

THE DISPUTE OVER THE SAN JUAN ISLANDS WATER BOUNDARY

(Continued from Vol. XXIII., page 46)

To these arguments by Capt. Provost, Mr. Campbell made his reply in a letter dated November 2, 1857.³³ Mr. Campbell mentioned that southerly was introduced in the treaty as opposed to northerly, and that no treaty could give exact direction without a thorough survey. Mr. Campbell further argued that Rosario Straits do not separate Vancouver's Island from the continent because of several channels and islands lying between the two. He also stated that Canal de Haro is the only channel between Vancouver's Island and the continent that can satisfy the true interpretation of the treaty because it is the deepest, broadest, shortest, and most navigable channel. After refusing the arguments presented by Capt. Provost, Mr. Campbell referred to correspondence that took place between the two governments before and at the time the treaty was signed. He referred to the communications of Mr. McLane, Mr. Benton, Mr. Buchanan and Mr. Bancroft, and used their statements as arguments in favor of Canal de Haro.³⁴

The remaining communications were arguments around the same points; Capt. Provost stood steadfast on Rosario Straits, and Mr. Campbell was just as persistent in his claim of the Canal de Haro for the United States. However, when Capt. Provost realized that Mr. Campbell would not deviate from his point of view, he suggested in a letter of November 24, 1857, a compromise; he proposed a middle channel as the boundary which still gave San Juan Island to Great Britain.³⁵ Mr. Campbell refused to consider the compromise because he was confident that Canal de Haro was the channel meant by the treaty. Since a compromise could not be reached, and since Mr. Campbell would not consider any channel but Canal de Haro, the commission adjourned with everything in the same muddle as before and referred all arguments and the results to their respective governments.

Mr. Campbell had believed that the British Government had given Capt. Provost full authority without any restrictions whatsoever in settling the boundary dispute. Capt. Provost withheld some of his instructions from his government and still maintained to Mr.

³³ Sen. Ex. Doc. 29, Ser. No. 1316, pp. 11, 11-16.

³⁴ Sen. Ex. Doc. No. 29, Serial No. 1316, pp. 14-15.

³⁵ *Ibid*, pp. 30-35. See also, Moore *op. cit.*, Vol. I, pp. 221-222.

Campbell that he was acting with full liberty in every way. The British Government had instructed Capt. Provost that he should first try for Rosario Straits, but if that failed he should try for a compromise by offering a middle channel. In case that should fail, the whole matter was to be referred to the British Government.³⁶ The information that Capt. Provost was restricted by his government was not properly presented to Mr. Campbell. Capt. Provost maintained at all times that he was not restricted by his government in any way. In a letter to Mr. Cass dated August 4, 1859, Mr. Campbell expressed his chagrin at the manner in which Capt. Provost had misinformed him of orders received from the British Government.³⁷ Mr. Campbell realized that it was useless to try to make a settlement with a person who was held to certain specifications by his government and yet said that he was not. If Mr. Campbell had known these facts at the time of the first meeting, he would have ended the arguments with Capt. Provost much earlier than he did.

Trouble Arises on the Island of San Juan

In order to make a claim of the islands in dispute for the British Government, the Hudson's Bay Company, under the leadership of James Douglas, who was both Chief Factor of the company and British Governor of Vancouver's Island,³⁸ sent one of his agents, Charles Griffin, to the Island of San Juan to establish a sheep ranch. A settlement was made December 13, 1853.³⁹ With the formal occupation of the island by the Hudson's Bay Company, difficulties began at once between the United States officials and the agents of the company, backed by the Governor of Vancouver's Island.

When the United States customs collector, I. N. Ebey, heard that the British had established themselves on San Juan Island, he immediately notified Governor James Douglas⁴⁰ that the sheep of the Hudson's Bay Company were within the custom's boundary and were therefore subject to seizure if the regular duties were not paid. Governor Douglas, upon getting this message from Mr. Ebey, replied that the Island of San Juan was British soil. To make a more definite claim of the island for the British, Governor Douglas

³⁶ Sen. Ex. Doc. No. 29, Serial No. 1316, pp. 104-106.

³⁷ *Ibid.*, pp. 106-108.

³⁸ Snowden, C., *History of Washington—Rise and Progress of American State* (4 vol. New York, 1909), Vol. IV., p. 46. See also, Howay, *op. cit.*, pp. 120-123. See also, McKelvie, B. A.—*Early History of the Province of British Columbia* (Toronto and London, 1926), p. 51.

³⁹ Ex. Dec. No. 77, Serial No. 1056, pp. 1-2.

⁴⁰ See Appendix I for explanation of Douglas' power as Chief Factor of Hudson's

appointed Charles Griffin, the Agent of the Hudson's Bay Company, as magistrate on the island, and thus extended British laws and British jurisdiction over the Haro Archipelago.⁴¹

Mr. Ebey was unable at the time to enforce collection of taxes, but he notified Governor Douglas that some day he would have to account for the intrusion. Mr. Ebey, nevertheless, placed a United States customs collector, Mr. Weber, on the island who was to keep an account of what actually happened. A warrant was issued for the arrest of Mr. Weber, but he took it and kept it as evidence of British intrusion. Mr. Weber told Mr. Sankster, the magistrate who brought the warrant, that he would shoot the first man who attempted to take him from the island. Mr. Weber was finally forced to leave his post for fear of death, but he was replaced first by Oscar Olney and later by Paul Hubbs, Jr., who each in turn were forced to leave because of the threats upon their lives by the northern Indians.⁴²

These incidents composed the first episode of conflict on the island, but they were soon followed by several other and even more serious ones. The next year, 1854, Whatcom County was organized to include the Haro Archipelago, and the disputed territory was made subject to taxation under the laws of the County. Taxes were levied on all property owned by the British and American citizens. The American citizens paid their taxes, but the Hudson's Bay Company refused to pay the assessed taxes on the presumption that the territory was British and not American soil. The Sheriff of Whatcom County, Mr. Barnes, became very indignant, organized a posse, and went to the Island of San Juan demanding the taxes from Mr. Griffin. He refused to pay the taxes; the Sheriff then took some thirty sheep and sold them in lieu of delinquent taxes.⁴³ When word of this high handed intrusion on British soil by United States authorities reached Governor Douglas, he was infuriated but consoled himself by writing a lengthy letter⁴⁴ to Governor Stevens of Washington Territory, April 26, 1855, inquiring if he had authorized Mr. Barnes to collect taxes from people on San Juan Island. Douglas further took this opportunity to impress upon Governor Stevens that all of the islands west of Rosario Straits belong to Great Britain. Douglas made the claim in the following words:

Bay Company and as Governor of Vancouver's Island.

41 Ex. Doc. No. 77, Serial No. 1056, p. 2. See also, Meany, Edmond S.—*History of the State of Washington* (New York, 1910), p. 242.

42 Ex. Doc. No. 77, Serial No. 1056, pp. 2-3. See also, Bancroft's Works, *Washington, Idaho and Montana*, Vol. 31, p. 87. See also, Meany, *op. cit.*, p. 242.

43 Ex. Doc. No. 77, Serial No. 1056, p. 3. See also, Stevens, H.—*Life of General Isaac Stevens* (2 Vol., New York, 1901), Vol. II, pp. 12-13.

44 See complete letters of Governor Douglas and Governor Stevens in Appendix II.

"The Island of San Juan has been in the possession of British subjects for many years, as it is with the other islands of the Archipelago de Arro declared to be within the jurisdiction of the colony and under the protection of British Laws. I have also the orders of Her Majesty's Ministers to treat those islands as part of British Dominion."⁴⁵

Governor Stevens replied to the message of the British Governor on May 12, 1855,⁴⁴ justifying the action taken by the authorities of Whatcom County. He also put forth a claim to all the islands between Canal de Haro and the Rosario Straits for the United States. The message of Governor Stevens was straightforward, neither apologetical nor uncertain in its content. The message in part is as follows:

"The sheriff, in proceeding to collect taxes, acts under a law directing him to do so. Should he be resisted in such an attempt, it would become a duty of the Governor to sustain him to the full force of the authority vested in him.

"The ownership remains now as it did at the execution of the Treaty of June 15, 1846, and can in no way be affected by alleged possession of British subjects."⁴⁶

This message had no effect on the attitude of the Hudson's Bay Company nor on that of Governor Douglas. However, assessments were made several years afterwards on the property of British subjects on the island, but no attempt was made to enforce them as in the first instance. The last assessment was made May 20, 1859, and for that year the taxes of the Hudson's Bay Company due the County were \$935.⁴⁷

One controversy followed the other on the island. The conflict of probably a more serious nature than any other that occurred before or after was centered around a pig belonging to the Hudson's Bay Company. It happened in this way: Lyman A. Cutler, an American citizen, had produced a splendid patch of potatoes on his farm on the island, not far from the Hudson's Bay Company settlement. It so happened that Charles Griffin had a pig which had developed an appetite for potatoes and as a consequence, this pig was destroying the fine patch of potatoes that Mr. Cutler had cultivated.⁴⁸ Mr. Cutler told Griffin to keep his pig out of the patch, but Griffin merely told Cutler to keep the potatoes out of the pig.

⁴⁵ *Washington Historical Quarterly*, Vol. 2, p. 352.

⁴⁶ *Washington Historical Quarterly*, Vol. 2, pp. 254-256.

⁴⁷ Ex. Doc. No. 77, Serial No. 1056, p. 3.

⁴⁸ Mr. Cutler became very angry over the pig and potato incident because potatoes on the Island of San Juan were valuable and scarce, since potatoes could be obtained only by means of rowing across the Straits for a distance of forty miles. *Washington Historical Quarterly*, Vol. 2, p. 290.

One day the pig had been more enthusiastic and hungry than usual with damaging effect on Cutler's patch. Mr. Cutler met the pig in action and the scene was more than his patience could bear, so he grabbed the gun and put an end to the intruder. The pig was left in the patch where it was shot as evidence for Mr. Griffin.⁴⁹

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(To be Continued)

⁴⁹ Sen. Ex. Doc. No. 10, Serial No. 1027, p. 49. See also, Meany, *op. cit.*, pp. 240-241. See also, Sevens, *op. cit.*, p. 290, Vol. II.