

THE DISPUTE OVER THE SAN JUAN ISLANDS WATER BOUNDARY

(Continued from Vol. XXIII., page 204)

This moderate policy was evidently not in accord with the ideas of Governor Douglas, for on August 8, 1859, he wrote to Sir E. B. Lytton saying that after mature reflection he had decided to disregard the stand taken by the Council and to land troops on the island.⁸⁸ When he later presented his case to the Legislature at Victoria, he made a fiery speech in which he again stated that he intended to land troops.⁸⁹ Some members of the legislature became very indignant after this stirring address. Different speakers insisted that English troops ought to have landed and forced the Americans off the island.⁹⁰ The legislature, after considerable airing of views, drew up a resolution asking why British troops were not landed, and emphasizing the immediate necessity for demanding the withdrawal of American soldiers.⁹¹ On Wednesday morning, August 17, 1859 one of the speakers of the legislature at Victoria reviewed the case of the American military occupation with great vigor, and then forcibly expressed what the British should have done at the beginning of the dispute. In part he said:

"The Americans took the ground that their citizens required protection, and they landed troops with the object. Now, in order to protect British subjects on the island, we also should have done the same."⁹²

With the dispute at white heat between the British Colonial Government and the American Forces on the Pacific Coast, it was evident that the War Department at Washington, D.C., and the British Ministry at London were willing to accept the compromise of joint military occupation.

General Scott Interferes on the Coast

Lt. General Winfield Scott departed from New York and arrived at Fort Vancouver October 20, 1859, and held a conference with General Harney the next morning.⁹³ General Scott explained to General Harney the plans of the United States Government em-

⁸⁸ *Ibid*, p. 70.

⁸⁹ Mess. and Doc. No. 2, Part II, Ser. 1024, pp. 43-44. See also, Provincial Arch. Letters, copy of a copy.

⁹⁰ Mess. and Doc. No. 2, Part II, Ser. No. 1024, p. 74.

⁹¹ *Ibid*, p. 75.

⁹² *Ibid*, p. 76. See also, Sen. Ex. Doc. No. 10, Ser. No. 1027, p. 41.

⁹³ Sen. Ex. Doc. No. 10, Ser. No. 1027, p. 56.

phasizing that a joint military occupation must be allowed until the final settlement was made between the two governments. In a message to Governor Douglas October 25, 1859, General Scott offered a joint military occupation of San Juan Island; each government was to have 100 men at opposite ends of the island.⁹⁴

Governor Douglas on receipt of this message sent it to Admiral Baynes, who did not approve of joint military occupation and who advised Douglas to propose a joint civil occupation.⁹⁵ On October 29, 1859, James Douglas replied to General Scott suggesting that the troops be withdrawn and the island placed under a joint civil jurisdiction until the dispute could be settled.⁹⁶

General Scott had given his proposal to Governor Douglas and had thus left the matter to the British for their acceptance or rejection. He would not consider any other plan for compromise. But General Scott thought it would please the British if changes were made on San Juan Island and on Puget Sound. With that scheme in view, General Scott, in a dispatch of November 9, 1859, ordered Capt. Hunt to replace Capt. Pickett in command on San Juan Island.⁹⁷ On November 15, 1859, General Scott wrote a very tactful letter to General Harney stating that the British would probably demand his removal, and to prevent any embarrassment by such an order General Harney was to take command at St. Louis. Of course this order was stated in such a way that General Harney could either accept or reject the change in command.⁹⁸ When General Scott had finished this work, he believed that the affair was settled, and he then departed to the East.

General Harney had seldom agreed with General Scott for Scott had arrived on the coast with the purpose of undoing all of Harney's work on San Juan.⁹⁹ Instead of following the orders of his superior officer, General Harney refused to go to St. Louis, and his reply to General Scott was rather sarcastic in tone.¹⁰⁰

General Harney notified the Legislature of Washington Territory what had actually taken place between him and General Scott. The legislature was very indignant and passed a resolution January 7, 1860, in full support and commendation for every act that General Harney had done regarding San Juan Island or General Scott.

⁹⁴ *Ibid*, p. 60.

⁹⁵ Provincial Arch. (1859-1860) *op. cit.* p. 36.

⁹⁶ Sen. Ex. Doc. No. 10, Ser. No. 1027, p. 61.

⁹⁷ Sen. Ex. Doc. No. 10, Ser. No. 1027, p. 71.

⁹⁸ *Ibid*, p. 70.

⁹⁹ House Ex. Doc. No. 98, 36th Cong. 1st. Sess. p. 10 (100) Sen. Ex. Doc. No. 10, Ser. No. 1027, p. 74.

Three days later the legislature extended a vote of thanks to Capt. Pickett for his decisive action against the British.¹⁰¹

On April 10, 1860, General Harney issued an order removing Capt. Hunt and returning Capt. Pickett to his old post on San Juan.¹⁰² The reason that he gave for so doing was that a group of citizens on the island had petitioned that Capt. Hunt be removed.¹⁰³ When General Scott heard that General Harney had disobeyed and revoked his orders, he notified the War Department at Washington, D.C. On the 8th of June, 1860, Secretary of War, John Floyd, issued an order for General Harney to report to Washington, D. C. at once.¹⁰⁴ Later when hostilities began between the North and the South, Capt. Pickett resigned his position at San Juan Island to enter the Army of Virginia.¹⁰⁵ Capt. Hunt was returned to San Juan Island to resume his command.¹⁰⁶

Joint Military Occupation

On October 26, 1859, Admiral Baynes wrote to the British Admiralty and told them of Scott's proposal; on the same day he telegraphed the news of the proposal to Lord Lyons at Washington.¹⁰⁷ On November 16, 1859, Duke Newcastle suggested to Douglas that the offer of joint military occupation be accepted.¹⁰⁸ On December 22, 1859, the definite order from Lord John Russel was sent to Douglas stating that Baynes should be instructed to place 100 marines and a captain on San Juan.¹⁰⁹ Douglas accordingly ordered Baynes to move the marines on the island, but Baynes on January 17, 1860, asked to see the government orders before he took any action.¹¹⁰ Governor Douglas very stiffly refused to show the orders, stating that as the Queen's representative he could not delegate his instructions to others.¹¹¹

Admiral Baynes then wrote to the British Admiralty and asked for a copy of the direct order and explained the reason he desired it. On February 22, 1860, he received the desired order.¹¹²

Why Admiral Baynes would not accept Governor Douglas' order, or why Douglas would not send him the order of the British Government is not clear. Evidently there was some friction or

101 Meany, *op. cit.* p. 249. See also, Stevens, *op. cit.* pp. 294-295 Vol. II.

102 Sen. Ex. Doc. No. 29, Ser. No. 1316, p. 212.

103 See Appendix IV for petitions for and against Capt Hunt.

104 Sen. Ex. Doc. No. 29, Ser. No. 1316, p. 213.

105 Meany, *op. cit.* p. 250.

106 Milton, *op. cit.* p. 356.

107 Provincial Arch. (1859-1860) p. 35.

108 *Ibid.* p. 17.

109 *Ibid.* p. 29.

110 Provincial Arch. Letters, copy of a copy.

111 *Ibid.*

112 *Ibid.*

jealousy existing between the two men. Lord Russel later stated in a communication that Douglas should have sent the direct order to Baynes.¹¹³

On March 20, 1860, Admiral Baynes wrote to Capt. Hunt on San Juan Island stating that Marines would be stationed there,¹¹⁴ and the next day the soldiers were actually landed under the command of Capt. George Bazalgettil,¹¹⁵ Capt Hunt on March 23, 1860, wrote to Admiral Baynes stating that he had read Capt. Bazalgetti's orders and that he believed that the joint military occupation would be a success.¹¹⁶ Thus the joint military occupation of San Juan Island was at last realized. The two detachments of troops of 100 men each held the island for twelve years until the dispute was settled by arbitration in 1872.

Settlement by Arbitration

The joint military occupation was merely a temporary arrangement in order to prevent war, and the central governments of Great Britian and of the United States continued the negotiations for a permanent settlement of the Northwest Boundary line. In December 1860, Lewis Cass, Secretary of State of the United States, and Lord Lyons of England were trying desperately to have an amiable settlement. Lord Lyons suggested that the boundary line should be settled by arbitration and that the United States could have the privilege of selecting either the King of Norway and Sweden, the King of Holland, or the President of the Swiss Republic as arbitrator.¹¹⁷ Lewis Cass would not agree to this system of settlement because a third line was suggested as a possible boundary in compromise between Canal de Haro and Rosario Straits.¹¹⁸ On January 14, 1869, Reverdy Johnson of the United States and Lord Clarendon of England concluded a convention for the submission of a boundary line to the President of the Swiss Republic, but before the Senate of the United States took time to consider this arbitration scheme, the time limit set for definite action had expired, and so too, this arrangement was fruitless.¹¹⁹

Altogether six attempts were made to settle the disputed water boundary by arbitration, and in each case the United States refused to arbitrate because Great Britian always insisted on a middle chan-

¹¹³ *Ibid.*

¹¹⁴ Provincial Arch. (1859-1860) *op. cit.* p. 62.

¹¹⁵ *Ibid.* p. 61. See also, House Ex. Doc. No. 98, 36th Cong. 1st. Sess. p. 17.

¹¹⁶ Provincial Arch. (1859-1860) *op. cit.* p. 63.

¹¹⁷ Sen. Ex. Doc. No. 29, Ser. 1316, p.

¹¹⁸ Meany, *op. cit.* pp. 252-

¹¹⁹ Moore, *op. cit.* pp. 223-224. See also, Meany, *op. cit.* p 252

nel as a compromise in case the arbitrator could not be satisfied to choose either Rosario Straits or Canal de Haro.¹²⁰

Finally, Great Britain and the United States agreed on how the boundary line should be settled. In the Treaty of May 8, 1871, between the United States and Great Britain, Article 35 of the treaty referred the disputed boundary line to the Emperor of Germany, who would have the final decision without appeal.¹²¹ According to the provisions of the arbitration agreement, each country had a representative to present its side of the controversy to the German Emperor. George Bancroft, who was minister to Germany at that time and who had followed the San Juan Dispute from its beginning, represented the United States. Admiral James C. Provost, who had knowledge of the subject since 1856 represented England.¹²² The arbitrator was bound to choose either the Canal de Haro or the Rosario Straits, and no other channel could be selected.¹²³ This arrangement was considered a diplomatic victory for the United States because no middle channel could be selected as a compromise.

Mr. Bancroft presented a masterly case of his side of the question to the Emperor of Germany. He made a lengthy introduction in which he emphasized that all ministers of governmental officials who had had charge of drawing up the Treaty of June 15, 1846, were dead with the exception of one man in the services of the British Government, and one man (Mr. Bancroft) in the services of the United States Government. Mr. Bancroft emphasized that his government had refused repeated offers of settlement by arbitration, but when the Emperor of Germany had been suggested, the policy of the United States changed. Mr. Bancroft stressed the confidence in the Emperor of Germany, who was in a country in which the jurisprudence of Carl Ritter, Ranke, and Heffter had been developed.¹²⁴

Mr. Bancroft, in his case, pointed out the attitude of the British Government before and at the time the Treaty was signed. He referred to the correspondence of Lord Aberdeen, Sir Robert Peel, Mr. McLane, Mr. Benton, and others from both governments, showing that they agreed that the Canal de Haro was the water boundary intended at the time of the Treaty of June, 15, 1846. Mr. Bancroft

120 Papers Relating to the Treaty of Washington Vol. 5 Berlin Arbitration (In introduction to case presented to German Emperor.)

121 Hertslets, *op cit.* Vol. 13 (1877) p. 985. See also, Moore, *op. cit.* Vol I, pp. 224-225. See also, Meany, *op. cit.* p. 253.

122 Moore, *op. cit.* pp. 227-228. See also, Meany, p. 253.

123 Papers Relating to the Treaty of Wash. *op. cit.* p. 4

124 Papers Relating to the Treaty of Washington Vol. 5, Berlin Arbitration (Introduction). See verbatim report of introduction in Appendix V.

recalled that the only reason for not extending the boundary of the 49th parallel to the Pacific Ocean was to give all of Vancouver's Island to Great Britain, and as a consequence no other channel than the Canal de Haro could have been intended.¹²⁵ At the same time he stressed that the governments, in 1846, could not have had reference to any other channel than Canal de Haro because the leading maps of four countries had marked the Canal de Haro and not Rosario Straits. Vancouver's Map of 1798, England's highest authority, had only Canal de Haro marked; likewise Wilkes' Map of 1845, the highest authority in the United States, had Canal de Haro and no other Canal Marked. The French map of Duflot de Mofras published under the auspices of Louis Philippe in 1844 marked the Canal de Haro and no other Channel of navigation. Finally a collection of maps in the Royal Library of Berlin, all published before 1846, had only the Canal de Haro marked. These facts were pointed out to be evidence that the governments of the United States and Great Britain could not have meant a route of navigation as boundary so insignificant that it was not recorded on the leading maps of the world.¹²⁶

Mr. Provost, in his case to the Emperor, did not present such masterful or appealing arguments. His introduction was short and not at all dramatic but merely called attention to the fact that the Emperor of Germany according to the Treaty of Washington on May 8, 1871, was selected as arbitrator.¹²⁷ Mr. Provost emphasized, in particular, that before 1846 the Rosario Straits were more commonly used than was the Canal de Haro.¹²⁸ He referred to Vancouver's exploration in 1792 and called attention to the fact that soundings were made only in Rosario Straits; Canal de Haro could not have been used since no soundings had been reported.¹²⁹ Mr. Provost argued that Rosario Straits were safer for navigation because the rising tide was not so strong, and that anchorage was always available.¹³⁰ To prove his point that Rosario Straits were more frequently used before 1846, Mr. Provost had sent a questionnaire to five men, all of whom had been, prior to the Treaty of June 15, 1846, in the employ of the Hudson's Bay Company. He asked these men which route was used before 1846, and all of them mentioned that the Hudson's Bay Company always used Rosario Straits before that time. To make the point more emphatic, all of the men

125 Papers Relating to the Treaty of Wash. *op. cit.* pp. 5-18.

126 Papers Relating to the Treaty of Wash. *op. cit.* p. 15.

127 *Ibid.* Introduction of British Case. See Verbatim report in Appendix V.

128 *Ibid.* p. 62.

129 *Ibid.* pp. 68-71.

130 *Ibid.* pp. 62-67.

mentioned that they had not heard of anyone's using the Canal de Haro until after the Treaty of June 15, 1846, had been signed. All five went before a Notary Public and made sworn statements that the reports were true within their knowledge.¹³¹ It will be observed that no Americans were privileged to answer the questionnaire, and that every man selected was an Englishman who had been in the service of the Hudson's Bay Company. When Mr. Bancroft wished to prove his point concerning the opinions of the Treaty of 1846 held by the two governments, he used letters from English Statesmen as well as from American Officials, and these letters agreed well. Mr. Provost did not in a single instance refer to correspondence of any American to substantiate his arguments.

In the rebuttal, Mr. Bancroft referred to the correspondence of Sir Richard Pakenham and Lord Russel in 1859, in which both men stated that they did not believe that the Rosario Straits were meant by the Treaty of 1846, but that a middle channel between the two in dispute was the boundary referred to.¹³² Since the British officials did not stand firmly for the Rosario Straits, and since the Emperor of Germany could not compromise the dispute by selecting a middle channel, the arguments appeared to be in the favor of the United States.

In order to be absolutely impartial to both countries, the Emperor presented the evidence submitted by Mr. Bancroft and Mr. Provost to three of the most eminent judges in Germany. The three men chosen were: Dr. Grimm, vice-president of the Supreme Court of Berlin; Dr. Kiepert, the eminent pupil of Carl Ritter; and Dr. Goldschmidt, a member of the Supreme Court at Leipzig. Each of these men made a report.¹³³

Based on the verdict of these three judges, Emperor Wilhelm I of Germany decided in favor of the United States. The Emperor's verbatim report translated is as follows:

"The claim of the Government of the United States; viz., that the line of boundary between the Dominions of Her Majesty and the United States should be run through the Canal de Haro—is most in accordance with the true interpretations of the Treaty concluded between the governments of Her Britannic Majesty and that of the United States of America, dated at Washington, June 15, 1846.

"Given under our hand and seal at Berlin, October 21, 1872.

William"¹³⁴

¹³¹ *Foreign Relations*, Part II, Vol. 5 Berlin. Arbitration pp. 99-116.

¹³² *Foreign Relations* Part II, Vol. 5, *op. cit.* pp. 185 and 188.

¹³³ Moore, *op. cit.* p. 229.

¹³⁴ Hertslet, *op. cit.* Vol. 13 (1877) p. 530.

Because of this decision, James Provost was grievously disappointed, and the members of the House of Commons were indignant because a third channel was not suggested in the arbitration agreement in case neither the Canal de Haro nor Rosario Straits were satisfactory to the Emperor. However, both governments accepted the decision of the arbitrator and thanked him for his work.¹³⁵

A year later the boundary line had been surveyed and on March 10, 1873, the Protocol determining the San Juan Boundary line was signed at Washington by Hamilton Fish, Secretary of State; by Sir Edward Thornton, British Minister to the United States; and by Admiral Provost, boundary commissioner for Great Britain. Four charts which showed the exact location of the boundary line were made and signed. Two of these maps were kept by each government for future reference.¹³⁶

The British *Garrison* withdrew from San Juan Island November 25, 1872. Thus ended the dispute over the water boundary between British Columbia and the United States that had lasted for over twenty-five years.¹³⁷

The Conclusion

After the smoke of the controversy has blown away, and years have passed, it is hard to understand how two great powers could have come so close to war over a few islands that are so little regarded at the present time, but during the years from 1853 to 1859, the officials of the two colonial governments had worked themselves into difficulties which required the most careful handling on the part of the central governments.

It is now pretty well established that the British Government did not originate the claim for the new water boundary at Rosario Stratis. The officials of the English Government who had explored the original Oregon Territory and those who had charge of the Treaty of June 15, 1846, were not very much impressed with the possible value of the land in the Pacific Northwest. When the English Government had been willing to give up the Territory of Washington in the Treaty of 1846, although England had the better claim, it is not reasonable to assume that the English Government would initiate a controversy of so serious a consequence. I feel confident that England would never have made the claim for Rosario Straits instead of the Canal de Haro, had not other forces from the Pacific Northwest made urgent appeals to the English Government

135 Moore, *op. cit.* p. 231.

136 Hertslet, *op. cit.* Vol. 14, (1888) p. 680. See also, Moore, *op. cit.* Vol. I, p. 231.

137 Hertslet, *op. cit.* Vol. 13, (1877) p. 530.

for support. The British at first frowned on the new interpretation of the Treaty of 1846, because they were under the impression, as far as government document could show, that the Canal de Haro was the water boundary intended when the treaty was signed. As a consequence, considerable pressure had to be used repeatedly before England took an active part in the controversy.

The Hudson's Bay Company supplied the force that originated the boundary line dispute between Vancouver's Island and the Continent. The Agents of the Hudson's Bay Company were anxious to gain possession of the islands between the Canal de Haro and Rosario Straits because of their commercial importance. The Hudson's Bay Company officials appealed directly to the English Government and to James Douglas, Governor of British Columbia for military and diplomatic support. It is clear that James Douglas used all the power within his means to protect the interests of the Hudson's Bay Company and to urge the English Government to take a decided stand for the new claim. Even Admiral Baynes accused James Douglas of showing preference for the Hudson's Bay Company on the Pacific Coast. Douglas was even reprimanded by the English Government for the very same reason, so it is quite clear that Douglas was playing a lone hand in pushing the claims of the Hudsons' Bay Company and later the same claims for the English Government.

General Harney and Captain Pickett, had taken an equally decided stand on the question. If Captain Hornby and Admiral Baynes had obeyed the orders of Douglas, a conflict would have been precipitated on San Juan Island and a probable war would have been the result. The credit for maintaining peace between England and the United States at this time must be accredited to the coolness and good judgement of Capt. Hornby and Admiral Baynes of the British Navy.

I think that a joint military occupation should have been allowed from the beginning. The central governments of both countries were in favor of such an agreement, but due to the fact that James Douglas and General Harney wanted the matter settled at once much excitement was aroused in both countries. Some authorities believe that General Harney, Governor Stevens, and Captain Pickett were objecting to a fair compromise in order to bring on a war with Great Britain to prevent a threatening conflict between the North and the South over slavery. I do not see how these prominent men could have expected to prevent the Civil War permanently

by provoking a war with England. After such a foreign war, the slavery question would have again arisen, and eventually the Civil War would have come. Both General McClellan and Mrs. Pickett expressed the opinion that Capt. Pickett was willing to sacrifice his own life if civil war could be averted. From another viewpoint, Governor Stevens of Washington Territory and General Harney were probably so confident that all islands east of the Canal de Haro were American soil that they resented the intrusion of the Hudson's Bay Company in the territory. The American settlers on San Juan Island disliked and feared the company, and of course they took their grievances to General Harney and Governor Stevens. The governor and the general had perhaps been irritated so long by the actions of the company officials and the event of the hog was the straw that broke their patience and sufferance.

People who view a quarrel from a distance cannot always understand the feelings of those who have been in the midst of the dispute. When General Scott was sent out to the coast, he could of course take a cooler and more sensible view of the situation, but he made the mistake of taking a decidedly superior and overbearing attitude toward those men who had every reason to know the situation better than he. There is no reason to believe that General Scott was thoroughly familiar with the activities of the Hudson's Bay Company or those of the Indians, but he foolishly did not bother himself to obtain any information other than that he had already obtained by correspondence. General Scott did not communicate with the Governor of Washington Territory in order to get the opinions of the Legislature and of the Executive. He did, however, converse a short while with General Harney, but he evidently was not trying to get information but rather to give orders as he, himself, thought best. There is no doubt that General Scott did the right thing in speedily proposing joint military occupation, but it seems to me he could have reached the same end and still have been more considerate of General Harney and Captain Pickett.

Appendix

Extracts from "Pickett and His Men" by L. C. Pickett
(Atlanta 1899)

"From this time (April 30, 1860) until the State of Virginia was forced into the ranks of secession, carrying her noblest sons with her, Captain Pickett remained on the Island of San Juan. Then

he resigned his commission, and, narrowly escaping arrest, hastened South to cast in his fortunes with the struggling new dream nation.

"The military leaders on the Pacific Coast had an ulterior purpose, hidden from the world but lying close to the hearts of them all, of far greater magnitude than the mere saving of a fragment of earth. They had seen the 'little cloud no bigger than a man's hand' drifting along the southern horizon and had read its threatening import. They knew that within it were hidden the thunders and lightnings of war and they dreaded the moment when the storm should break over the land. To avert this disaster they were ready to risk their lives at the mouths of British guns.

"The elements of discord that had lain at the heart of all our national history since the adopting of the constitution and the division of parties into federalists and republicans had at last reached the point where an outbreak could be avoided only by a foreign war which would unite all parts of the country into one grand whole for the purpose of national defense. If a war could be precipitated the danger of civil faction would be over. All hearts would respond at once to the call of the nation for help. 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. The spirit of patriotism would awaken and the Star Spangled Banner would float once more over a united nation. The little waves of sectional strife that look so stormy now would sink into the great sea of patriotic enthusiasm that would roll in majestic grandeur from the farthest snow line of Minnesota to the sunny orange groves of Florida, from the islands that bathe themselves in the far off Atlantic waves to the golden gate that opens the way to the pearl caves of the Pacific.

"To this end Captain Pickett, who had won his commission by gallant service under the old flag, would gladly have given his life. Like many others who afterwards fought as bravely against the national government as they had in happier times fought for it, he loved the Union."¹³⁸

From General George E. Pickett written and published by General George B. McClellan, August 7, 1875:

"It is a fact not generally known, that the movements which are referred to here in the occupation of San Juan had their origin in a

¹³⁸ *Pickett and His Men* pp. 123-124.

patriotic attempt on the part of General Harney, Governor Stevens, of Washington Territory, and other Democratic officers on that coast, with the knowledge and zealous concurrence of Captain Pickett, to force a war with Great Britain in the hope that by this means the then jarring sections of our country would unite in a foreign war, and so avert the civil strife which they feared they saw approaching. For this purpose Captain Pickett gladly volunteered to risk his life, and so endeavored to force the Englishmen to open fire upon him. When he first occupied the disputed territory on which the British had settlements, but which was afterwards awarded to the United States by the Emperor of Germany, under the Geneva Conference. It is certain that in this adventure Pickett would gladly have spilt his blood to have averted, at the cost of a foreign war, that civil war which he and so many others tried to avert, yet to which, when it came, they gave their best efforts."¹³⁹

Petitions Against and Favoring Capt. Hunt

"San Juan Island,
March 7, 1860.

"General: We, the undersigned, citizens of this Island, beg respectfully to call your attention to the gross and ungentlemanly conduct of Capt. Hunt, the officer in command of this station. We ask if he is justified as a military man to infringe on rights and privileges of American citizens? Is he justified in stopping trade and endeavoring to drive the inhabitants from the island? Such conduct he is guilty of; and, unless immediate steps are taken to prevent any further outrages on his part, not only the service to which he belongs, but the dignity of the country who boasts her liberty of subjects, will be compromised. By his recent conduct the whole of the inhabitants of this island have been insulted; their position as tradesmen and citizens lowered; and he himself become an object of contempt. We, therefore, respectfully ask your attention to this appeal, and trust that either a more sane and proper officer may replace the one now in command, or steps may be taken to prevent any further inquisitorial and unjust interference on his part.

"With profound respect, we beg to underscribe ourselves, General, your obedient servants,"¹⁴⁰

Signed by ten citizens

¹³⁹ Pickett, L. C. op. cit. Appendix p. 426.

Petition in Favor of Capt. Hunt

"San Juan Island, March 30, 1860

"Sir: We, the undersigned, American citizens, actual settlers upon the island, and tillers of the soil, respectfully represent, that the peace and quiet of the island demand that a stop should be put to the unlicensed and uncontrolled liquor dealing carried on upon the island; that there is no prospect, for various reasons that any magistrate will long continue to exercise his functions amongst us; that by the result of two recent jury trials it appears that no check exists on the part of the civil power.

"Having full confidence in the judgment and discretion of Capt. Hunt, the military commander upon the island, we respectfully request that you will give him such instructions as may seem proper to you to the end that the military power may be brought to bear promptly for the suppression of this great nuisance in our midst.

"We have the honor to be, with high respect and esteem

J. Everett Hewett, Daniel Oakes, D. F. Newman, Late Magistrate, and thirty others."¹⁴¹

Bancroft's Introduction to the Case Presented to the Kaiser

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

"Six times the United States received the offer of arbitration on their Northwest boundary and six times had refused to refer a point where the importance was so great and the right so clear. But when consent was obtained to bring the question before Your Majesty, my country resolved to change its policy, and in the heart of Europe, before a tribunal from which no judgment but a just one can emanate, to explain the solid foundation of our demand, and the

¹⁴⁰ Sen. Ex. Doc. No. 29, Ser. 1316.

¹⁴¹ Sen. Ex. Doc. No. 29, Serial No. 1316, p. 217.

principles of moderation and justice by which we have been governed.

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

"The long continued controversy has tended to estrange from each other two of the greatest powers of the world, and even menaced, though remotely, a conflict in arms. A want of confidence in the disposition of the British Government has been sinking into the mind of the states of the Union now rising on the Pacific, and might grow into a popular conviction, not easy to be eradicated. After having secured union and tranquility to the people of Germany, and attained a happiness never before allotted by Providence to German warrior or statesman, will it not be to Your Majesty a crowning glory, now, in the fullness of years and in the quiet which follows the mighty struggles of a most eventful life, to reconcile the two younger branches of the great Germanic family."¹⁴²

Provost's Introduction to the Case Presented to the Kaiser

"His Majesty the Emperor of Germany having consented to accept the office of arbitrator between the Government of the United States of America and the Government of Her Majesty, under the provisions of Article XXXIV of the treaty concluded at Washington on 8th May, 1871 ; between the United States and Her Majesty submits to the consideration of His Majesty the Emperor of Germany, in pursuance of Article XXXVI of said treaty, the following case:"¹⁴³

*Copy of Original Letter of Mr. Dallas, Hudson's Bay Company
Factor, to Governor James Douglas*

Fort Victoria, Vancouver's Island
August 5th 1859

"His Excellency—James Douglas, Esq.,
Governor Vancouver's Island

"Sir— American troops having taken possession of San Juan Island, and proclaimed that citizens of the United States are to be protected in squatting upon any portion of the island I beg to bring to your Excellency's notice the great damage sustained by the Hud-

¹⁴² Paper Relating to the Treaty of Washington Vol. 5, Berlin Arbitration.

¹⁴³ Foreign Relations of the United States, Part II Vol. 5, Berlin Arbitration, p. 61.

son's Bay Company by the above course of proceeding. Our sheep, cattle and horses are disturbed at their pasturage, and driven from the drinking springs, in the vicinity of which the troops are encamped. (Much of the pasture is also destroyed) At a future day I shall be prepared to bring forward a claim against the United States Government for damage sustained; and in the meantime would respectfully request to be informed, what if any amount of protection we are likely to receive from Her Majesty's Government in the carrying on of the large stock farms, of which we have had until now, almost undisputed possession during the last six years.

"Very recently an outrage was committed by an American squatter, in killing one of our animals. I am informed by the Attorney General, that the proper course of proceeding will be to bring the case forward in the Victoria Court. Before doing so, may I beg to be informed if your Excellency is prepared to support the Civil authority by the apprehension of the offending squatter? or are we to appeal to the United States Authorities for redress?

"It is certainly reported that the Sheriff of Washington Territory, proposes levying taxes on us at San Juan. In the event of his doing so, may I ask what course of proceeding we are to follow. On a former occasion—the only one upon which our occupancy of the island has been interfered with, some of our sheep as your Excellency is well aware, were forcibly carried away as payment for taxes by the Sheriff of Washington Territory, and for which outrage, no redress has yet been obtained. In the event of such an attempt being again made, we are without any means of protection. Our resident Magistrate is not acknowledged, while the ships of war now lying there are too far distant, to be of much avail in a sudden emergency.

I have the honor to be Sir,
Your most obedient Servant
H. G. Dallas."¹⁴⁴

ALFRED TUNEM.

144 Provincial Arch. Original Letter of Dallas, Victoria, B. C.