary, provided free navigation of all channels lying between Vancouver Island and the continent were secured and an undertaking given by both sides not to fortify any of the islands in the San Juan group. (3) This proposition was now offered, but it was immediately rejected by the Americans who entered their grave objections to the adoption of an "intricate and tortuous" channel as a boundary, particularly since it could not be recognised as one of the channels contemplated in 1846.

Fish proposed that the Haro Channel should form the line of boundary and, to allay British fears, he offered to neutralize all three channels, guaranteed to erect no forts on San Juan, and undertook to reserve the claims to lands of all British subjects. This proved distasteful to the British commissioners who now renewed their proposal to settle the dispute by arbitration, stressing their decision that Britain would surrender her claim to San Juan only if an arbitrator considered/

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1. Diary: 12/4/71, quoted by Nevins, p. 477. Cf. Pope, op. cit. p. 109.
 2. Diary; 19/4/71, quoted by Nevins, p. 478.
 3. Granville to de Grey, 1st April, 1871, telegram, "Seen by the Queen," in F.O. 5/1299.

considered she had no claim to the Island.

The Americans thereupon agreed to submit the dispute to arbitration, but they qualified their concession by stipulating that only two channels - Haro and Rosario - should come within the purview of the arbitrator. The middle channel represented only a compromise, and the United States were determined to have a decision, not a compromise. The middle channel was devious and intricate and, said Mr. Fish unequivocally, the United States could not be induced, by any sort of argument, to accept it. To admit the possibility of a middle line satisfying the Treaty was to cast doubts upon the validity of the United States' title; to allow the arbiter to have a middle line within his power of choice was almost to invite a decision in favour of such a line.

De Grey pressed for the consideration of the alternative line, though he recognised that his case was hopeless. He and his colleagues were aware that their claim to Rosario Strait as line of boundary was not inherently strong, but they realised that it was better to make a limited reference of the question to an arbitrator than have no reference at all. As the Prime Minister subsequently told the Commons: "If they lamented the chances of arbitration at all events they were better than the chances of war."⁽¹⁾

The British negotiators agreed to accept, therefore, the American proposal that a limited choice of channel should be set before the arbitrator; so that he was asked to decide only between Haro and Rosario Channels. The San Juan articles providing for this were concluded on 22nd April, 1871; the German Emperor was to be the arbitrator. On 8th May the completed treaty of 43 articles was signed.⁽²⁾

1. Hansard, CCXV, 3rd Series, 1450.
2. The account of negotiations from the British side is given in F.O. 5/1296-1312. The official American account appears in Foreign Relations, 1870-71, pp. 508-15. A copy of the San Juan articles of the Treaty of Washington may be found in the Appendix to this study.

CHAPTER IX

THE AWARD OF 1872

1. The British Statement.

Captain Prevost's offer of his services to the British Government for preparation of the case to be presented to the arbitrator was accepted with thanks, promise of every facility being given him. ⁽¹⁾ In preparing his case Prevost left nothing undone in making the best use of his arguments, and he examined almost every source of information. For instance, he prepared a series of questions for the consideration of Sir James Douglas; had Sir Edward Thornton ransack the Embassy archives in Washington; wrote to the Admiralty for all obtainable material relating to Meares and his voyage of 1789-91; opened communication with Lord Lisgar, Governor-General of Canada, from whom he secured first-hand knowledge; learned from Admiral Gordon, who commanded the 'Cormorant' at Vancouver Island in 1846, that the Rosario and never the Haro Channel was used by him at that time; enlisted the aid of Sir Travers Twiss, formerly Professor of International Law at King's College, London, to prepare his case; consulted the log of the 'Raccoon', 1813-18; obtained, through the medium of the Spanish Ambassador, translations of much of the relevant information about all early Spanish voyages from the/

1. Prevost to Hammond, 26th May, 1871, and Hammond to Prevost, 22nd June, 1871, in F.O. 5/1470.

the Spanish archives; succeeded, through Lord Lisgar, in having Mr. McCreight, Attorney-General of British Columbia, secure the testimony of local master mariners as to the extent to which the Rosario Strait was used in 1846.

It cannot be justly argued then that the British case was ill-prepared or neglected consideration of any of the available evidence. Prevost had conducted the British process ever since attempts had been made to decide between Rosario and Haro Channels; he was familiar with every argument, both American and British, and had been himself on the scene of the dispute. We must then subscribe to the view of Lord Tenterden of the Foreign Office that the case was "very well drawn and presented a clear, concise and closely-sustained argument."⁽¹⁾ It met with Canadian approval too, which was certainly not its least valuable virtue. Governor J. W. Trutch of British Columbia pronounced it "complete and conclusive and admirably argued throughout" after having discussed it with his Executive Council.⁽²⁾

On 18th August, 1871, the German Emperor agreed to act as arbitrator; on 11th December the United States' statement was presented; Prevost arrived in Berlin two days later and presented the British case.⁽³⁾

Great Britain's case is prefaced by a series of preliminary details, calculated to clarify the later presentation. The hydrography of the three main straits is explained; the origin of the names is indicated and the conclusion reached that the name assigned by the Spaniards to the waters of the Strait of Georgia is used to denote/

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1. Memorandum by "T(enterden)" of 25th November, 1871, in F.O. 5/1470.
 2. Trutch to Kimberley, 20th March, 1872, enclosed in C.O. to F.O., 30th April, 1872, in F.O. 5/1472.
 3. The British case is to be found in F.O. 5/1472.

denote the channel which Britain contends is the true continuation of that Strait.

There follows an explanation that there are five rules of international law for the interpretation of treaties:-

1. The words of the treaty must be taken in the sense they had at the time of signing.
2. Regard must be had to the context and spirit of the whole treaty.
3. "The interpretation should be drawn from the connection and relation of the different parts."
4. "The interpretation should be suitable to the reason of the Treaty."
5. "Treaties are to be interpreted in a favourable rather than an odious sense."⁽¹⁾

The arguments in respect to the different rules of interpretation are then examined:-

1. The words of the treaty must be taken in the sense they had at the time of signing. The British argument here is that in 1846 Rosario Channel was the only commonly known and commonly used channel. It was used by Captain Vancouver in 1792, by the exploring vessels, 'Sutil' and 'Mexicana', in the same year, by the 'Beaver,' first steam vessel to sail from Fuca Strait to Fort Langley, by the United States' exploring vessel, 'Porpoise,' in 1841, by H. M. S. 'Cormorant' in 1846, and by all Hudson's Bay Company ships without exception.
2. and 3. The second and third rules of interpretation, in relation to the British argument, may be grouped together. These rules stipulate that regard must be had/

1. All points are taken from E. de Vattel, 'Le droit des gens,' 3 vols. - most recently published in 1916.

had to the context and spirit of the whole Treaty, and that the interpretation should be drawn from the connection and relation of the different parts.

The only part of the Oregon Treaty, submits Great Britain, that causes disagreement is the second sentence of the first article, namely, "and thence southerly through the middle of the said channel and of Fuca's Straits to the Pacific Ocean." Regard must be had, therefore, to the context of the sentence and of the preceding sentences in order to secure the meaning of the words, "the said channel." There are three phrases in this sentence to be considered: "thence southerly through the middle of the channel;" "the middle of the channel;" "provided the navigation of the whole be free." The British position is that the second sentence may be read as if written in extenso thus: "and thence southerly through the middle of the channel which separates the continent from Vancouver's Island, and through the middle of Fuca's Straits to the Pacific Ocean."

The Treaty of 1846 used the term 'Fuca's Straits' to denote the lower portion only of the larger channel, that is, the inlet of the sea extending eastward from the Pacific to the entrance of the narrow waters through which Vancouver continued his voyage. The term 'Fuca's Straits' must be taken, therefore, to have been inserted in the second sentence of the first article of the Treaty for the sake of describing with greater precision the course of the boundary line, and it is one of the necessary conditions of the line that it should be/

be drawn through the middle of the inlet of the sea which has Cape Flattery as south-western and Deception Passage north-eastern extremities respectively.

In order that the navigation of the whole of Fuca Straits may be secured to both Great Britain and the United States the second phrase must be interpreted as requiring the line to be drawn southerly through the middle of a 'channel' which will enable it to enter the headwaters of the Straits of Fuca and proceed thence to the Pacific; in other words, the boundary line, after it has entered the Straits, must divide some parts of them in such a manner as to render necessary the phrase which secures free navigation of the whole Straits to both countries. This is substantiated by the fact that the Straits are eight miles in minimum breadth (between Race Island and the south shore). To maintain that this provision would allow an interpretation of the Treaty which would continue the boundary line through Haro Channel is to deprive the proviso of any rational meaning, since American vessels would possess the right of navigating the Straits to the eastward of Haro without any such proviso, because they would be within United States' territory; at the same time, British vessels would not require any such liberty to enable them to enter or leave the 'channel' through which the boundary line is to pass from Juan de Fuca Straits into the upper waters of the Gulf of Georgia because the west side of the channel would wash British territory.

4. The fourth rule of interpretation postulates that "the/

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4. The fourth rule of interpretation postulates that "the/

And now, to summarise Britain's arguments:-

1. Rosario was the only navigable channel in 1846.
2. The first and second phrases of Article I of the Treaty of 1846 demand that the boundary be drawn through the middle of the channel so as to enter the headwaters of Juan de Fuca Straits.
3. The proviso in the third phrase securing free navigation of the whole of Juan de Fuca Straits is not comprehensible if Haro Channel is to be the boundary.
4. Rosario Channel satisfied the main objects of both parties in 1846.
5. If Haro be adopted as the boundary channel Britain will lose the right of access to her possessions.

2. The United States' Case.

The American case was prepared by George Bancroft, Minister at Berlin, who had been a member of President Polk's Cabinet in 1846. He had followed the dispute throughout its progress and had been particularly forward in asserting the extreme United States' claim. He had strongly deprecated the trend of the negotiations after the Civil War and deplored the arrangement of January, 1869, whereby the President of the Swiss Republic was to arbitrate the San Juan controversy with all three channels within his purview. When he heard of the terms of the protocol framed by Reverdy Johnson and Lord Stanley he immediately wrote his Government urging them not to allow a compromise line to be considered, advising at the same time that the King of Prussia should be appointed arbitrator. The conduct of the question in 1871-72, the first presentation of the case/

case as well as the reply to the British case were every
(1)
word composed by Bancroft.

Bancroft begins his Memorial with a review of the Oregon dispute. He makes reference to the correspondence of Lord Aberdeen, Sir Robert Peel, Senator Benton and Mr. McLane to show that the opinion held in 1846 was that the Treaty intended to establish Haro Strait as the boundary channel. It was the only channel indicated on the maps of Vancouver and Wilkes; it was the only channel mentioned by the French geographer, de Mofras; the collection of maps of the disputed region in the Royal Library at Berlin contains not a single map anterior to 1846 which mentions more than Haro Channel.

It is agreed, Bancroft goes on, that 'channel' means navigable channel. Haro is the broadest, deepest, safest and best channel. It separates the continent from Vancouver Island, whereas Rosario Strait touches neither the mainland nor the Island. As a matter of fact, states the Memorial, Rosario is not a strait at all but is merely the track of Vancouver's vessel in 1792 in his voyage from
(2)
Admiralty Inlet to the north.

The testimony of the mariners cited by the British Government to prove that Rosario Strait was the most used channel in 1846 is next examined. Bancroft succeeds in destroying most of this testimony and he asks why only obscure men - not prominent individuals like Governor Douglas - are selected to testify to mariners' neglect of Haro Channel in 1846. De Mofras's evidence in favour of

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1. See article by W. M. Sloane, Bancroft's assistant at Berlin, in Century Magazine, January, 1887. Bancroft's letter to President Grant appears in M. A. de W. Howe, 'Life and Letters of George Bancroft,' II, 225, London, 1908.
 2. Papers Relating to the Treaty of Washington, Vol. V, pp. 1-17.

of Haro is "clear and unequivocal," and one must conclude that "if between a channel that had a name and one that had none, the British Government intended to take the channel without a name, it should have described it with distinctness and care " (1)

The Memorial reminds Great Britain that Haro Channel was the first discovered - by the Spaniard, Eliza, in June, 1791, and United States' navigators like Captain Kendrick were in the disputed waters before Captain Vancouver. (2)

Bancroft quotes also from contemporaneous evidence, and points out that Governor Pelly of the Hudson's Bay Company had drawn the attention of Lord Aberdeen to the islands of the Haro or San Juan Archipelago two days before the despatch to Washington of the copy of the Oregon Treaty. (3) It was, moreover, the contemporary view that the Treaty meant to allot only Vancouver Island to Great Britain and not the islands of the archipelago lying between the Island and the mainland.

The United States contend that the British attachment to the Rosario Channel had not been consistently maintained; indeed, Lord John Russell had deserted their claim to it and had argued for the middle channel; "in other words, he interpreted the treaty simply as giving the Island of San Juan to the British by which they could gain/

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1. The German experts adopted this argument in toto. See Page 10 of their report in Appendix III.
 2. Priority of discovery counts little, particularly since the results of early Spanish discoveries in the region of Juan de Fuca Strait were not published until after the publication of Vancouver's work in 1798. An excellent account of the earlier discoveries is to be found in H. R. Wagner, 'The Cartography of the North West Coast of America to 1800,' 2 vols., Berkeley, 1937. Here it is shown that Manuel Quimper was in charge of an expedition to examine the Strait in 1791, and he sent Lieutenant Carrasco to examine Rosario Strait which he called 'Boca de Fidalgo.' No examination was made of Haro, but he named it 'Lopez de Haro' after the pilot of the 'San Carlos' which had sailed to Nootka in 1788. Vancouver, who seldom changed the Spanish nomenclature, called the Strait 'Arro.' His maps were copied by the famous geographer, Aaron Arrowsmith, and that explains the general adoption of Vancouver's nomenclature. See Wagner, II, 253.
 3. Papers Relating to Treaty of Washington, V, 139.

gain the exclusive possession of the Haro Channel."⁽¹⁾

3. The Respective Counter-Cases.

Sir Travers Twiss, who had prepared the British case along with Prevost, became personally involved in a 'cause célèbre' and had to retire from public life before the preparation of the counter-case. Mr. F. S. Reilly was chosen to succeed him.⁽²⁾ Reilly was as thorough in his work as his predecessors and he searched in every direction for evidence. The Foreign Office records show that he caused to be prepared for him an authoritative account of the early history of the Hudson's Bay Company; he went over the reports of all Senate debates on the Oregon Treaty; he examined all the maps at the Foreign Office; he consulted all Pakenham's and Aberdeen's correspondence of 1846; he asked the United States for copies of all McLane's correspondence with Secretary Buchanan relating to Oregon in 1845 and 1846. The result was the British Second and Definitive Statement, presented to the arbitrator on 11th June.

The Statement divides Bancroft's arguments into five parts:-

1. Bancroft assumes that in 1846 the United States had a clear title to all Oregon, and the Treaty therefore was in the nature of a concession. Britain answers that there was joint occupation till 1846 and each side had till then claimed that its title was indisputable.
2. The object of the Treaty of 1846 was to secure Vancouver/

1. Idem, p. 141.

2. Granville to the Treasury, 8th April, 1872, in F.O. 5/1472.

Vancouver Island to Great Britain. The latter denies this and declares that the intention in 1846 was not merely not to cut off the end of the Island. "The nature of the motive is not necessarily a measure of the scope of the stipulation."⁽¹⁾ If the object had been this, it would have sufficed to say that all Vancouver Island should belong to Britain. Lord Aberdeen's instructions to Mr. Pakenham cannot be read to contract the effect of the Treaty. When he referred to the "whole of Vancouver's Island with its ports and harbours" he was referring to broad geographical features.

3. Mr. Bancroft attempts to show that the construction placed on the Treaty in 1846 corresponds with that of to-day, but the statement of Mr. McLane to his Government can in no way bind Great Britain. McLane was not negotiating with Lord Aberdeen; in any case, Aberdeen had never mentioned Haro Channel to McLane. It is probable, argues Great Britain, that Senator Benton, whose speech in 1846 constituted a strong American argument, founded his words upon McLane's letter, and at the very most his speech is only a declaration of opinion. Secretary Buchanan signed the Treaty with the Minister's despatch before him, yet Buchanan made no mention of Haro Strait. Furthermore, we must take into consideration the Secretary's words to Mr. Crampton in 1848.⁽²⁾

Bancroft's statement that he wrote repeatedly to Viscount Palmerston after 1846 without reply describing Haro as the Treaty channel can be ignored/

1. British Statement, Paragraph 2, in F.O. 5/1472.
2. Supra, p. 4.

ignored because no statement made more than two years after ratification can be described as contemporaneous. (1)

- 4. Bancroft represents the Oregon Treaty as the work of Great Britain, and this precludes the maintaining of any construction not admitted by the other side.

Britain's answer is that the United States could have insisted on any alteration they thought fit to insert, and the Senate had an opportunity to change the Treaty during their debate from 10th to 12th June, 1846. The United States wanted a speedy peace (as Benton admits) in view of commercial interests and the Mexican problem. The words of the Treaty, therefore, are as much American as British.

- 5. The Americans contend that the language of the Treaty has reference to Haro Channel. When the word 'channel' is employed in treaties the largest channel is meant, and Haro is undoubtedly the largest concerned in the Oregon Treaty. Great Britain points out that its depth is so great that its few anchorages make it unsafe for sailing-vessels. Moreover, the argument that the Treaty contemplates a continuous channel to the Pacific and that this is satisfied by Haro Strait and/

1. Reference to the Foreign Office records destroys at once the point of this part of the United States' case. The actual facts are as follows. In July, 1848, Bancroft sent a copy of Wilkes's map along with other survey maps to Lord Palmerston, the Foreign Secretary, intimating that His Lordship could readily trace the whole course of Haro Channel, "Through the middle of which our boundary line passes." To the Foreign Office copy of this letter is appended a note by the Under-Secretary of State for Foreign Affairs, H. U. Addington, "Shall this letter be acknowledged and Mr. Bancroft thanked for it. And, if so, shall the underlined assumption of Mr. Bancroft be passed over without observation?" Palmerston's answer is clear: "Thank him and say that the information contained in these charts as to soundings will no doubt be of great service to the commissioners" Here is a definite and obvious statement that Great Britain had never accepted Bancroft's interpretation of the boundary line. Addington's minute and Palmerston's answer are quoted in the British Statement to give effect to the British rebuttal.

and Juan de Fuca Straits only can be refuted by reference to the fact that the current of water from the Gulf of Georgia through Rosario Channel is regular, and in the Haro Channel is irregular.

The United States' counter-case ridiculed the British notion that Rosario Strait was the channel of the Treaty because Vancouver sailed through it; he did not even think it worthy of a name. The testimony of the mariners cited by Great Britain to prove that Rosario was the most used channel in 1846 is analysed and refuted, while other points in the British case are taken seriatim and examined.

4. The Award.

The German Emperor submitted the whole dispute to three experts and jurists, Professor Kiepert, Councillor Goldschmidt of the Imperial High Court of Commerce, and Vice-President Grimm of the High Court, who delivered their report in October, 1872. On 21st October the decision was made public in the following words:-⁽¹⁾

"We, William, by the grace of God, German Emperor, etc., etc., find after examination of the Treaty between the Government of Her Britannick Majesty and that of the United States of America, dated at Washington, 6th May, 1871, by virtue of which the above-named Governments have, after taking into consideration the statement of the experts and jurists appointed by us to report upon the contents of the respective cases and counter-cases with their enclosures, given the following decision:-

"The claim of the Government of the United States/

1. A translation of the experts' report, deposited in the Reichsarchivs, Potsdam, Germany, will be found as Appendix III. The report was never published.

States is most in accordance with the true interpretation of the Treaty concluded"

There was great disappointment in England at the nature of the award for, no matter how lightly the British people may have estimated the worth of San Juan, it was a blow to their national pride to be told that during the negotiations of half a century they had been totally in the wrong, and that the cause which had been sustained and prosecuted with so much vigour by some of their most distinguished statesmen was worthless. Their immediate feeling was one of extreme irritation at the German Emperor, or rather at his agent, Chancellor Bismarck, and Bancroft. They seemed to think that there had been a German-American conspiracy to overreach them, and even the staid and usually discreetly careful Hammond (afterwards Lord Hammond), Under-Secretary for Foreign Affairs, inferred that Bancroft had done "his best to hugger-mugger the lawyers while employed in framing their reports."⁽¹⁾

Some excuse for this suspicion of Bismarck existed. Mr. J. L. Motley, United States' Ambassador at the Hague in 1872, was a lifelong friend of the Chancellor.⁽²⁾ It may have been mere coincidence that in July, 1872, Motley offered to visit the friend whom, although he had many times been in close proximity to him, he had not seen for fully eight/

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1. Memo. of 4th July, 1873, on Thornton's draft to Granville, No. 26, in F.O. 5/1474. The 'Daily Telegraph' said what Englishmen were thinking when it wrote: "The Emperor, it is said, is a soldier, not a jurist, and he decided, not on the merits of the case, but, as some say, with a wish to conciliate America, or, as others allege, from a desire to gratify England's real, though not avowed, desire to cede away territory in every quarter of the globe." See issue of 29th October, 1872. Cf. 'Glasgow Herald' of 28th October, 1872.
 2. They had been at school together; indeed, Bismarck is the 'Otto von Rabenmark' of Motley's novel. "To Motley he had given the real love of his life he loves the American without reason or purpose." See Emil Ludwig, 'Bismarck,' p. 338, London, 1927.

eight years. Bancroft was a slavish admirer of Bismarck, and he was convinced that "our foreign political interests almost always run parallel with those of Germany And Bismarck loves to give the United States prominence in the eyes of Europe as a balance to Great Britain." (1)

Anglo-German relations were not good, and Germans could not forget that Britain had never shown much enthusiasm for German unity during the period of its evolution, 1848 to 1870, although she had shown enthusiasm for the synchronous movement towards Italian unity. The British attitude to Schleswig-Holstein and Luxemburg had delayed the establishment of German unity, believed the Germans. They thought - rightly so - that English public opinion was extremely antipathetic to the Prussian cause, and resented the manner in which the English press delighted in ridiculing, among other features of the German political system, the 'barbarous' administrative system and the German legal organisation. The Germans believed that the struggle with France had been prolonged, and many German lives lost, after Sedan by the arms which the French were able to buy in Britain. France had now been crushed, and Bismarck was preparing for the inevitable war of revenge. He had neutralized Russian influence by alliance, and had acquired the power to crush Austria between Slav and German. There was much truth in Odo Russell's estimate of the position: "England alone remains unconquered and unconquerable with her neutrality, her fleet and her freedom - three black spots on his [Bismarck's] political horizon." (2)

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1. M. A. de W. Howe, 'Life and Letters of George Bancroft,' 2 vols. London, 1908, II, 247. Of Bancroft the Chancellor said: "It is known that he is our friend, he has never concealed it" See G. W. Curtis, 'Life and Correspondence of J. L. Motley,' London, 1889, p. 313. When in the autumn of 1869 there had been talk of Bancroft's recall Bismarck had used his influence to have him remain.
 2. Odo Russell (Ambassador at Berlin) to Granville (Foreign Secretary), 30th October, 1872, in F.O. 244/258. Cf. Granville to Thornton, 13th October, 1870, in Private Papers of Lord Granville in F.O. 362/1.

CHAPTER X

CONCLUSIONS

1. Examination of the Rival Cases.

In general, it is correct to say that the weight of evidence was on the United States' side. The case for the Rosario line of boundary was not strong, while the arguments for Haro Strait, if we argue from geographical considerations and, to a less extent, from the phraseology of the Treaty of 1846, rested on a much stronger foundation. The great and unfortunate error of both sides, of course, was the failure to attach a map to the Treaty.

The American contention that the Treaty meant the boundary line to deviate from the 49th parallel only sufficiently to secure possession of Vancouver Island to Great Britain and the corollary that the line was to follow the channel nearest the Island are very sound, and they can be supported by reference to the views of contemporary politicians on both sides, notably McLane, Peel, Benton, Aberdeen and Cass. (1) What could be more reasonable than the contention that the Treaty meant the boundary line to follow the channel - Haro - whose waters actually washed the Island? The obvious answer to this, namely, that what was necessary for the usufruct of Vancouver Island was also intended/

1. The Aberdeen MSS. in the British Museum demonstrate Lord Aberdeen's views. In indicating the boundary line he specifically refers only to "the whole of Vancouver's Island with its ports and harbours;" there is no allusion to any other island. In a private letter to Pakenham of 4th March, 1844, he writes: "..... and care should be taken that the 49th degree of latitude as a boundary is to extend only to the sea, and not to Vancouver's Island."

intended to be ceded, the line of the Haro Channel impeding the usufruct, is not too convincing. It is difficult to maintain that the cession of Vancouver Island included the surrender of such a large area as that contained in the Haro Archipelago.

The American contention, too, is in harmony with the detailed definition of the channel mentioned in the Treaty, namely, that it separates the mainland from Vancouver Island. If Rosario Strait had been meant by the Treaty, not only Vancouver Island but the whole archipelago would have been divided from the mainland; in other words, Haro Channel, which touches the Island, more correctly separates the mainland from the Island.

The main argument of the United States that the Haro Channel was the boundary channel adopted by Mr. McLane and Lord Aberdeen in 1846 is supported by so much contemporaneous positive evidence that, in the absence of any corresponding positive evidence for Rosario Strait, it is very difficult to refute. Mr. McLane's despatch of 18th May, 1846, said that the British proposition would divide the territory by the 49th parallel to the sea; "that is to say, to the arm of the sea called Birch's Bay, thence by the Canal de Arro and Straits of Fuca to the Ocean" This letter, placed before the Senate by President Polk on 10th June, and the speeches of Senator Benton and General Cass during the subsequent Senate debate, delivered so soon after the signing of the Treaty and made public in the absence of any parallel statements on the British side, or without any denial by the British Government, constitute very powerful evidence. In this connection also it is to be remembered that Cass, who led the opposition in the Senate to ratification of the Treaty of 1846, was keen to show up the agreement in the most unfavourable light; yet he seems never to have doubted that Haro Strait was/

was intended to form the line of demarcation.

On the other hand, it should be noted that Cass and Benton would naturally adopt the view of the accredited United States' representative - Mr. McLane. We know from Lord Aberdeen's papers that McLane was shown a copy of the British project of 18th May. ⁽¹⁾ It does not appear to have occurred to him, if he knew more than one channel existed, to suggest to Aberdeen that he should indicate exactly how the boundary line should run west of the mainland. It is almost certain that McLane and Aberdeen never at any time discussed a specific channel. The knowledge of the topography of the disputed area possessed by both was, to put it mildly, imperfect. They used different maps, Aberdeen depending on Vancouver's and McLane probably on Wilkes's. McLane's calling "Haro" as Wilkes had it, namely, "Arro", rather indicates that he had seen the map of Wilkes. How recently before 18th May the two negotiators had consulted their authorities, it is difficult to say; ⁽²⁾ probably it had been some time previously.

The geographical argument weighs very heavily to the American side. Haro Channel - Richards's Chart and Report had proved this conclusively to the British Government - was by far the broadest, shortest, most direct and deepest channel. The evidence adduced by Britain that its excellences were not commonly known to mariners in 1846 is negative and inconclusive. Moreover, - and this is of paramount importance - Haro is the natural connecting passage between the Gulf of Georgia in the north and Fuca Strait in the south. The Treaty seems to define not the channel most in use in/

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1. McLane's despatch of 18th May does not completely bear out Aberdeen inasmuch as he states that the proposition to be submitted "most probably will offer substantially." Aberdeen states categorically that he showed the project to McLane. See Aberdeen to Pakenham, No. 30, 29/6/46-F.O.809.
 2. Wilkes definitely shows Haro as the chief channel, and he has Rosario in a very minor place. Vancouver, too, names Haro but not Rosario. See C. Wilkes, 'Narrative of United States Exploring Expedition,' 5 vols., 1845, Philadelphia; the map is opposite p. 291, Vol. IV.

in 1846 (the British contention), but the main channel, that is, the most conspicuous and open one, most adapted to navigation, that separates the mainland from Vancouver Island (the American argument). If Rosario was more used by British ships before 1846 it was not because it was the main channel, but because it was the shortest route connecting up Hudson's Bay Company forts like Nisqually and Langley.

The British argument that in 1846 they could not have intended Haro Strait to be the Treaty channel because they had not known it to be navigable and safe for shipping is untenable when one recalls that the Company had settlements on the shores of Haro Channel at least twenty years before the Treaty, and that Vancouver's chart shows several soundings for this channel. On the other hand, the American statement that never at any time did they accept Rosario as comparable to Haro is supported by the fact that soon after, if not actually before, 1846 the pre-eminence of Haro as the regularly used channel through which all steamships passed, and as the passage used almost solely by the inhabitants and traders of British Columbia, was accepted.

The words of the Treaty, "thence southerly through the middle of the said channel and Fuca's Straits" point to Haro Strait as the boundary line. 'Southerly' means deviation to the south from a line running west along the 49th parallel; in other words, the line is to take the middle of the Gulf of Georgia, and, once it has reached the archipelago of which Orcas Island forms the apex, if it is to retain the notion of 'southerly', it must follow the shortest connecting line between the fixed point of departure in the north (the apex just referred to) and the fixed terminus in the south (the centre of Juan de Fuca Strait). A glance at any map of the area, particularly Vancouver's chart which the British negotiators used in 1843-46, shows that Haro Channel rather than Rosario satisfies this provision. The same glance will show also

that the water of the Gulf of Georgia must flow into Haro rather than Rosario Strait.

The cartographical side of the problem also inclined to the American side. The Spaniards, the pioneer adventurers in the disputed region, clearly show Haro Strait on their charts. Wilkes, the official United States' geographer, who was in the waters adjacent to the disputed area during the years 1841-42, shows two channels, but only one - Haro - is named, and a glance at his map would lead one to infer that only one existed. Haro Strait is to be found clearly marked on Haro's and Elisa's unpublished maps of 1790 and 1791; on the map of Galiano and Valdes, 1792, which was published in 1802; on Vancouver's chart of 1798; on the map of the French geographer, Duflot de Mofras, of 1844; on Wilkes's map of 1845. ⁽¹⁾ The contention that Wilkes considered Haro Strait much superior to Rosario and the inference that even Vancouver, who sailed via Rosario because he was instructed to keep close to the mainland, gave Haro Strait but not Rosario a name on his map carry considerable weight. ⁽²⁾

There were, of course, angles to the British position that demanded straightening. The statement, for instance, that the adoption of the Haro Channel as the boundary line would deprive England of the right of access to her possessions is entitled to some consideration. It will be remembered that the British Government in 1846 were insistent that the Treaty should secure free navigation of the Columbia River so that the Hudson's Bay Company might have free access to the interior. Surely the Government, in framing the Treaty, would mean it to guarantee the Company's/

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1. Scholefield and Howay, 'British Columbia,' p. 334. Vancouver, 1914. Cf. Wagner, op. cit., I, 173, ff.
 2. For additional arguments in favour of the United States' contention see the Report of the German Experts in Appendix.

Company's right of access to the new chief depot on Vancouver Island, namely, Fort Victoria. If the United States' contention were correct, and Haro were the boundary channel, Rosario Strait would lie within United States' territory and Great Britain would be surrendering, tacitly and without apparent protest, the only line of communication she knew. Yet she was most careful to secure, by means of a separate clause in the Treaty, the free navigation of the Columbia River where it flowed through territory ceded to the United States by the same Treaty.

2. The Neglect of the Claim to the Middle Channel.

We have seen that the award of 1872 was coldly received in England. The Conservatives blamed the Liberal Government of the day; the Liberals blamed the Tories of 1846; those who had not troubled to study the history of the problem blamed the German Emperor. The truth is, of course, that neither Conservatives nor Liberals were wholly right; nor were they wholly wrong.

It is clear that the Peel-Aberdeen Government did not know enough of the region about which they were negotiating. They insisted upon securing for Great Britain possession of Vancouver Island, and they gained their point, the Treaty framed by Lord Aberdeen conceding no more. If the terms of the Treaty were inadequate, it might be said with justice that they were the authors of the Treaty and ought, therefore, to suffer the consequences of its inadequacy.

It will be maintained that the decision to be content with the middle channel, thereby tacitly surrendering/

surrendering the claim to a line along Rosario Strait, was a tactical blunder, but it is difficult to affix the blame for the mistake. The Government of 1859, which first formally made this important concession, cannot be held solely responsible. The British claim to the line of Rosario was intrinsically weak and, further, Lord John Russell, the Foreign Secretary, found himself restricted by the concessions of his predecessors in office. The middle channel had been suggested as an alternative as early as December, 1856, when Lord Clarendon, at that time at the Foreign Office, had advised Captain Prevost to accept it as boundary if his efforts to induce Mr. Campbell to accept the line of Rosario were not successful. (1) Lord Napier, too, while Ambassador at Washington, had mentioned it as a compromise line in 1858 when he had private conversations with Mr. Campbell. The Derby Ministry, which had Lord Malmesbury at the Foreign Office, would also have been well satisfied to secure the middle channel as boundary. Moreover, it was the line of Lord Aberdeen, Sir Richard Pakenham, and the permanent officials of the Colonial and Foreign Offices. (2)

The decision to suggest a middle channel as the boundary line was not so great a mistake as the decision to allow the arbitrator in 1872 to exclude the middle strait from his purview and restrict his judgment to Rosario and Haro Channels only. Since a direct line, as obviously desired by the Treaty of 1846, could not be conveniently adopted because it would run partly overland, the next and fairest/

1. Supra, pp. 20-21.
2. Supra, pp. 25-29.

fairest course would surely have been to lay down a line involving least deviation from the terms of the Treaty. It is quite obvious that neither a line of demarcation which ran close to Vancouver Island (that is, via Haro), nor one which ran close to the mainland (that is, via Rosario), could exactly fulfil the terms of the Treaty. Further, if one side had in mind a certain channel, and the other had in mind another, and both sides failed to define adequately their positions when the Treaty was drawn up, the case for subsequently adopting a compromise line seems very strong. Unfortunately, however, when the issue was re-opened ten years after the signing of the Treaty, both sides found their views coloured by their estimate of the strategic importance of the Island of San Juan. This was the factor that complicated the whole problem and made it so difficult of solution. This was the factor also that was responsible almost solely for any acrimony that was allowed to creep into the negotiations and discussions. (1)

It is almost certain that the negotiators of 1846 thought they were drawing a boundary line west of the mainland which would follow the middle of the whole water area between that mainland and Vancouver Island. The use of the words in the Treaty "whole of the said channel" rather confirms this and, in the absence of a precise name, the impression is that "said channel" means the whole sea area. It is true that the middle channel does not run exactly through the middle of the whole area in question, but its course is quite close enough to the centre of the area to justify the argument that the negotiators meant it to form the line of demarcation. It is also true that the middle channel was not, as the Richards Report had demonstrated so clearly, the main channel for navigation/

1. The German experts appointed by the Emperor were obviously mystified by their instructions to ignore the middle channel. See the copy of their Report in Appendix, pp. 4-5.

navigation. But the American contention that the Treaty of 1846 sought to define the main channel could have been successfully refuted because the Treaty did not stipulate that the boundary line must follow the main or most navigable channel. The Treaty set out to establish a line of boundary, and it could surely have been argued that the middle channel was quite suitable as a boundary, particularly since its adoption would leave to each negotiating party possession of a good, navigable channel, that is, Britain with Haro and the United States with Rosario.

The words of the Treaty could be interpreted, too, to sanction the adoption of the middle channel as boundary. It could be maintained that the third phrase of Article 1 of the Treaty provided for free navigation of the "said channel and straits" because it was realised that a strictly drawn line midway through the whole area between the mainland and Vancouver Island ran overland part of the way. Article 1 draws the line to the middle of the area between the mainland and the Island; thence through the middle of the channel; thence through the middle of the Strait to the Pacific. Might it not have been argued this repetition of the word 'middle' furnished a certain, positive clue to the intentions of the negotiators of 1846? Surely, it ought to have been contended, negotiators who so markedly reiterated the word 'middle' could never have intended their line to be deflected either to the east or west to the extent implied in the adoption of Haro or Rosario Channels. (1)

There is little to be said in defence of the Government of 1871. Agreeing to ignore the claims of the middle channel was tantamount to surrendering the whole British case. Unfortunately for Canada and the Province of British Columbia, San Juan, in spite of its strategic position, was in the eyes of the British Government a very/

1. See also in this connection the arguments of the Admiralty in 1858; supra, p. 27.

very minor consideration in the Washington negotiations. If British statesmen could make the concessions they did on the important, major issue of the Alabama Claims, what hope was there that on the comparatively unimportant, if periodically embarrassing, issue of San Juan and the Water-Boundary any real show of resistance would be made to American demands? As early as 1857 Great Britain had, perhaps negatively, given up hope of securing the adherence of the United States to an agreement establishing a line along Rosario Strait, and the efforts of her diplomatists after that date had been mainly directed towards obtaining the middle channel. Yet, most magnanimously, the Government of 1871 agreed to waive its claim to the middle channel and put its faith in a line for which no British Government had ever shown any real enthusiasm and for which, as the Foreign Office records demonstrate, the British title was known to be, to put the position mildly, inconclusive.

The Americans knew that the Government of 1871 were much more concerned with domestic legislation than with colonial and foreign affairs, and this emboldened them to insist upon their interpretation of what ought to be submitted to the arbitrator. It should have been pointed out to them that, if arbitration were to be resorted to, the arbitrator ought to have a completely free hand to decide among the three possible channels. But the Americans feared that an arbitrator, with the disposition often shown by such individuals, unable to declare positively as between Rosario and Haro Channels, would be tempted to decide for the/

the middle channel as the boundary line. It was an admirable line for compromise, but its adoption would have meant for them the loss of the Island of San Juan, a disaster which they could not risk. Then, Great Britain was much more anxious for an accommodation with the United States than were the latter for one with Britain. Besides the always present danger of trouble with Russia, whose repudiation in 1870 of the Treaty of Paris of 1856 involved a serious loss of prestige for England, there was the fact that the Prime Minister, Mr. Gladstone, was aware of the extent to which Britain's power in Europe was reduced by the smouldering quarrel with the United States, though he took even higher ground than this "in his sense of the blessing to the world of an absolute reconciliation in good faith between the old England and the new." (1)

It might be argued that to leave the right to possession of San Juan unsettled was to invite trouble and a possible war; actually, in spite of the Ebeys and Harneys, to have left the question unsettled would have been profitable to Great Britain. The weakness in the British position when negotiating on colonial matters was the lukewarmness and apathy of the British negotiators. Throughout the earlier part of the century the fashionable attitude towards the colonies was, as has been seen, one of contempt, or at least, of indifference and neglect. After the middle of the century that attitude tended to change, and even the Liberals, who were consistently strong in their attacks on the policy of maintaining colonies, were beginning to modify their views. Moderate Liberal opinion, at least, was beginning to perceive that it was inconsistent with British tradition continually/

1. J. Morley, 'Life of Gladstone,' II, 8, London, 1906.

continually to remind the colonies that they were retained on sufferance and that they could detach themselves at will. As the 'Daily News', which was inclined to be radical in tone, reminded the Government: "The guest who is being repeatedly reminded that the door is open, will very soon ask for his hat."⁽¹⁾

Had it been decided to refuse to accede to the American demands in 1871, and had Great Britain insisted that three, and not two, channels should have been within the scope of the arbitrator's consideration, it is quite safe to say that, in view of the changing attitude towards the colonies, no succeeding Government would have agreed to abandon the claim to the middle channel. Certainly, the Conservative Party, which was beginning to favour a policy of imperial expansion, would have exerted itself to maintain the British position in the San Juan dispute. Furthermore, 'Manifest Destiny' was definitely on the wane after the Civil War and the United States' 'thirst for territory' had been so effectively quenched that the purchase of Alaska in 1867 was becoming known as 'Seward's Folly.'

By 1870, that is, by the time the San Juan problem was reaching definite solution, there had grown up in England a considerable imperialist movement. The market uses of the colonies for English goods, the gradual withdrawal of imperial troops and the consequent reduction of expenditure, the growth of telegraphic communication, the vision of a new, powerful Canada after Confederation in 1867, the evident desire of other powers to acquire colonies, the decline of the influence of the Manchester School, the reaction against the Gladstone Government which

1. 'Daily News,' 28th October, 1872.

which was accused of being anxious to cut the colonies adrift at a time when Italy and Germany were achieving national unity and consolidation and the United States were emerging from a long civil war to vigorous nationhood, all these were factors conspiring to encourage the new imperialism. A powerful Canada would be the best bulwark against United States' aggression, and would be vastly instrumental in establishing a very desirable political equilibrium on the North American continent.

When Disraeli, a recent convert to the new imperialism, came into office in 1874 the new movement was assured of success for the new Prime Minister when putting his policy before the country had announced that the future of Great Britain lay in the growth and splendour of her oversea possessions, and in the terms of rhetoric peculiar to politicians he had two years before proclaimed himself the enemy of the 'Little Englanders.' "There had been no effort," he said, "so continuous, so subtle, supported by so much energy, and carried on with so much ability and acumen, as the attempt of Liberalism to effect the disintegration of the British Empire."⁽¹⁾

The opinion prevailing in the United States during the greater part of the century was that Britain would yield in the end to American demands, however impossible, rather than go to war. All British Ministers to the United States note this phenomenon, Pakenham and Lord Lyons making frequent reference to it. Even Odo Russell, Ambassador at Berlin, marvelled at Britain's "most decided terror of the Americans, to whom five milliards would willingly be paid for the sake of a quiet life."⁽²⁾ Indeed, it was more or less openly asserted in 1872/

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1. Speeches, II, 530, quoted in Egerton, op. cit., p. 311.
 2. To R. Morier, 21st October, 1873, quoted in Wemyss, 'Memoirs of Sir Robert Morier,' II, 275, London, 1911.

1872, both in England and Canada, that the express exclusion of a centre line of demarcation from the consideration of the arbitrator was conceived purposely as a device to conciliate the United States by ceding San Juan to them. (1) The ordinary American politician believed that Great Britain would submit to anything rather than fight. Both political parties in the United States made capital consistently out of relations with England, and each sought to be able to boast that it had made Britain yield without fighting.

3. The Government of 1846 and the Award.

What are we to say of the negotiators of 1846? How, for example, explain the failure of those responsible statesmen, outstanding in their century, during negotiations and deliberations almost continuous over a period of years regarding the possession of a huge tract of land, to use a modern map at all and to consult frequently and know accurately even the ancient maps at their disposal? How was it possible for eminent diplomatists, who decided upon the line of boundary they would demand as early as 1844, to proceed with intensive discussions during the succeeding two years apparently without once realising that the line they had chosen was very imperfectly marked beyond the mainland? It is amazing to find Aberdeen, Peel, Pakenham and their assistants troubling so little about the complex nature of the area between Vancouver Island and the mainland.

It is difficult to believe that Lord Aberdeen, who did not even know the correct name of the waterway between the mainland and Vancouver Island on the 49th parallel/

1. Even Lord Granville, the Foreign Secretary, suggested to Mr. Gladstone the liquidation of the Alabama Claims by the cession of San Juan. See E. Fitzmaurice, 'Life of Second Lord Granville,' London, 1905, II, 83.

parallel, ⁽¹⁾ and Sir Robert Peel, who, according to the terms of his speech of 29th June, 1846, in the House of Commons, was under the impression that the 49th parallel actually touched the Strait of Fuca, had adequate knowledge of the topography of the disputed area. Yet that they knew of the existence of the network of islands between the mainland and Vancouver Island seems certain from the words of H. U. Addington, Permanent Under-Secretary at the Foreign Office, ⁽²⁾ and of Sir J. H. Pelly, Governor of the Hudson's Bay Company. When news of the Senate's decision to abrogate the Convention of 1827 reached London in May, 1846, Lord Aberdeen, we noted, immediately got in touch with Pelly to discuss the boundary question, the celebrated despatch of 18th May being the outcome of their deliberations. Four days later Pelly wrote to Aberdeen giving the explicit views he had conveyed verbally a few days before, and this statement of his contains clear mention of the complex nature of the area directly west of the mainland at the 49th parallel. ⁽³⁾ This would indicate almost conclusively that Lord Aberdeen knew of the existence of the Haro Archipelago, though probably not of the existence of more than one navigable channel, and deliberately ignored it in case admission of the presence of islands between Vancouver Island and the mainland would delay settlement of the greater issue. The clue to this unfortunate negligence is to be found in the Foreign Office records. Trouble over the line of demarcation had been foreseen in 1846, "but/

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1. Lord Aberdeen talks of "King George's Sound" (a name never before nor afterwards used) when presumably he means the Gulf of Georgia. In his book Captain Vancouver gives the name, "King George Third's Sound" to the sound outside the modern town of Albany in South-West Australia. See Vancouver, 'Voyage of Discovery,' London, 1801, I, 161.
 2. Supra, p. 6.
 3. F.O. 5/809. A photostat copy of Vancouver's chart is in the Appendix to this monograph.

"but this consideration being of less importance than the conclusion of the Treaty, the Treaty was concluded and signed." (1)

In the light of this positive evidence it is clear that the British negotiators of 1846 could easily have inserted in their draft of the Oregon Treaty a clause which would have obviated the controversy over San Juan of the subsequent quarter-century. We can only say in extenuation of this neglect that the American negotiators of 1846, notably Secretary Buchanan, also entered the discussions with befogged minds. Buchanan's views definitely required clarifying. He understood the boundary was to follow the 'main, navigable channel' which narrowed the issue for him to Haro and Rosario Straits, and he left the matter there. When he heard McLane, Benton and Cass speak of Haro he assumed it to be the 'main, navigable channel.' The possibility of the existence of more than one channel seems never to have entered into Buchanan's discussions with Pakenham, or into McLane's with Aberdeen. The British negotiators could argue in defence that the Americans were as culpable as they in failing carefully to define the boundary/

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1. See Addington's memorandum of 27th February, 1854, in F.O. 5/809. When Viscount Palmerston took over control of the Foreign Office, he was reminded almost at once of the disputed islands. Pelly saw him on 29th July, 1846, and recalled to him the fact "that there are numerous islands and I believe passages between them but I believe the largest to be the one Vancouver sailed through and coloured red in the tracing and I think this is the one which should be the boundary." (F.O. 5/809). Another interesting fact in this connection may be noted. When, in December, 1859, Lord John Russell was drawing up instructions on the San Juan controversy for Lord Lyons, he spoke of Aberdeen's failure in 1846 to draw the line through the islands of the Haro Archipelago as being owing to "the absence of precise information as to the water and lands in question," and he also asserted that, "imperfect as was the information then before the British Government," they wanted access to all possible harbours. But a significant marginal note by the Permanent official explains that the two phrases just quoted were omitted from the final draft "because Sir J. Pelly's letter shows that Lord Aberdeen had accurate information." (F.O. 5/814).

boundary channel. Had the American demanded a minor change in the projected terms in 1846, such as a phrase accurately defining the channel to be taken as boundary, we know that Pakenham had power, as well as time, so to emend the draft. (1)

4. Rival Diplomatic Methods.

Experience should have taught the British the futility and folly of leaving lacunae in treaties, especially in treaties with the United States. The American diplomats were always shrewd and quite properly alert to interpret treaties in the sense most beneficial to the United States. As in the Oregon negotiations credit for initiating discussions over San Juan is clearly due to Great Britain although, since her representatives composed the terms of the Treaty of 1846 and were therefore responsible for the difficulty of interpretation, it was meet that she should take the first steps towards securing a clarification of those terms. That put Britain at a disadvantage because when the United States' Government saw their eagerness for adjustment they disguised their own attitude under an appearance of indifference and apathy. The American policy was to affect surprise when the British representatives mentioned Rosario Strait as boundary, just as it was the British policy to affect surprise when the Americans mentioned Haro. In negotiations with her it was the settled United States' policy to refuse every initial offer made by Britain with the expectation that the next one would be more favourable. This policy, it must be admitted, worked rather well, particularly in the Oregon negotiations, although in the Water/

1. Buchanan noticed that Aberdeen's projet, which became the Oregon Treaty, did not provide for the line passing through Haro, but he thought "this would probably be the fair construction." See Buchanan to McLane, 6th June, 1846, quoted in Moore, "Works of James Buchanan," VII, p. 3.

Water-Boundary controversy, where there was choice among three lines only, it had not much scope for operation.

The Americans always knew what they wanted, and are to be admired for the tenacity with which they held their views and the determination they consistently displayed in the presentation of their case. They were always confident of the issue though their demonstrations of confidence may at times have appeared boorish. The conduct of Archibald Campbell, the United States' commissioner in the negotiations of 1856-59 whose views were markedly coloured by his assessment of the military importance of the Island of San Juan, illustrates this. He was convinced that his country had a clear title to the line of the Haro Channel and his treatment of Captain Prevost, who had the temerity to propose Rosario Channel as boundary, was the reverse of considerate.

Great Britain was often dilatory through carelessness; if the Americans were at any time dilatory it was a stroke of policy. For instance, Governor Douglas found it necessary to make repeated reports and complaints about the position at San Juan before anything was done; the Americans could always be sure of an Ebey, or a Cutler, or a Harney to keep the subject to the fore.

On the whole, the British case in the San Juan controversy was handled much more satisfactorily than the Oregon dispute. The old apathy is not so often apparent, and there is displayed - not consistently, it is true - real anxiety to gain a point. Lord John Russell is particularly to be congratulated for his conduct even though he made at least one unfortunate tactical mistake. Within two months of assuming office he had initiated attempts to conclude the dispute and, if he had remained at the Foreign Office/

Office, it is more than possible that the middle channel would have become the adopted line of boundary.

The value of the islands in dispute was fully appreciated, and it is almost ludicrous to think that Great Britain was prepared to do so very much more for their retention than she had ever imagined doing to hold the vast area of Oregon. It had never occurred to her, for instance, to people Oregon with British immigrants, although the suggestion was seriously made - a memorandum in the Foreign Office records it - that immigration to San Juan might be encouraged in order to prejudice adjustment of the dispute. This is explained, at least partially, by the extreme importance attached to possession of the Island of San Juan by the military experts on both sides. It was realised that occupation of San Juan meant virtual control of the very important Vancouver Island, and control of Vancouver Island comprehended control of the coast of British Columbia. It is true that the Admiralty inclined to minimise the importance of San Juan because of their overwhelming naval preponderance, particularly in the Pacific, but they did not foresee the aerial warfare of to-day or the day of Anglo-American naval parity. It was fortunate for Britain that the Colonial and Foreign Offices were inclined, if anything, to magnify the strategic value of the Island.

In this respect and in several other ways, Great Britain displayed a vigour in the conduct of the Water-Boundary negotiations that had often been lacking during the Oregon controversy, and it is interesting to note that this vigour made its appearance in spite of the absence of/
of/

of strict departmental unanimity in the deliberations of the Government.

5. Canada and the Award.

Mention of the intrinsic value of San Juan leads to a question already raised in considering the Oregon Treaty. What was the value to Canada of the Island, and could the Canadians complain legitimately that by giving up San Juan the British Government were ignoring them and showing a want of regard for their security? Some Canadian historians may denounce the apathy and carelessness of the British diplomatists in dealing with matters affecting Canada, but their denunciation in the case of the San Juan controversy, particularly in that part of its progress concerned with the Treaty of Washington negotiations in the post-Confederation period, is not wholly just.

There had been considerable agitation in Canada previous to the signing of the Treaty of Washington lest Canadian interests be sacrificed. The Fisheries Question, however, was in the forefront after 1866 and, luckily or unluckily, San Juan did not intrude itself too prominently. The construction of a trans-continental railway was being mooted and though the railway was not begun till 1885, the possibilities which it envisaged were beginning to impress themselves upon the minds of the Canadian people. More especially was this true now that British Columbia was a province of the Dominion. San Juan lay at the western outlet of Canada, and the Island would assume an entirely new significance now that there existed the possibility of the development of the vast prairie lands/

lands of the North-West Territories. Though even in our own day this western outlet for the wheat of the prairie provinces has not been fully exploited, in those days the danger was seen by some that the Americans might establish San Juan as a powerful fort which would threaten the safety of the western terminus of the railway.

Cartier, one of the 'Fathers of Confederation,' had thought fit to see Lord Granville, the Colonial Secretary, and to write to the British Government in 1868, putting before them the Canadian attitude towards San Juan. He stressed the vital importance of the Island to British Columbia, and reminded Great Britain that Canada's experience of past diplomacy in the settlement of boundaries in North America, where the disposition on the one side to concede, and on the other to encroach, was always present and always resulted disastrously for Canada, suggested that a similar disposition and parallel results might be feared in the future. ⁽¹⁾ Yet when the terms of the Treaty of Washington, submitting the subject to a restricted form of arbitration, ⁽²⁾ were made public, there was no complaint from/

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1. F.O. 5/810. " every resource of diplomacy, and every argument derived from the practice and policy of coterminous nations, from the geographical position and maritime requirements of the respective countries in the gulf, as well as from the language of the Treaty should be exhausted before a strategic position be given up, which future generations of loyal subjects may have occasion to regret"
 2. A 'Very Pressing' minute by Lord Tenterden, dated 3rd November, 1872, to the following effect: "Lord Granville [now Foreign Secretary] wants to know whether there was any criticism from Canada or from Sir John Macdonald as to the terms of the submission of the San Juan question before the award was made," and the answer that "the Colonial Office are not aware of any such criticisms having been made," prove that Canada made no complaint in 1871. Moreover, in the division that took place on the matter of the Treaty in the Canadian House of Commons all six British Columbia members voted for the Treaty. Hansard, CCXV, 1441.

from the Canadian public nor from the Canadian Government, either that a mistake was being made in referring the whole question to arbitration or that an error was being committed in ruling out the possibility that the middle channel might be adopted. Had they offered criticism then, that is, in 1871, they would have been justified later in denouncing the award of October, 1872. They accepted the decision without demur and, indeed, were able to predict the arbitrator's terms some time before their publication. The 'British Colonist', published in British Columbia, for instance, the best informed newspaper on the subject of San Juan, was able on 20th September to anticipate the adverse decision.

While the Treaty of Washington was being drawn up, Sir John A. Macdonald, the Canadian representative, was too preoccupied with the Fisheries controversy to be greatly concerned with San Juan. His correspondence proves this conclusively, and while he had misgivings about signing the Treaty he seems only to have hesitated over the Fisheries articles. His biographer says: "In Sir John's opinion at the time they were the weak spot in the Treaty. As to everything else, he considered, speaking generally, that the Treaty was a fair one, but in regard to the Fisheries Canada's interests had been subordinated to imperial necessities."⁽¹⁾ Macdonald at first thought of declining to sign the Treaty because of his dissatisfaction with the Fisheries clauses, but he could not contemplate the 'terrible consequences' if the Treaty became a total failure. Had he refused to sign, the Treaty would have gone to the Senate with the Fisheries question left open and, therefore, sure to be rejected. The hopes of the American people would have/

1. Pope, 'Sir John A. Macdonald,' London, 1894, p. 140.

have been replaced by a feeling of great irritation, and the conviction would have grown that there was no chance of a peaceable solution of the difficulties between the two countries, and that the only solution would be war whenever the United States thought they might profitably undertake it.

Macdonald's first suggestion to his colleagues who negotiated the Treaty of Washington was that joint occupation of San Juan for twenty-five years should be tried. This, he felt, would give adequate time for the settlement of the future of British Columbia. The Americans felt that its annexation to the United States was imminent, but the Canadians were confident that its future would be linked with that of Canada. When arbitration was finally agreed upon by the negotiators Sir John A. suggested that, no matter what line of boundary the arbitrator decided upon, all three channels should be free to both sides and no fortifications should be erected in the islands of the Haro Archipelago. It was his conviction that, if San Juan were left unfortified, and war came, Britain with her naval superiority could seize⁽¹⁾ it and hold it against all attacks.

If the San Juan articles of the Treaty of 1872 were unfortunate from a Canadian point of view, the Treaty was, nevertheless, a landmark in Canadian history because it "liquidated a decade of the worst relations since the War of 1812," and it was a double achievement, "a place in British policy for the newly-federated dominion which supplied one of the British plenipotentiaries and ratified the Treaty, and a recognition (it was hoped) on the part of the United States of another 'manifest destiny' in North America."⁽²⁾ If San Juan had been used by the negotiators merely as a bargaining weight, its loss, in Canadian eyes, was not catastrophic.

1. See L.B. Shippee, 'Canadian-American Relations, 1849-1874,' New York, 1939.
2. C. Martin, 'The United States and Canadian Nationality,' Canadian Historical Review, March, 1937, p. 9.

APPENDICES TO PART II

I. CHRONOLOGICAL LIST OF OFFICIALS

II. REPORT OF CAPTAIN RICHARDS

III. REPORT OF GERMAN EXPERTS

IV. TREATY OF WASHINGTON, 8th MAY, 1871

PHOTOSTAT COPY OF MAP SHOWING ALL THREE CHANNELS

PHOTOSTAT COPY OF VANCOUVER'S CHART

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APPENDIX I

CHRONOLOGICAL LIST OF OFFICIALS

CHRONOLOGICAL LIST

British Foreign Secretaries.	Dates.	Ministers at Washington.	Appointment Dates.	U. S. Presidents.	Dates Offices.	U. S. Secretaries.	Dates Offices.	U. S. Ministers.
Castlereagh	4th Mar., 1812	C. Bagot	Jul. 31, 1815	James Monroe	Mar. 4, 1817	John Q. Adams	Mar. 3, 1817	J. Q. Adams
	16th Sep., 1822	S. Canning	Jul. 18, 1820		Mar. 4, 1825		Mar. 8, 1825	Rush
	to 30th Apr., 1827	Sir S. Canning						(Rush
Canning		C. R. Vaughan	May 21, 1825					(King
Vis. Dudley	to 2nd Jun, 1828	" "		John Q. Adams	1825-	Henry Clay	1825-8 Mar.	(Gallatin
					1829		1829-6 Mar.	(Lawrence
Aberdeen	to 22nd Nov., 1830	" "						(Barbour
								(McLane
Palmerston	15th Nov., 1834	" "		A. Jackson	1829-		1831-33 Mar.	(Van Buren
					1837		1833-34 Jun.	(Vail
Wellington	18th Apr., 1835	" "					1834-41 Mar.	(Stevenson
Palmerston	2nd Sep., 1841	H. S. Fox	2nd Oct. 1835	M. Van Buren	1837-	Forsyth		Stevenson
					1841			
Aberdeen	6th Jul., 1846	Pakenham	14 Dec., 1843	W. H. Harrison	4 Mar. -	Webster	Mar. 1841-	"
					4 Apr. 1841		May. 1843	
Palmerston	27th Dec., 1851	Sir H. Bulwer	27 Apr., 1849			(Webster		Everett
						(H. S. Legare	Jun. 1843-	(Nov. 1841-
Granville	28th Feb., 1852	J. F. Crampton	19 Jan., 1852	J. Tyler	4 Apr. 1841-	(A. P. Upshur	Feb. 1844	(Aug. 1845
					4 Mar. 1846	(J. Nelson	6 Mar. 1844-	
						(J. C. Calhoun	5 Mar. 1845	
Malmesbury	28th Dec., 1852	" "						L. McLane
		Vincent	28 May, 1856					G. Bancroft
Clarendon	to 28th Feb., 1858	Lord Napier	20 Jan., 1857	J. K. Polk	1845-49	J. Buchanan	1845-49	Nov., 1846-
							7 Mar. 1849	Aug., 1849-
Malmesbury	to 18th Jun., 1859	Lord Lyons	17 Dec., 1858	E. Taylor	4 Mar. 1849-	J. M. Clayton	Jul. 1850	
					1850			

British Foreign Secretaries.	Dates.	Ministers at Washington.	Appointment Dates.	U. S. Presidents.	Dates Office.	U. S. Secretaries.	Dates Office.	U. S. Ministers.
L.J. Russell	to 3rd Nov., 1865	Sir F. Bruce	1st Mar. 1865	M. Fillmore	Jul. 1850- Mar. 1853	(Webster (Everett	Jul. 1850 1852-53	A. Lawrence J.K. Ingersol
Clarendon	to 6th Jul., 1866	"	"	F. Pierce	1853-57	W.L. Marcy	1853-57	Buchanan Aug. 1853-Mar 1856
Lord Stanley	to 9th Dec., 1868	Sir E. Thornton	6th Dec. 1867					
Clarendon	to 6th Jul., 1870	"	"	J. Buchanan	1857-61	L. Cass S. Black	Mar. 1857- Dec. 1861 1860-61	G.M. Dallas May, 1856-61
Granville		"	"	A. Lincoln	1861- Apr., 1865	W.H. Seward	Mar. 1861- Mar. 1869	C.F. Adams May, 1861-68
		"	"	A. Johnson	1865-69			R. Johnson Aug. 1868-69
		"	"	G. Grant	1869-77	H. Fish	1869-73	(R. Johnson (J.S. Motley May, 1869- Jan. 1870 (R.C. Schenc

APPENDIX II

REPORT OF CAPTAIN RICHARDS

"REMARKS ON THE STRAIT OF GEORGIA,
WITH THE CHANNELS LEADING INTO THE STRAIT OF FUCA
IN CONNEXION WITH THE BOUNDARY QUESTION
BETWEEN HER MAJESTY'S GOVERNMENT AND THAT OF
THE UNITED STATES OF AMERICA"

The 49th parallel of north latitude first enters the waters of the Pacific at the eastern side of the Strait of Georgia, and passing through Semiahmoo Bay, an extensive opening 10 miles from east to west, it intersects a narrow peninsula the extreme of which was named by Vancouver Point Roberts. This point appears from the Southward as a bold white-faced cliff; it is 200 feet high and extends for one mile and three quarters south of the parallel; there is a fair anchorage on either side of it; to the northward it falls in elevation and at the distance of two miles merges into the low swampy land which forms the southern entrance of the Fraser River, - the entrance being 7 miles from the extreme of the point. Continuing across the Strait of Georgia, at the distance of 19 miles the parallel crosses a chain of narrow islands which lie along and parallel with Vancouver Island, at the distance of 7 miles from it.

Strait of Georgia.

The Eastern Coast of this chain of islands may here be considered as the western boundary of the Strait of Georgia, while the shore of the peninsula, of which Point Roberts is the extreme, may be taken as its eastern limit.

From the point on the parallel in the centre of this Strait its true direction towards the Strait of Fuca is S. E. by E. for a distance of about 19 miles, when it gradually expands to a width of nearly 40 miles and may be said to lose entirely the characteristic features of a single strait.

The space now entered upon is encumbered by numerous islands varying in size and character, among which are three distinct navigable ship channels leading into Fuca Strait.

The two principal of these have been named Rosario and Haro Straits; and the third, the Middle Channel. There are/

are besides other smaller channels; the Bellingham and the Lummi on the continental side, and the Swanson and Sansum on the Vancouver Island side; but they may scarcely be considered as a highway for ships passing through the Strait of Georgia, especially the two latter which have no convenient entrance to the northward.

From the point where I have considered the Strait of Georgia to cease, viz., midway between Saturna Island on the Vancouver side, and 4 miles south of Point Whitehorn on the shore of the Continent, and $2\frac{1}{2}$ miles due north of Patos Island, its waters merge on almost the same line of bearing (S. E. by E.) into that of Rosario, passing eastward of Patos, Lucia, Mata, and Clark Islands, thence between the large island of Lummi and Orcas; at Point Lawrence, the eastward point of Orcas, it trends a little westward of south for 3 or 4 miles and then leads by a due south course into the Strait of Fuca; the whole distance, from the point just mentioned as where the Strait of Georgia ends, being 30 miles.

The width of Rosario Strait varies from 6 miles to $1\frac{1}{2}$. At its northern entrance between the Island of Sucia and Sandy Point on the mainland, it is 6 miles across, but the Alden Shoal which lies almost between these two points interferes in some measure with the navigation of this entrance.

There is however a clear channel of 4 miles, eastward of it, and one of $1\frac{1}{2}$ miles westward of it. The least water in the shoal is $2\frac{1}{4}$ fathoms; it is an extensive patch, being $2\frac{1}{2}$ miles north and south, and more than a mile east and west. On the greater part of it anchorage may be had in from 5 to 9 fathoms.

I consider it rather an advantage than an impediment to the Channel; the shoal part which would bring a ship up/

up is of small extent, and is easily avoided by good natural leading marks during the day, and by the beach [?] at night. It is a manifest advantage to be able to anchor in a moderate depth should calms, strong tides, or fogs render it desirable, and when it would probably be impossible to reach a harbour.

The width of the Strait, southward of the Alden shoal, soon decreases to $3\frac{1}{2}$ and 2 miles, which latter is about its average breadth. Between Cypress and Blakely Islands it is as little as $1\frac{1}{3}$ mile, but soon opens out again to $2\frac{1}{2}$. The Bird and Belle rocks, which lie almost in the centre of the Strait $3\frac{1}{2}$ miles within its southern entrance, are the greatest dangers which exist to impede its navigation. The former is an extensive rock 15 feet above high water, the latter lies N. N. E. of it more than half a mile and only uncovers at low water. The tides which sweep with considerable strength over these rocks must render the channel dangerous to sailing vessels in calms or fogs, and it is of great importance that a lighthouse should be erected on one of them. The passage eastward of them is $1\frac{3}{4}$ miles wide, while that to the westward is $1\frac{1}{2}$ miles.

The Williamson and Dennis Rocks which extend about $\frac{1}{3}$ of a mile off the S. W. side of Allan Island must also be avoided by vessels working up the Strait: the former is 12 feet above high water, the latter only awash at low springs.

A sunken rock lies $\frac{5}{4}$ of a mile E. by S. of Colville Island so that vessels entering Rosario Strait from the southward or westward should give that island a good berth. This rock is marked by Kelp.

The only other hidden dangers which have been discovered to exist in Rosario Strait are the Panama Reef, which extends $\frac{1}{2}$ of a mile off the N. W. end of Sinclair Island, it is marked by Kelp and uncovers at low water, and a rock the same/

same distance west of Rock Islet near the north end of Cypress Island; this rock is also marked by Kelp and uncovers at low water.

The tides in Rosario Strait run with considerable strength; in the narrow part between Cypress and Blakely Islands they have been found during springs to exceed 6 miles an hour, in the other parts of the Strait their velocity is from 2 to 5 miles. The general depth of water being from 25 to 35 fathoms over the greater part of the Strait admits of vessels anchoring should it be necessary; but the most desirable stopping-places are Fidalgo Bay on the western side of the Island of the same name; Watmouth Bight on the S. E. side of Lopez Island; the Guemes passage; and Strawberry Bay on the west side of Cypress Island. Very fair anchorage may be found a mile off the shore of the mainland, from Sandy Point to Semiahmoo Bay, and Birch Bay affords good shelter.

Haro Strait.

Haro Strait from the point where the Strait of Georgia is considered to cease takes a direction nearly S. W. (true) between the east point of Saturna and the small island of Patos, for a distance of 8 miles, then W. by S. for almost an equal distance or until between Stuart and Moresly Islands, where like the Rosario, it runs almost due south until it reaches the Strait of Fuca, a further distance of about 20 miles.

The width of Haro Strait at its northern entrance between East Point and Patos Island is $2\frac{1}{2}$ miles, where from the strong tides and irregularity of the bottom heavy races occur; about the same width is carried for 12 miles, when between Turn Point and Moresly Island it decreases to something less than 2 miles, and the narrowest part which is between Stuart Island and Cooper Reef is $1\frac{5}{4}$ miles; after passing south of Henry Island it gradually widens and at its southern entrance/

entrance is 6 miles in breadth.

The water is deeper and more irregular in the Haro Strait than in that of Rosario, and though the tides run with about equal velocity in both, the former is more subject to irregularities and races.

The western shores of San Juan Island, which form the eastern side of the Strait, are bold and steep close to, and should be kept on board [?].

In passing up the Strait, when northward of Henry Island, vessels should not stand far into the Spieden Channel as rocks and very strong and irregular tides occur there. There is however a clear channel through.

Off Turn Point of Stuart Island there are strong whirls and eddy tides, and, unless with a commanding breeze, a sailing vessel is liable to be turned round by them and lose the power of her helm.

The western side of the Haro Strait is not free from dangers.

The Zero Rock and its neighbouring shoals in Cordova Bay, also the Kelp reefs, which extend southward and east-ward of Darcy Island, must be avoided.

Cormorant and Cordova Bays however afford good anchorage. To enter the former vessels should stand in mid-way between Gordon Head and Zero Rock and anchor in 9 fathoms, where they will be free from any considerable tide. The low and bare islands, northward of Sidney Island, should not be approached very close and the Cooper Reef should be particularly avoided. It must be borne in mind that the flood tide sets strongly to the N. W. through the Miness Channel, and sailing vessels would be very liable to be set into it during light winds.

Plumper Sound which separates Saturna and Pender Islands is an excellent anchorage with moderate depth of water, and/

and one of the few among the Archipelago which is of easy access to a sailing vessel. Bedwell Harbour 2 miles eastward of it is also a snug anchorage.

Cowlitz Bay on the western side of Waldron Island is an excellent stopping-place easy of access or egress.

There are two small anchorages on Stuart Island - Reid and Prevost Harbours - but they are only suited to small vessels or steamers.

I have now enumerated all the anchorages in the Haro Strait which a vessel might take advantage of in passing through. The great depth and irregular nature of the bottom would render it impossible for a vessel to anchor anywhere in the centre.

Relative Capabilities of the Two Straits.

As regards the comparative merits of the two Straits - Haro and Rosario - I would observe that owing to strong tides and the general absence of steady winds, the navigation of either must always be attended with considerable risk and great delay to sailing vessels; the comparatively moderate depth of water in Rosario Strait which enables a vessel to anchor if caught in a critical position, gives it some advantage to such a class of vessel. As navigable steam channels I think they possess equal advantages, both being perfectly safe and easy during day time; to make them so at night they would require to be lighted.

Vessels passing through the Strait of Fuca and bound for the Fraser River or Nanaimo, would, unquestionably, take the Haro Strait as they would save a distance of from 12 to 15 miles.

Those from Port Townshend, or any of the United States ports southward, bound to the same places or to their own settlements in Bellingham Bay would certainly adopt the Rosario/

Rosario Strait.

Middle Channel.

The Middle Channel, which is bounded on the west by San Juan Island, and on the east by Orcas, Lopez, and some smaller islands, though inferior in capacity to the Haro or Rosario is yet a perfectly safe channel for steamers; it is open to the same objections for sailing vessels, and in a greater degree, in consequence of its width, which on the average is not much over a mile. From the northward after passing between East Point and Patos Island, or eastward of Patos, (the former to be preferred) it may be entered on either side of Waldron Island. The Douglas Channel however to the eastward is recommended on account of the regularity of the tide and its entire freedom from hidden dangers. Vessels passing westward of Waldron Island must avoid the white rock with its offlying reefs; they may be passed on either side, but the ebb setting southward through Douglas Channel would be liable to drift a vessel on them, unless with a commanding breeze, if passing on their eastern side.

Flattop Island may be passed on either side, but if the Douglas Channel is not taken, then the best course is westward of white rocks and Flattop Island.

The centre or western side of the Middle Channel should be taken until approaching Point Caution, when a vessel haul over on the eastern shore to avoid the Reid Rock, which is a dangerous patch with 12 feet on it, lying almost in the centre of the channel, also the Turn rocks which lie off the Island of the same name and are covered at high water; the tide sets very strongly over these rocks;- after passing them the prairie land on the west side of Griffin Bay is seen and good anchorage is to be found a mile off it in 10 fathoms. A vessel should anchor, however, immediately she gets 10 fathoms, as/

as the water should suddenly within that depth.

The southern entrance to the Middle Channel is scarcely $\frac{3}{4}$ of a mile wide, the tides are strong, and the bottom very irregular, which causes races; a sailing vessel should not attempt it unless with a leading wind and fair tide, and the winds are rarely steady in the entrance. A bank extends for 2 miles south of the western entrance point with as little as 3 fathoms on it at low water; the shortest part, however, is little more than a mile south (magnetic) from the point. A ship should give the point a berth for two miles.

When fairly in the Strait of Fuca the passage to the open sea will be clear and easy at all times, so soon as the Strait is properly lighted. The excellent lights already established on Smith Island and New Dungeness by the United States Government enable vessels to sail out of Rosario Strait, or from their numerous ports in Admiralty Inlet at all times, and to proceed to sea with the utmost confidence; the latter is scarcely lost sight of when that of Cape Flattery, a light of the first order, comes in view, and is a boon to ships of all nations entering or leaving the Strait.

The Haro Strait from its position with reference to British ports, its entrance scarcely 10 miles from the Harbour of Esquimalt, the port of entry, must be almost entirely used by British vessels.

To the commerce of British Columbia; to the rising port of Nanaimo, which probably for many years will be the great coal depot, to the coasting trade, which will rapidly rise into importance so soon as Vancouver Island is open to the enterprise of the Agriculturist and the Settler, this Strait is of equal interest. As yet there are no lights to facilitate access to or egress from it, or the Harbour of Esquimalt, and there can be but little doubt that the colony even in its present infant state has suffered considerably in consequence.

The/

The position in which I consider it would be of the first importance to place a light house is the Great Race Rock, one of a dangerous cluster which lie a mile from the S. E. point of Vancouver Island. This rock is 9 miles from Esquimalt Harbour and visible from its entrance. It is admirably adapted as the site of a lighthouse, its extent 250 yards by 150, its light 25 feet above high water, excellent stone for building to be obtained on the spot without trouble, and sheltered landing when communication with the mainland would rarely be interrupted. A light here would in connexion with those on Cape Flattery and New Dungeness render the navigation of the Strait of Fuca safe and easy. Secondly, a Harbour Light on Fissard Island at the entrance of Esquimalt Harbour. This is also an excellent position, could be established at a trifling cost, and would enable vessels to enter at all times instead of, as is now frequently the case, being obliged to wait outside for daylight, and perhaps swept away by the strong tides.

A light on Trial or Discovery Islands the turning point into the Haro Strait would also be of great value; though until commerce increases so much as to justify the lighting of the upper part of the Strait, this may not be considered as absolutely necessary. ⁽¹⁾

(1). Copy in F. O. 5/810; enclosure No. 1 Prevost to Malmesbury of 30/11/58.

APPENDIX III

THE REPORT OF THE EXPERTS

APPOINTED BY THE EMPEROR OF GERMANY

TO ARBITRATE THE SAN JUAN WATER BOUNDARY DISPUTE BETWEEN

GREAT BRITAIN AND THE UNITED STATES: 1872 (1)

- (1) Translated from the report in the Reichsarchivs,
Potsdam, Germany.

On 20th October, 1818, an agreement was made by Great Britain and the United States concerning the boundary line in North-West America. By this Treaty the forty-ninth parallel of north latitude was to be the boundary from the Lake of the Woods westward to the Rocky Mountains. The land to the west of the Rockies (between 42° and 54° 40', the so-called Oregon territory), which was claimed by one or other of the Powers, together with its harbours and shipping rights on the river of Oregon was to remain open for ten years to the citizens and subjects of both countries, quite apart from the rights of each of the Powers to the land claimed by them.

However, before the termination of the ten years, negotiations were entered upon to fix the boundary on the west of the Rocky Mountains, thereby finally settling the Oregon question. The sole result was to extend the conditions of the Treaty of 20th October, 1818, for an unlimited time, with the reservation that either side might give twelve months' notice of abrogation.

The matter was again under review in 1842 and continued in the subsequent years, resulting in the Treaty of 15th June, 1846. According to Article 1 of this Treaty (the wording of which is given below), the boundary line was to go partly through the middle of a channel indicated in the said Treaty. Later, a difference of opinion between the signatories arose as to which channel was intended in the Treaty. The British asserted it was the channel now named Rosario Strait, whereas the Americans said it was the Haro Channel.

By the Treaty of 8th May, 1871, Article 34, the two Powers agreed to submit their case to the German Emperor, who graciously consented to act as arbiter.

After receiving memorials from each side in support of their claims and in refutation of the opponent's claim (together with notes on the opponent's memorial), the Emperor said/

said that in view of the decision he was to give within three months, he would await the advice of Vice-President Grimm of the High Court, and Councillor Goldschmidt of the Imperial High Court of Commerce, and Professor Kiepert.

The first Article of the Treaty of 15th June, 1846, runs thus: "From the point on the forty-ninth parallel of north latitude, where the boundary laid down in existing Treaties and Conventions between Great Britain and the United States terminates the line of boundary between the territories of Her Britannic Majesty and those of the United States shall be continued westward along the said forty-ninth parallel of north latitude, to the middle of the channel which separates the continent from Vancouver's Island; and thence southerly, through the middle of the said channel, and of Fuca's Straits, to the Pacific Ocean; provided however, that the navigation of the whole of the said channel and straits, south of the forty-ninth parallel of north latitude, remain free and open to both Parties."

How we are to understand this Treaty and the problem arising from it depends on the geographical position. As it is not asserted by either side that by mutual agreement any particular map was the basis [of negotiation], we must take the position as it was on the maps in current use at the time of the framing of the Treaty as the one accepted by the contracting parties.

Now, each of the Powers has produced several maps, some of which are earlier than 15th June, 1846; others again are of more recent date. Amongst the earlier are two, produced by both parties, a Spanish one based on a survey begun in 1789 and completed in 1792 by an expedition with the ships, 'Sutil' and 'Mexicana,' and published in 1798, and an English one which Captain Vancouver inserted in his book (published in 1798) on an expedition undertaken in 1792 at the instigation of the British Government.

This Vancouver map is said by the British to have been/

been the standard map from 1798 up to some time after 1847 for all British ships sailing between the mainland and Vancouver: it had been in general use up to the end of 1846; in fact, they said it was the one referred to when the British Government drafted the first Article of the Treaty of 1846.

This map will therefore be mainly considered in the reading of the Treaty, though attention must also be given to the one compiled by Lieutenant Wilkes, the American, and published by him in 1845 in England and in America.

A glance at the Vancouver map (to which the Wilkes map only adds details) shows at once how inexact the relation is between the Treaty and the geographical position as given by the map. There does not exist one single wide arm of the sea between the forty-ninth parallel of north latitude and Fuca Straits that might be considered indubitably a boundary; there is, however, one only (the most southerly part of the Gulf of Georgia) for about a quarter of a degree south of the forty-ninth parallel of latitude, while farther to the south at the Fuca Straits, i.e., at a distance of about a third of a degree of latitude (5 German geographical miles), the sea between Vancouver Island and the mainland has a group of islands between which three different arms of the sea or channels connect the Gulf of Georgia in the north with the Fuca Straits in the south.

Of these channels one is nearer the mainland in the east; it is not indicated by name on the Vancouver map, but is merely designated as the one which Vancouver's ship had taken in its course. On the older Spanish map already mentioned, it is called the Fidalgo Channel; since 1849 it has been known as the Rosario Strait or Rosario Channel, and it is averred by the British Government that this is the channel of the Treaty. The other channel extends westward partly along Vancouver Island and is called in the Vancouver map 'Canal de Arro,' now more correctly spelt Haro, and according to the American Government it is the channel intended by the Treaty. Now, according as the former/

former or the latter channel is the correct one, the group of islands of about eight German square miles between the two channels will belong to Britain or to America.

The third channel, now called the Middle Channel, is roughly mid-way between the other two channels.

Whether and how far the third channel may be considered is to be judged according to the deciding Treaty which is in these words:-

"And whereas the Commissioners appointed by the two High Contracting Parties to determine that portion of the boundary which runs southerly through the middle of the channel aforesaid were unable to agree upon the same; and whereas the Government of Her Britannic Majesty claims that such boundary line should, under the terms of the Treaty above recited, be run through the Rosario Straits, and the Government of the United States claims that it should be run through the Canal de Haro, it is agreed that the respective claims of the Government of the United States and of the Government of Her Britannic Majesty shall be submitted to the arbitration and award of His Majesty the Emperor of Germany, who, having regard to the above-mentioned article of the said Treaty, shall decide thereupon, finally and without appeal, which of those claims is most in accordance with the true interpretation of the Treaty of June 15, 1846."

According to these words in the arbitration Treaty, the question to be decided is not whether the boundary is to pass through the Rosario or the Haro or the Middle Channel, but whether it passes through the Rosario Straits or the Haro Channel. Therefore it cannot be established by the arbitrator that according to the Treaty of 1846 the boundary was to be drawn through the Middle Channel.

Were the supposition possible that only the line through the Middle Channel was consistent with the meaning of the Treaty, that consequently the claims made for the other two channels/

channels appeared invalid, and also that there was no preponderating evidence in favour of either the Rosario Channel or the Haro, the decision would only have a negative result, neither claim would be in accordance with the proper reading of the Treaty of 15th June, 1846, and on neither side would the arguments outweigh those of the other.

In that case the aim of both parties to have this controversy settled by the award of His Majesty would not be attained; and to have the matter finally settled they would either have to get a new arbiter or they would have to draw up a new treaty altogether and agree again upon a boundary.

However, this eventuality cannot be considered likely. When the contracting Powers are agreed that the one has not proposed the Middle Channel as boundary and the other has not accepted it as such, then there exists no treaty saying that the Middle Channel should form the boundary, no matter how consistent this would be with the meaning of the original Treaty. Yet neither side has explicitly declared that the Middle Channel is not the channel intended. As this channel was known in 1846, when the Treaty was drawn up, it cannot be overlooked by the signatories. Yet neither has even suggested it as the channel corresponding to the one indicated in the Treaty, though it would be more favourable to each than the one claimed by the opponent. However, if there had been any doubt on this score the Arbitration Commission would have been asked to consider this Middle Channel; but it is not so, therefore there can be no question of the Middle Channel.

As for the other channels, it is true that neither of the Powers was absolutely convinced that the boundary claimed by it was the channel of the Treaty of 1846, to the exclusion of all doubt that the opponent's claim did not deserve the preference. In view of this, and in the light of a desire to arrive at some award that would not be negative and that would end the controversy, we are to understand the nature of the Arbitration Treaty/

Treaty according to which the Emperor was to give his decision.

Which of the two claims was in greater accord with the proper reading of the Treaty of 1846? The question to be decided is whether it is more consistent with the Treaty of 15th June, 1846, that the boundary line should go through the Rosario Channel or through the Haro Channel. In other words, for which of the two alternatives is there greater evidence?

According to the Treaty, the boundary line is to follow the forty-ninth parallel of latitude as far as "the middle of the channel that separates the mainland from Vancouver Island; and thence southerly, through the middle of the said channel and of Fuca Straits, to the Pacific Ocean."

The channel, through the middle of which the forty-ninth parallel passes, is the Gulf of Georgia. As the boundary is to go through the same channel (in a southern direction), it is surely obvious that with the latter definition the totality of sea is understood, extending from the forty-ninth parallel to Fuca Straits. On the other hand, can a stretch of water from the point where it is divided by intervening islands into three channels, two of which at least are not unimportant, be called a single channel? In addition, there is the important point that the Middle Channel forms the middle of the whole stretch of water, and that this channel, as has been proved already, by mutual agreement of the parties, is not the channel of the Treaty. Therefore, by the words, 'said channel,' in so far as the boundary is to go through the middle of it in a southern direction, we must understand either the Rosario Channel or the Haro Channel.

The more particular definition of the channel that it separates the mainland from Vancouver Island is in favour of the Haro Channel. Because it touches the Island we can say that it separates the mainland from the Island. Perhaps it would have been clearer had the wording been, "which separates Vancouver Island from the mainland," and in fact, in the interests of the British/

British Government, the difference has been pointed out. But there cannot be any appreciable difference in the two modes of expression as the reason why the mainland is mentioned first was that the boundary began in the mainland and was defined westwards.

If, on the other hand, they had had the Rosario Channel in mind, they could not have said the channel dividing the mainland from Vancouver Island, for then it would not have been merely this island which was divided by the channel from the mainland but the whole group of islands already mentioned, especially San Juan Island; it would be difficult to see why this group had not also been designated as divided from the mainland by the channel.

The words too, "thence southerly, through the middle of the said channel and Fuca Straits," point rather to the Haro Channel.

It is true, the point in the channel (Gulf of Georgia) where the line is to be drawn in the southerly direction is not really fixed; there is really a difference of a few minutes, according as we follow the Vancouver map, the standard one at the time of the making of the Treaty, although defective just at this point, or the later nautical charts, and also according as we accept the starting points for measuring those points on the mainland (continued along the forty-ninth parallel) and on Vancouver Island, or whether we accept the points on the small islands and peninsulas under consideration. The difference arising from either method is so slight that it may be left out altogether.

The ideal boundary line cannot be drawn through the fixed point in a straight line southwards as is shown by the blue line on the map O in the American memorial, for such a line would be contrary to the terms of the Treaty that the line should go "through the middle of the said channel." In fact, this condition makes it necessary to take the expression 'southerly' in the wider meaning of deviation to the south from the line running **directly/**

directly west, and here especially, having regard to the south-east direction of the Gulf of Georgia as shown on the Vancouver map. This divergence from the literal meaning of the expression 'southerly' that is so eminently important for the question at issue can only be justified by the geographical position, i.e., as far as the open, wide arm of the sea, the Gulf of Georgia, extends to the south, therefore as far as $48^{\circ} 45'$. For the channels between the islands whose courses diverge from that south-easterly direction in a different sense, the expression 'southerly' as the description of the normal direction of the boundary line begins to have meaning again. This interpretation will correspond all the more with the meaning of the Treaty, the more closely it agrees with the due southerly direction and with the shortest connecting line between the fixed point of departure in the north and Fuca Straits defined as the southern terminal in the Treaty. Starting from this, a glance at the map, especially the Vancouver one, is sufficient to show that the Haro Channel and not the Rosario Channel is more consistent with the terms of the Treaty.

However, the British memorial maintains that the condition that the line should be extended through Fuca Straits is only possible if it go through the Rosario Channel and not the Haro.

In support of this, it is represented that Fuca Straits from the undisputed western end, Cape Flattery, right to its head-waters, flows past the Island of Whidbey which is close to the mainland. But that part of the southern channel which is then to form the beginning of Fuca Straits does not belong at all to Fuca Straits, according to the Vancouver map, but is a part of the Gulf of Georgia.

On the other maps also, on those preceding 1846 as well as in later ones, the term Fuca Straits is so used that it is not possible to see where the Rosario Channel joins it. An earlier/

earlier Spanish map even gives this part of the sea the special name of Seno de Santa Rosa. If the Rosario Channel does not flow into the Fuca Straits then not only does the British defence fall through entirely but it is even an argument against the assumption that the Rosario Channel can be the channel intended in the Treaty.

The proviso at the end of Article 1 of the Treaty, "that the navigation of the whole of the said channel and the Straits, south of the forty-ninth parallel of north latitude remain free and open to both parties" is said, according to the British memorial, to be only comprehensible as a necessary precaution if the line should go through the Rosario Channel but unnecessary and incomprehensible if the line be drawn through the Haro Channel. Behind this assertion is the supposition that the words, "through the whole of Fuca Straits," had the meaning "through Fuca Straits in its entire length." But against this we have the geographical position already stated, according to which the Rosario Channel does not lead into Fuca Straits. Then too, the words, "through the whole of the Strait," are not synonymous with "through the Strait in its entire length." If it had been intended to emphasise the "whole," it would have been expressed otherwise than by a mere proviso. According to a natural reading, the words are to be understood thus: the drawing of a line through the middle of Fuca Straits shall not have the result that the division of the area affected thereby may prejudice the rights of free navigation of either Power, in the whole channel as far as the boundary goes through it. The proviso has so comprehended the meaning that each Power was entitled to carry on navigation in those parts of Fuca Straits which are within the so-called three-mile limit, to which the adjoining land is supposed to extend and which, therefore, may not be entered against the desire of the owner (this in terms of international law). Besides, no special importance need be attached to provisos of the kind, their general purpose being merely/

merely to give explicit assurance and promise of rights that are already implicit as general principles.

Further, the point is stressed by the British side that the Treaty does not define the channel by name. This would have been natural if the Rosario Channel had been meant, as it had no name at the time, whereas it is difficult to see why the Haro Channel, if it had been intended, had not been mentioned by its name. Firstly, however, it is not correct to say that the Rosario Channel had no name. In the Spanish map of 1791 - one of the maps produced - it is called the 'Canal de Fidalgo.' Secondly, the whole part of the channel indicated in the Treaty immediately on the forty-ninth parallel is called the Gulf of Georgia in the Vancouver map, although not mentioned by name in the Treaty. From the nature of things, when boundaries are being fixed, especially in less well known regions, no great importance is attached to names, because these are liable to change. An example of this is given by that very name Rosario Channel; this name indicating quite a different part of the sea on the Vancouver map, namely, a channel to the north of the forty-ninth parallel. On no condition can it be assumed that they would have wished to exclude a channel possessing a name on the map fitting in with the given description merely because it has not been mentioned by name in the Treaty. On the other hand, it was surely evident that they would have excluded a channel, outstanding among nameless channels from the fact of its having a name, if it had not been the channel intended.

The British memorial goes on to emphasise the point that the Rosario Channel is the one through which the expedition of the 'Sutil' and 'Mexicana' passed as well as the Vancouver ships. In the Vancouver map, soundings are given for the navigation of the Rosario Channel, but not for that of the Haro Channel. Nor do we find depth marks for the Haro Channel in any map anterior to 15th June, 1846, known to the British Government. At the time of the Treaty, the Rosario Channel was the only one generally/

generally known, and the one usually taken by sailors between the mainland and Vancouver Island. From the ships' logbooks used by the Hudson's Bay Company in the years before 1847, it appears that they had invariably used the Rosario Channel as the main channel leading from Fuca Straits to the upper waters. In 1837, when the 'Beaver,' the first steamship of the Hudson's Bay Company, went up to Fort Langley from Fuca Strait, it made use of the Rosario Channel; and not till 1846 did it make a survey of the Haro Channel. The American survey boat, the 'Porpoise,' also sailed to the upper gulf from Fuca Strait by way of the Rosario Channel. The boats of the 'Vincennes,' its consort, which had remained behind at Dungeness, were sent to the Haro Channel to survey it, and the boats of the 'Beaver,' as Lieutenant Wilkes says in his report, had been busy for three days ascertaining all the important information relating to the navigation of this channel. The 'Cormorant,' the first steamship of the British navy, which navigated the sea between the mainland and Vancouver Island, passed northwards through the Rosario Channel in September, 1846, and returned through it again to Fuca Straits. From information given by captains and others in the service of the Hudson's Bay Company, it was seen that the only channel they had used was the Rosario Channel. It was the only channel the British Government had known to be navigable and safe. Not only had they not known the Haro Channel to be this, but they had the firm belief that it was a dangerous channel. Therefore, it could not be assumed that they would have wished to relinquish the one channel leading to their own possessions and confine themselves to the Haro Channel.

In the American memorial the retort is made that importance is not to be attached to the passage Vancouver took in his voyage, as he, in accordance with the instructions given him to seek out channels and rivers leading to the interior of the mainland, was to keep as near as possible to the eastern coast. Vancouver would never have thought the Rosario Channel -
which/

which he did not even consider worthy of a name - as important as the Haro Channel. As for the soundings, on the Vancouver map there are two for the Rosario Channel while five or six are indicated on an arm of Haro Channel and one near the coast, which show that the navigable water was more than 200 feet deep. The mariners' chart of this channel, published in 1795 by the Spaniards, contains many soundings for the easier sailing of the Haro Channel. If this chart gives no depths in the middle of the channel, it is because - and Vancouver reiterates this point - the sounding lines in use at that time were not long enough to reach the bottom in those deep waters where there were great volcanic rocks that went down perpendicularly hundreds of feet. With regard to the asserted regular use of the Rosario Channel, at the time of the Treaty, the trade in those waters was really not of much importance. Very careful research does not show any proof that even a single ship of the United States had entered those waters in the period between 1810 and the arrival of the American exploration expedition in charge of Wilkes in 1841. The reason why the ships of the Hudson's Bay Company passed through the Rosario Channel was that on the half-yearly sailings from Fort Vancouver to the settlements, Nisqually, at the upper end of Puget Sound, was the first point to be called at, and a ship sailing from there to Fort Langley on the Fraser River would naturally pass through the Rosario Channel. Therefore the latter had been used, not because it was the main channel between Fuca Straits and the north, but because it was the shortest way between the settlements at which the boats had to call.

The American exploration expedition under Wilkes in 1841 did not attach greater importance to the Rosario Channel than to the Haro Channel. Rather did the Commander, Wilkes, depute to an inferior officer of the 'Vincennes' the task of surveying the channels between the islands of the archipelago, reserving to himself the more important charge of the Haro Channel survey.

The/

The evidence submitted (by the British) was really of no weight as it had been submitted by one side only without informing the opponent and without cross-examination. It would require adjustment and rectification in accordance with the evidence brought forward by the Americans. In any case, and the whole question revolves round this, the Treaty does not talk of the channel that was most in use or not in use at the time of the Treaty, but it does talk of the channel separating the mainland from Vancouver Island; this channel, the Americans maintain, is the Haro Channel. It is now generally acknowledged to be the best and most convenient passage for British sailors. It is the only connecting passage they make regular use of; steamers use it alone; it is the widest, deepest, and shortest channel; therefore, it alone is used by the Government, traders, immigrants, and the inhabitants of British Columbia. The assertion of the British about their ignorance of the navigability and safety of the Haro Channel at the time of the Treaty is really 'non proven' and irrelevant. It is unnecessary to prove minutely whether and how far the allegations can be established in all their individual essentials.

The British do not deny that the Haro Channel is a navigable channel as it is known at the present day; they only say that at the time of the Treaty they looked upon it as un-navigable and unsafe for shipping, and that therefore they could not have intended it as the channel indicated.

Against this, however, is the fact that eighteen years earlier there were British settlements in its immediate neighbourhood (Fort Langley since 1827); that in 1841 it had been surveyed by Captain Wilkes and described exactly in a book published by him in 1845, likewise in his official report which appeared simultaneously in Washington and London. After this then, the assertion of the British is to be considered 'non proven' and there is no need to argue which evidence deserves greater credence - the British, that the Haro Channel was un-navigable/

unnavigable, or the American, that it was navigable.

But if we had even to assume that the British Government had proceeded from the supposition that the Rosario Channel was the only navigable channel through which ships could pass from the northern waters into Fuca Straits yet, as they do not assert, and still less prove, that the American Government shared this view, the question could only arise as to whether the Treaty, perhaps because of some genuine error, might be cancelled at the suggestion of the British Government. But they have not made such a motion, and according to the statement in the American counter-memorial, they have rather declined the proposal of the American Government to annul the Treaty on this point and to settle the boundary by a new agreement.

If it is quite out of the question to consider the cancellation of the Treaty because of a misunderstanding, and if we are to prove, by adhering to it, which of the two claims fits in best with the proper reading of the Treaty, the point of view we must insist upon is, that in the fixing of a boundary line, consideration is to be given to the geographical position on the most correct and most complete map, and that other elements not affecting the position or affected by it must be relegated to the background; if it is not clearly shown that they are being considered by the two parties in mutual agreement. There is nothing in favour of our giving consideration to the way earlier expeditions took, to the greater or less use of the channel, to the soundings in that channel and such aspects at the time of the drawing up of the Treaty.

In the British memorial it is stated with reference to the rules for interpreting the Treaty as Vattel presented them, that the boundary line drawn through the middle of the Rosario Channel was favourable to both parties, according to the knowledge possessed by both Governments at the time of the Treaty of 15th June, 1846, whereas the line through the Haro Channel would have deprived Britain of the right of reaching her own possessions/

possessions by way of the only channel which was known at that time as navigable and safe for shipping. It would be more equitable if it were decided to make the line go through the Rosario Channel rather than through the Haro Channel. A decision in the former sense would assure to the citizens of the United States of America the free use of that channel which their ships had used before 15th June, 1846, while a decision in favour of the line through the Haro Channel would deprive the British subjects of the navigation rights in that channel they had sailed in since its exploration by Vancouver.

Apart from the fact that this argument breaks down from the lack of proof that the Haro Channel was not known to be navigable and not used before 15th June, 1846, there is this point to be considered. After the signing of the Treaty, "a definite end was to be made to the state of doubt and uncertainty relating to the sovereignty and government of the territory situate to the west of the Rocky Mountains by a friendly understanding of those rights that were claimed by both parties." The Treaty itself does not confine itself to Article 1, but contains further agreements and promises in three subsequent Articles. It would be inconsistent with the nature of such a Treaty if, for its interpretation, one would wish to search into a purely actual connection (even presupposing this could be proved), the legality of which was continually being contested by the other side, and fail to understand that presumably each party would seek to obtain all the advantages it could, without consideration of the disadvantages accruing therefrom to the opponent; if one were to disregard the fact that disadvantages which might be submitted to in one Article of a Treaty would be compensated for, if possible, by advantages in another Article. Especially with treaties of this kind, we can only interpret the law as it is made by the parties themselves. But if we confine ourselves to notions of equity we could not consider that erroneous notion of one party concerning the poor navigability of the Haro Channel
at/

at the time of the Treaty; we should have to speak only of its real nature. In actual fact, the Haro Channel explored as it has been at the present time, is not only a good, navigable channel, it is by far the broadest and deepest of the various arms of the sea, especially in comparison with the Rosario Channel; it is the natural, main connecting passage between the Gulf of Georgia and Fuca Straits and, according to the basic principles of physical geography, it is the natural continuation of that Gulf, so that, when mention is made of the Gulf and the waters leading in a southerly direction to Fuca Straits as being one and the same channel, this expression, 'said channel,' fits the Haro Channel.

In the memorials of both parties, but especially the American, there are finally references to negotiations and correspondence, either preceding the Treaty of 15th June, 1846, or following it. From the great quantity of material produced we must sort out the notes of more recent date than 15th June, 1846, as being not quite relevant, especially the writings of November, 1846, and later months and years. These papers do not contain any statements by either party that might be construed as being in favour of the opponent, and in so far as they express opinions and views of each party in its own particular form, they are too remote from the time of the signing of the Treaty - in fact some of them were only expressed after the controversy had begun, and they are not to be considered.

From the papers which remain for review, there emerges the fact that after the American Government, throughout a fairly long period, had asked for the continuation of the boundary line from the Rockies along the forty-ninth parallel, as far as the Pacific, whereas the British wished to have it drawn several degrees to the south, a genuine rapprochement came about when, on 18th May, 1846, Lord Aberdeen sent Mr. Pakenham, the British Ambassador, a note having as its purpose the resumption of negotiations. In it there is, among other matters, the/

the statement that for a distance of eight hundred or a thousand miles from the Lake of the Woods to the Rocky Mountains, the forty-ninth parallel of latitude has been accepted as the boundary; it would seem natural and reasonable to extend it along the same degree for a distance about half as great. Only this boundary would have obvious defects; especially, it would exclude Great Britain from that convenient and accessible harbour on the coast and deprive her of that long used sea connection with the interior; so that if the forty-ninth parallel of latitude was to be taken as a basis of agreement, these inconveniences would have to be obviated. The Ambassador, therefore, had to propose to the American Secretary of State that the boundary should be drawn along the forty-ninth parallel "to the sea, and from there, in a southerly direction, through the centre of King George's Sound [this ought to be Gulf of Georgia] and the Straits of Juan de Fuca to the Pacific Ocean," at the same time leaving the whole of Vancouver Island with its harbours and road-steads in possession of the British.

On the same date (18th May) the American Ambassador in London, Mr. McLane, wrote to the Secretary of State, Mr. Buchanan, reporting a fairly long interview with Lord Aberdeen in connection with the resumption of the negotiations for the settlement of the Oregon question. The British Ambassador in Washington would receive instructions from his government about a proposal to be made which would probably run thus:

Firstly; to divide the territory by a continuation of the line along the forty-ninth parallel as far as the sea, i.e., as far as the arm of the sea called Birch Bay, thence through the Haro Channel and Fuca Straits to the Pacific, thereby confirming to the United States of America what they in fact would possess without special confirmation, the right of using and navigating Fuca Straits in its whole extent.

Towards the close of the letter, Mr. McLane remarks also that he had not the slightest ground for assuming that it would/

would be possible so to effect the continuation of the forty-ninth parallel to the sea that the southern part of Vancouver would fall to the lot of the United States of America.

On 12th June, 1846, the Senate empowered the President to accept the proposal of the British Government, but on the 18th, at a meeting of the body dealing with the ratification of the Treaty, Senator Benton made a speech in which there is this passage: "The line established by the first article of the treaty - the continuation of the boundary **on** the east side of the Rockies - follows the forty-ninth parallel of latitude to the sea, with a slight deflection through Fuca Straits to avoid cutting the south end of Vancouver's Island. When the line reaches the channel which separates Vancouver's Island from the continent, it passes through the middle of the channel, and from there, turning in a southerly direction through the Haro Channel (wrongly written Arro on the maps) to the Straits of Fuca and thence west to the middle of that Strait to the sea."

Finally, we have in a speech delivered in the House of Commons on 28th June, 1846, by Sir Robert Peel - in whose ministry the Treaty was signed - "Those who can visualize the geographical position of the country will understand that what we have been proposing is to continue the line along the forty-ninth parallel of latitude to the point where it reaches the Fuca Strait; that this line cannot be extended along that degree through Vancouver, thus depriving us of part of the island, but that the middle of the channel shall be the boundary in the future, so that we shall remain in possession of Vancouver's Island with equal shipping rights in the Straits."

These statements of British and American statesmen are not of such a nature that as a result either government would be held bound, nor are they entirely free of geographical errors, e.g., Lord Aberdeen talks of King George's Sound instead of the Gulf of Georgia and Sir Robert Peel supposes the forty-ninth parallel touches Fuca Straits. But in any case it is clear that,
on/

on both sides, the deviation from the forty-ninth parallel as the norm is being considered with the view (but not solely for this purpose) of retaining the whole of Vancouver Island in the hands of the British. As a result, the supposition that the channel nearest Vancouver Island is the one intended by the Treaty, gains considerable support.

Some weight cannot be denied to the circumstance that at the time when the Treaty was signed, American statesmen expressed their opinion that the boundary passed through the Haro Channel while a contrary view was not given by the British, but we must also remember that the American view was not communicated to the British negotiators.

If we take the contents of the Treaty as it stands and examine and weigh its important points and special grounds; that the condition of the Treaty of June 15th, 1846, whereby the channel separating the mainland from Vancouver Island can only refer to the Haro Channel which touches Vancouver Island and cannot refer to the Rosario Channel.

That the further condition whereby the boundary shall pass through the middle of the channel corresponds more exactly with the direction and nature of the Haro Channel as being the natural, the widest, and deepest passage between the Gulf of Georgia and Fuca Straits, and as being that stretch of water which is the natural continuation to the south of that Gulf and therefore can be regarded as forming with it one channel.

We reach this finding:

That the assertion of the American Government that the channel through the middle of which, according to the wording of the Treaty of 15th June, 1846, the boundary shall be drawn in a southern direction is the Haro Channel, is most consistent with the proper reading of the Treaty.

APPENDIX IV

TREATY OF WASHINGTON

(SAN JUAN ARTICLES)

TREATY OF WASHINGTON

(SAN JUAN ARTICLES)

ARTICLE XXXIV.

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

ARTICLE XXXV.

The award of His Majesty the Emperor of Germany shall be considered as absolutely final and conclusive; and full effect shall be given to such award without any objection, evasion or delay/

delay whatsoever. Such decision shall be given in writing and dated; it shall be in whatsoever form His Majesty may choose to adopt; it shall be delivered to the Representatives or other public Agents of the United States and of Great Britain, respectively, who may be actually at Berlin, and shall be considered as operative from the day of the date of the delivery thereof.

ARTICLE XXXVI.

The written or printed case of each of the two Parties, accompanied by the evidence offered in support of the same, shall be laid before His Majesty the Emperor of Germany within six months from the date of the exchange of the ratifications of this Treaty, and a copy of such case and evidence shall be communicated by each Party to the other through their respective Representatives at Berlin.

The High Contracting Parties may include in the evidence to be considered by the Arbitrator such documents, official correspondence, and other official or public statements bearing on the subject of the reference as they may consider necessary to the support of their respective cases.

After the written or printed case shall have been communicated by each Party to the other, each Party shall have the power of drawing up and laying before the Arbitrator a second and definitive statement, if it think fit to do so, in reply to the case of the other party so communicated, which definitive statement shall be so laid before the Arbitrator, and also to be mutually communicated in the same manner as aforesaid, by each Party to the other, within six months of the date of laying the first statement of the case before the Arbitrator.

ARTICLE XXXVII.

If, in the case submitted to the Arbitrator, either Party shall specify or allude to any report or document in its own possession without/

without annexing a copy, such Party shall be bound if the other Party thinks proper to apply for it, to furnish that Party with a copy thereof, and either Party may call upon the other, through the Arbitrator, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance such reasonable notice as the Arbitrator may require. And if the Arbitrator should desire further elucidation or evidence with regard to any point contained in the statements laid before him, he shall be at liberty to require it from either Party, in relation to any matter, and at such time, and in such manner as he may think fit.

ARTICLE XXXVIII.

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

ARTICLE XXXIX.

It shall be competent to the Arbitrator to proceed in the said arbitration, and all matters relating thereto, as and when he shall see fit, either in person, or by a person or persons named by him for that purpose, either in the presence or absence of either or both Agents, and either orally or by written discussion or otherwise.

ARTICLE XL.

The Arbitrator may, if he think fit, appoint a secretary or clerk for the purposes of the proposed arbitration, at such rate of remuneration as he shall think proper. This, and all other expenses connected with the said arbitration, shall be provided/

provided for as hereinafter stipulated.

ARTICLE XLI.

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

ARTICLE XLII.

The Arbitrator shall be requested to give his award in writing as early as convenient after the whole case on each side shall have been laid before him, and to deliver one copy thereof to each of the said Agents.

PHOTOSTATIC COPY OF MAP SHOWING ALL THREE CHANNELS

(1)

1. Taken from map in Public Record Office, London, used by Captain Prevost.

The Black Line is drawn along the 4th parallel north
 in order to indicate the position of the Pacific Ocean
 and the Gulf of Mexico to the Pacific Ocean
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 and the Gulf of Mexico to the Pacific Ocean

1 2 3 4



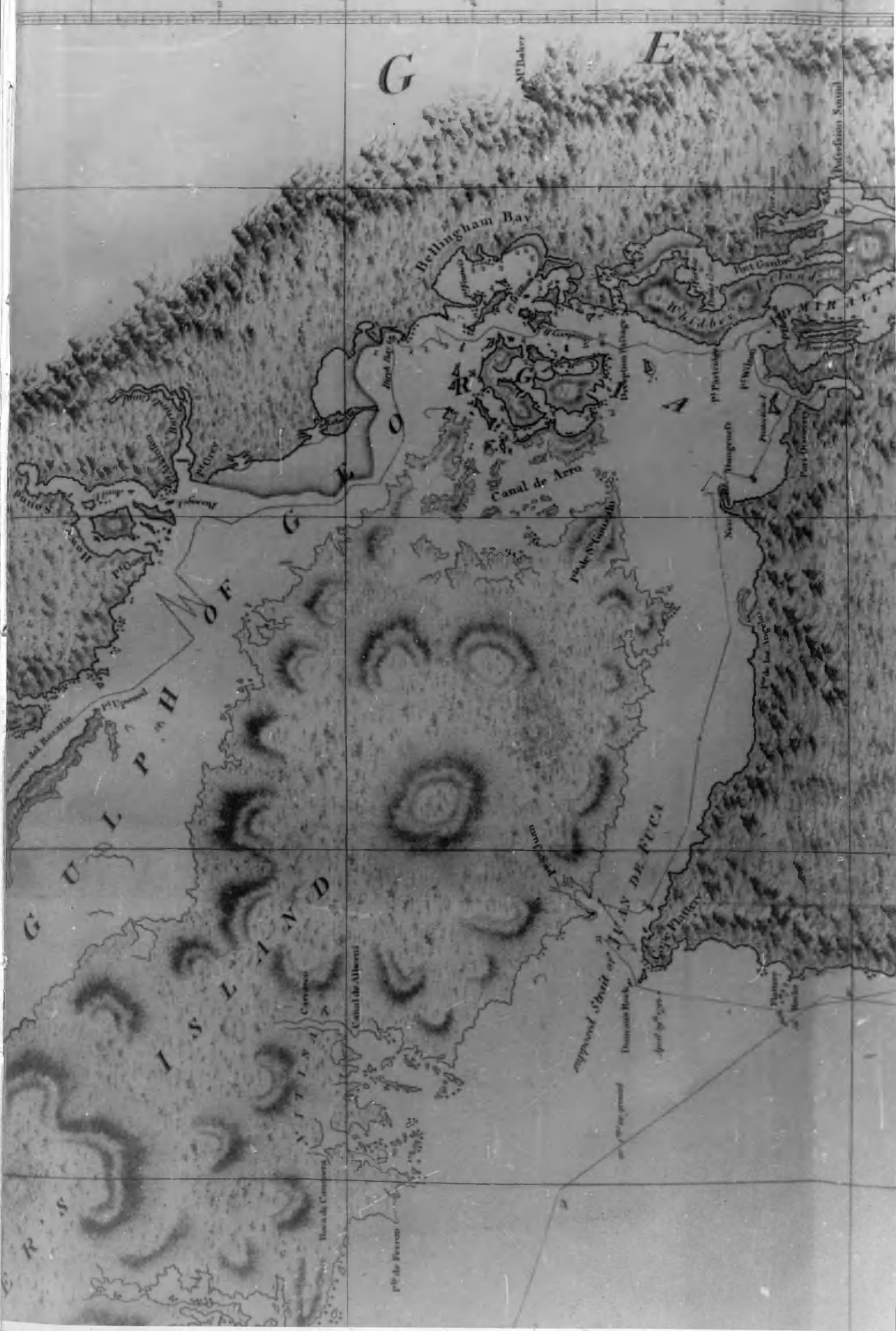
NEW BOSTON

WATERGATE

WATERGATE

WATERGATE

PHOTOSTATIC COPY OF VANCOUVER'S CHART



G

E

Hellingham Bay

AR

Canal de Arro

Strait of JUAN DE FUCA

GULF OF H

OLYMPIC PENINSULA

Mt Baker

Madrasan Sound

Port Gardner

Port Roberts

Port Williams

Port Discovery

Point Adams

Point Barrow

Point Roberts

Point Adams

Point Adams

Point Adams

Point Adams

Point Adams

Point Adams

Point Adams

Point Adams

Canal de Alberto

Caribou

Point de Caribou

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