1931

Dispute over the San Juan Island water boundary

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The Dispute Over the San Juan Island Water Boundary

BY

Alfred Tunem

Presented in partial fulfillment of the requirement for the degree of Master of Arts.

State University of Montana

1931

Approved:

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Chairman of Examining Committee

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Chairman of Graduate Committee
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INTRODUCTION

The purpose of this thesis shall be to follow the dispute between the United States and Great Britain over the water boundary on Puget Sound between British Columbia and Washington Territory from 1848 until its settlement in 1872. I shall endeavor to make clear why this dispute arose, and who was really responsible for questioning the terms of the Treaty of June 15, 1846, and to explain the temporary compromise and the final steps in the arbitration which led to the conclusion of the dispute in 1872. I shall incidently present facts about the various personalities who were in or near the disputed territory at the time the agitation reached its height, and I shall attempt to evaluate the part each one of these played in the controversy.

I have considered primary and secondary sources which have had a direct or indirect bearing on the problem of this thesis. This material has been secured from the following places: University Library of Montana, Missoula; University Library of Washington, Seattle; Public Library of Seattle; Public Library of Spokane; Provincial Library, Victoria, B.C.
The Dispute Over the San Juan Island
Water Boundary

What the Dispute Was

The San Juan dispute during the period of 1846 to 1872 between the United States and Great Britain, centered around the location of the boundary line separating Vancouver's Island from the main land of Washington Territory. According to the Treaty of June 15, 1846 between the United States and Great Britain, the boundary line on the Pacific Northwest was definitely established, in the opinions of the two governments. However, the Article defining the boundary line between Vancouver's Island and Washington Territory was not clear in its terminology. The Article read:

"From the point on the 49th parallel of North latitude, where the boundary laid down in existing treaties and conventions between Great Britain and the United States terminates, the line boundary between the territories of Her Majesty and those of the United States, shall be continued westward along the said 49th 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 said channel and straits, south of the 49th parallel of North latitude, remain free and open to both parties."

Since there are at least two distinct channels leading

(1) Hertslet's Commercial Treaties—(1851). Vol. 8, p. 951
from the northern boundary on the 49th parallel south
to the middle of the Straits of Puca, and since neither
was mentioned in the Treaty of June 15, 1846, each
country was at liberty to place its own interpretation
on the Article. The United States maintained that the
channel intended in the Treaty of June 15, 1846, was
the Canal de Haro while Great Britain maintained that
the logical channel was the Straits of Rosario. If
the Canal de Harro were taken as the dividing line,
the United States would be in the possession of sev­
eral important islands, the largest and most important
of which was the Island of San Juan; if Rosario Straits
were taken, England would then be in the possession
of these islands.

**General Value of Islands**

The dispute between England and the United States
arose after the Treaty of June 15, 1846, when it was
discovered that these islands lying between Canal de
Haro and Rosario Straits were of great military im­
portance. Both countries had noted men who supported
the contentions of each with great vigor. The Secretary
of War, John A. Rowlins, in a report to the Senate of

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(2) Moore, James B.—*History of International Arbitration*
(6 vol. Wash. 1898) Vol.1, p.219
See also, Encyclopedia Britannic, Vol. 21, p.266
the United States, dated March 20, 1869, emphasized the significance of San Juan Island as a military stronghold for the command of Puget Sound. Brigadier General A. A. Humphrey, Chief Engineer, who had been in the disputed territory, supplied the Secretary of War with the details concerning the military importance of the island. He stressed at great length that if Great Britain should have control of San Juan Island, being already in control of all of Vancouver's Island, the English could absolutely control the entrance of Puget Sound and thereby command the chief harbors of the Pacific Northwest. If the United States could hold San Juan Island, that government would be in a position to defend its harbors and at the same time have an equal chance with Great Britain in controlling the channels leading into Puget Sound from the ocean.

J. Gregory Smith of the Northern Pacific Railroad Company addressed a letter to Senator G.P. Edmunds, February 20, 1869, calling his attention to the military importance of San Juan Island and how necessary it would be for the United States to control the island in order to command an entrance into Puget Sound. At the same time, Mr. Smith predicted that at some time in the future, the Puget Sound Region would become the commercial center

(3) Senate Executive Doc. No. 8 Serial No. 1393, p. 1
of the North Pacific. He further stated that the Northern Pacific Railroad Company would have a Western Terminal on Puget Sound and it would not do to have it entirely within range of British guns.

Mr. Campbell, who was appointed by the United States Government as a member of the commission to determine the water boundary in the disputed territory, stated in a letter to Mr. Cass, dated September 25, 1858, that, "it is in a military and naval point of view, however, that their (islands) importance is to be mainly regarded." Lord Russel at London wrote repeatedly to Lord Lyons, English minister at Washington, D.C., emphasizing the great importance of San Juan Island to the British Government. Lord Russel's letter of December 16, 1859, particularly referred to the military value of San Juan Island, stating that, San Juan Island would be a defensive position if in the hands of Great Britain but an aggressive position if in the hands of the United States.

Viscount Milton, an Englishman, devoted considerable space in his book, "History of the San Juan Water Boundary Question," in an effort to impress upon the people of Great Britain that San Juan Island was absolutely

(5) Senate Exec. Doc. No. 29, Serial No. 1316, p. 52
(6) Ibid, pp. 223 and also 249
necessary if the British hoped ever to hold a safe commercial position on the Pacific Coast. In part Viscount Milton said:

"The entrance to the strait or Canal (de Haro) is, however, commanded by the Island of San Juan, one of the islands of the group, and it will be seen that it is of the very last importance to the citizens of Vancouver's Island, and of the mainland of British Columbia, that in case of any disagreement with the United States they should hold possession to this key to the strait. ...and should the island of San Juan, commanding the Canal de Haro, fall into the hands of the United States the inhabitants of Victoria and the inhabitants of the mainland of British Columbia could be cut off from intercourse with each other by the batteries of the United States erected on San Juan." (7)

Besides the military importance of San Juan Island, it was very valuable, also, from the economic standpoint. The waters just south of San Juan Island were believed to be the best for fishing on all of Puget Sound. The Hudson's Bay Company annually put up from 2,000 to 3,000 barrels of salmon which were taken from these waters. In addition to the salmon, cod and halibut existed and were caught in great quantities each year by the Indians of the territory. The Hudson's Bay Company regarded San Juan Island as an ideal location for sheep raising also, and owned thousands of sheep which grazed near the establishment of the company. The mutton produced on San Juan was reported to be of superior flavor, and the climate and grazing conditions

(8) Ibid, p. 19
See also, Sen. Ex. Doc. No 29, Serial No. 1316, pp.131-135
(7) See also, Provincial Arch., Victoria,B.C. Original paper written by Sir Matthew B.Begbie,Aug.6,1859
were believed responsible for the rapid growth of the sheep and the delicate flavor of the meat.

San Juan Island, in addition to offering ideal fishing and grazing locations, was noted for its deposits of coal and limestone.

"A circumstance of great importance in connection with this island is the existence upon it of extensive deposits of limestone." (11)

Because of the material value of San Juan Island in particular, and because of its strategic position from a military standpoint, the water boundary dispute very nearly brought the United States and Great Britain into another war.

Opinions of Officials of Both Governments Concerning the Location of the Water Boundary at the Time the Treaty of 1846 was Signed.

An investigation of the negotiations between the governments of England and of the United States just before and immediately after the Treaty of June 15, 1846, shows that representatives of both governments believed that the Canal de Haro was really intended as the water boundary between Vancouver's Island and the United States.

Before the Treaty of 1846 was signed, the two governments could not agree on the exact boundary line.

(9) Senate Ex. Doc. No. 10--Serial No. 1027--p. 7
See also, Executive Doc. No. 77 Serial No. 1056-p. 1
See also, Milton, op. cit. 16
(10) Sen. Ex. Doc. No. 29 Serial No. 1316, pp. 131-135
(11) Milton, op. cit. p. 16
between United States territory and British Columbia, although the 49th parallel was satisfactory to both. England did not wish a 49th parallel to extend to the Pacific because she would lose part of Vancouver's Island. However, Mr. Edward Everett, our representative in England, addressed a letter to Lord Aberdeen of the English ministry, November 30, 1843, in which he suggested that the 49th parallel could extend to the middle of the Gulf of Georgia and then south to the Gulf of Juan de Fuca; thus England would retain all of Vancouver's Island.

A letter dated May 18, 1846, from Mr. McLane who had charge of the San Juan Island question in London, to Mr. Buchanan, Secretary of State, explained in detail a conversation that he had had with Lord Aberdeen regarding a reasonable settlement of the boundary dispute. The plan which seemed reasonable to Lord Aberdeen and which was then authorized to be presented to the United States through Mr. Pakenham, England's minister to the United States, was as follows:

"First—to divide the territory by the extension of the line or parallel of 49 to the Sea; that is to say, to the arm of the sea called Birches Bay, thence by the Canal de Arro and Straits of Fuca to the ocean." (13)

In this dispatch, Mr. McLane actually mentioned Canal de Arro (same as Haro); evidently the governmental officials

(12) Papers Relating to the Treaty of Wash. Vol. 5 Berlin Arbitration p. 8
(13) Sen. Ex. Doc. No. 29—Serial No 1316—pp. 80-81
See also, Vol. 5 Berlin Arbitration, op. cit. p. 49
See also, Foreign Relations of the U. S., Part III, p.309
in England, who were responsible for the settlement of the boundary line, believed that the Canal de Haro was the only channel contemplated for the Treaty of June 15, 1846.

Extracts of a lecture delivered by Mr. William Sturgis on the San Juan Island dispute before the Mercantile Library Association of Boston, January 22, 1845, outlined the plan that was later considered a fair method for the settlement of the boundary dispute. He said in part:

"In this opinion I doubt not that the distinguished statemen, Messrs. Pakenham and Calhoun, who now have charge of the negotiations, will cordially concur; and it seems to me that each party will obtain their object, and justice will be done to both, by adopting as a boundary a continuation of the parallel of 49 (degrees) across the Rocky Mountains to the tide water, say to the middle of the Gulf of Georgia; thence by the northern most navigable passage (not north of 49 degrees) to the Strait of Juan de Fuca, and down the middle of those straits to the Pacific Ocean; the navigation of the Gulf of Georgia and the Straits of Juan de Fuca to be forever free to both parties, all the islands and other territory lying south and east of this line to belong to the United States and all north and west to Great Britain." (14)

In this speech, Mr. Sturgis specified that all islands south and east were to be the property of the United States. As a consequence no channel other than the Canal de Haro could have been designated to meet those specifications.

This lecture of Mr. Sturgis reached England and was published in English papers. As a result of this

Berlin Arbitration, Appendix 21, p. 34.
plan presented by Mr. Sturgis, Lord Ashburton addressed a letter to Mr. Sturgis, April 2, 1845, in which he expressed his full agreement in every detail of the proposed water boundary. Just a month later on May 1, 1845, Mr. Bates, editor of the Examiner, London, sent a letter to Mr. Sturgis, in which he stated that before he published the address he had sent a copy to Lord Aberdeen for approval because he did not wish to form public opinion for a plan not in harmony with the opinion of the English Government. Lord Aberdeen replied that all details relating to the boundary settlement as outlined by Mr. Sturgis were satisfactory to his wishes. This evidence proves that opinions of the leading men of England and America in regard to the water boundary on Puget Sound were in perfect harmony with the claims held by the United States at the time of the later controversy.

Mr. Bancroft, who was minister to London, wrote to Mr. Campbell June 15, 1858, and explained very clearly how both governments interpreted the Treaty of 1846:

"The United States held that both parties had a right to the free navigation of the waters round Vancouver's Island, and therefore consented that the British Boundary should extend to the center of the Channel of Haro. Such was the understanding of everybody at the time of consumating the treaty in England and at Washington." (17)

(16) Ibid, Appendix 26, pp. 37-38
(17) Sen. Ex. Doc. No. 29, Serial No. 1316, p. 54
In 1649, England ceded to the Hudson's Bay Company the exclusive right of Vancouver's Island on condition that the company would encourage colonization. Nothing was mentioned regarding the territory east of the Canal de Haro, so evidently the British did not acknowledge ownership of the disputed territory, or they would doubtless have included the Island of San Juan in the grant.

At the time of the ratification of the Treaty of June 15, 1846, Mr. Benton in a speech before the Senate points out very clearly the interpretation held by our government. Mr. Benton said in part:

"The line ... followed the parallel of 49 to the sea, with a slight deflection through the Strait of Fuca 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 proceeds to the channel, and thence turning south through the channel de Haro (wrongfully written Arro on the map) to the Strait of Fuca; and then west through the middle of the channel to the sea." (18)

Robert Peel, Prime Minister of England, in his last address before the House of Commons on June 29, 1846, just after the treaty had been signed, gave a similar idea of what should actually constitute the boundary line on the Pacific Northwest. He said:

(16) Howay, F.W. British Columbia--The Making of a Province (Toronto and London 1926) p. 104
See also, Wilson, Beckles--The Great Company--(New York 1906) pp. 464-465
(19) Sen. Ex. Doc. No. 29--Serial No. 1316, p. 68
See also Moore, op. cit. p. 214
Those who remember the local confirmation of the country will understand that that we propose is the continuation of the 49th parallel of latitude till it strikes the Strait of Fuca; that that parallel should not be continued as a boundary across Vancouver's Island, thus depriving us of a part of Vancouver's Island with equal rights to navigation of straits." (20)

All these officials of both governments who expressed opinions before, at the time, and immediately after the Treaty of June 15, 1846, were of the understanding that Canal de Haro was the only channel that was meant. England's representatives in the negotiations stressed that they could not agree with a plan that would cut off Vancouver's Island at the 49th parallel, but that they would agree to a plan that would give England all of Vancouver's Island. To do this, it surely would not seem logical nor at all probable that a channel so remote as that of Rosario Straits would be selected. Since England would not agree to lose a part of Vancouver's Island, surely the United States would not agree to give up a group of islands when the deepest and best channel passed by the shores of Vancouver's Island.

When Robert Peel's Ministry went out of office, the boundary line between British Columbia and the United States seemed to have been permanently settled, but with the inauguration of the ministry under Lord Russel, a controversy was brought up again over the water boundary.

(20) Foreign Relations of the United States, Part III (1873) p. 303 (quoted by Foreign Relations)
because the Canal de Haro was not definitely mentioned in the Treaty of June 15, 1846, nor was any other channel between the Gulf of Georgia and the Straits of Juan de Fuca.

Why was the controversy over the water boundary reopened when statesmen of both countries had settled it to their own satisfaction and to that of the two countries in 1846? The English government had seen no reason to claim the Island of San Juan then, but she did so later, it seems evident, because the importance of these islands was pushed forward by influential persons. Evidence seems to place the blame for originating the claim for Rosario Straits as a boundary to the Hudson's Bay Company and not to the English Government. In fact, in 1846, the English officials did not believe that even all the land north of the Columbia River was worth having, and surely they would not be ready to fight for a few islands in the Sound. The English Government had sent out an expedition before the treaty was signed to explore and to determine the value of the region north of the Columbia.

Captain Gordon, brother of Lord Aberdeen, and Lt. William Peel, son of Sir Robert Peel, explored the Oregon territory

(21) Oregon Historical Quarterly, Vol. 28, p. 19
and returned with the report that the territory was worthless. The Edinburgh Review of July 18, 1845, proclaimed the territory north of the Columbia River of no value. Another English publication, the Nile Register, in its issue of May 2, 1846, called the disputed territory north of the Columbia River, a sterile region, remote and useless. These facts show that the English Government did not feel that it lost land of any value by giving up the territory to the 49th parallel, and at the same time public opinion in England must have been unfavorable to the territory because of the writings of current publications.

Reference has been made to the settlement that the Hudson's Bay Company had on San Juan Island and also of the fishing stations which had been established there even before the treaty was signed. Because the Hudson's Bay Company wished to have the islands for fishing purposes and later for sheep raising, the company would naturally try to persuade Great Britain to claim all islands west of the Rosario Straits and to refuse an acceptance of the Canal de Haro as the water boundary.

(22) Lout, Agnes C. Conquest of the Great Northwest (New York 1918) pp. 389-384
(23) Oregon Historical Quarterly, Vol. 28, p. 26
(24) Ibid, p. 34
As early as May 16, 1846, Sir J. Pelly, Governor of Hudson's Bay Company, sent a letter to Lord Aberdeen urging him to claim the Rosario Straits and thus to give the islands to Great Britain. Mr. Bancroft, our minister in London, addressed a letter to the Secretary of State of the United States in November 1846, in which he stated that the Hudson's Bay Company was urging the British Government to claim the Rosario Straits in order that the company could possess the valuable islands between Rosario Straits and Canal de Haro. At the same time he mentioned that the British Ministry was not in favor of making such a claim. Mr. Bancroft again emphasized the contention of the Hudson's Bay Company in a letter dated March 29, 1847, addressed to Mr. Buchanan. In part he said:

"While on this point I ought to add that my attention has again been called to the probable wishes of the Hudson's Bay Company to get some of the islands on our side of the line in the Straits of Fuca.... The ministry, I believe, has no such design. Some of its members would be the first to frown on it." (27)

(26) Sen. Ex. Doc. No. 29, Serial 1316, p. 3
     See also, Ibid, p. 82
     See also, Sen. Ex. Doc. No. 29, Serial 1316, p 82
     See Appendix VI for copy of original letter of Mr. Dallas, Chief Factor of H.B.Co. addressed to Governor James Douglas.
The evidence presented may not be conclusive proof that the Hudson's Bay Company was the instigator for England's claim on San Juan and adjacent islands, but it arouses a certain amount of suspicion in that regard. Later on, when conflict actually began, the Hudson's Bay Company did everything within its power to have England hold San Juan Island, and the British Government did everything possible short of war to make her claim for Rosario Straits as a boundary effective.

United States and Great Britain Appointed Commissioners who Tried to Settle the Dispute.

When trouble seemed likely to occur between the British and American Governments over the possession of the disputed territory, the United States and Great Britain each appointed commissioners whose duty it was to determine the boundary line according to the provisions of the Treaty of June 15, 1846. Archibald Campbell represented the United States, and James C. Provost represented Great Britain on the boundary commission.

The commissioners representing the two countries arrived

See also, Cong. Globe, 1st. Sess. 34 Cong. Part II, p. 1930
See also, Foreign Relations, Part III, p. 312-315
at the disputed boundary line in June 1857. The first meeting was held June 27, 1857. The commissioners exchanged orders given them by their governments explaining the conditions under which a settlement could be made. According to these orders, each one had full authority to settle the dispute according to his own interpretation of the Treaty of June 15, 1848. With this understanding of each others powers, the commissioners began work immediately. Each one presented his arguments and all evidence possible in six different meetings; the first one was held June 27, 1857, and the last one December 3, 1857. Captain James Provost outlined the conditions under which the boundary line could be settled. According to a careful consideration of the wording of the treaty, Provost maintained that the treaty provided that the channel mentioned should possess three characteristics: First, it should separate the continent from Vancouver's Island; second, it should admit of the boundary line being carried through the middle of the channel in a southerly direction; third, it should be a navigable

(30) Ibid, p. 49
See also, Moore, op.cit. Vol. 1. pp. 219-220
channel. Capt. Provost maintained that the Canal de Haro satisfied the third point but that it did not meet the requirements of the other two. He argued that the Canal de Haro did not separate Vancouver's Island from the mainland because there were several navigable channels between Vancouver's Island and the continent. Capt. Provost further maintained that Canal de Haro did not satisfy the second point because the channel ran more westerly than southerly.

To these arguments by Capt. Provost, Mr. Campbell made his reply in a letter dated November 2, 1857. 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 navi-

(31) Sen. Ex. Doc. No. 29, Serial No. 1316, p. 11
See also, Moore, op.cit. Vol. I, p. 219
(33) Ibid, pp 11-16
gable channel. After refuting 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.

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. 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

(35) Ibid., pp. 30-35
See also, Moore op. cit. Vol. I, pp. 221-222
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. 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. 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. Mr. Campbell realized that it was useless to try to make a

(37) Ibid. pp. 106-108
settlement with a person who was held to certain specifica-
tions 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, 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. 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, J.W. Ebey, heard that the British had established themselves on San Juan Island, he immediately notified Governor James Snowden.

See also, Howay, op. cit. pp. 120-123
See also, McKelvie, B.A.--Early History of the Province of British Columbia (Toronto & London 1926) p. 51
Douglas that the sheep of the Hudson's Bay Company were within the customs 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 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.

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.

(40) See Appendix I for explanation of Douglas' power as Chief Factor of Hudson's Bay Company and as Governor of Vancouver's Island.

(41) Ex. Doc. No. 77, Serial No. 1056, p. 2
See also, Meany, Edward S.--History of the State of Washington (New York 1910) p. 848
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.

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 thirty sheep and sold them in lieu of delinquent taxes. When word of this high handed in-

(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
trusion on British soil by United States authorities reached Governor Douglas, he was infuriated but consoled himself by writing a lengthy letter 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 the island west of Rosario Straits belong to Great Britain. Douglas made the claim in the following words:

"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, 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 apologetic 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

(44) See complete letters of Governor Douglas and Governor Stevens in Appendix II
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 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's 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

(47) Ex. Doc. No. 77, Serial No. 1056, p. 3
of potatoes that Mr. Cutler had cultivated. 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. 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.

In the meantime, Cutler, in a manly way, went to Mr. Griffin and told him what had transpired and at the same time offered to pay Griffin a reasonable sum for the pig. Mr. Griffin became furious and said that he would take nothing short of $100.00, and if that were not paid, Cutler would be subject to arrest. Now the fun began. Mr. Griffin notified Mr. Dallas, the manager of the Hudson's Bay Company and son-in-law of Governor Douglas.

(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. Was. Hist. Quar. Vol. 2, p. 290.

(49) Sen. Ex. Doc. No. 10, Serial No. 1027, p. 49
See also, Meany, op. cit. pp. 240-241
See also, Stevens, op. cit. p. 290 vol. II
of what had happened. The next day Mr. Dallas, on
board the British ship-of-war, Satellite, landed on
the island and threatened to take Mr. Cutler to Vic-
toria for trial under British laws. Mr. Cutler resisted
arrest by British authorities; he seized his gun and
told Mr. Dallas that he might be taken to Victoria for
trial but not alive. Mr. Dallas and Mr. Griffin who
was with him, did not dare to force the arrest of Cut-
ler.

In the meantime, the Hudson's Bay Company's
officials urged the Indians of the north to molest the
American citizens in order to frighten them from the
island. The British subjects were never disturbed.
These facts indicate that the Hudson's Bay Company was
largely responsible for the atrocities that were com-

(50) Messages and Doc. No. 2, Serial No. 1924, p. 46
See also, Ibid, p. 78
(51) The following note blames the H.B.Co. for the
Indian atrocities on American citizens on San Juan
Island. "Among the Hudson's Bay Company's people
there are some gentlemen of high character and re-
spectability, Mr. McKay, Mr. McTavish, Mr. McLean,
and the agent at Fort Yale, whose name I forgot,
have exhibited marked courtesy and kindness toward
Americans; but that my strictures upon the generality
of the subordinate officers, to whom they were in-
tended to apply, were not too severe will be admit-
ted, when I state that the authority of Colonel Snow-
den, a citizen of Yuba County, in California, that
he learned from several Indian Chiefs, that they and
their people were led to believe by the representat-
ions of the Hudson's Bay Company's servants that the
Americans were coming there to rob them of their
cattle, of their food, and their squaws, and were ad-
vised by those same evil-minded individuals to com-
mence a war of extermination against our citizens."
motted by the Indians on United States citizens.

After several Indian disturbances, the American citizens on San Juan Island sent a petition requesting military protection from the marauding Indians. This petition was dated July 11, 1859, and was addressed to General Harney, Commander-in-Chief of the Pacific Division of the United States Army. To give the whole significance of the petition, I am quoting it in full:

"The undersigned, American citizens on the Island of San Juan, would respectfully represent: That in the month of April, in the year one thousand and fifty-eight, the house of the United States inspector of customs for the island was attacked and fired upon in the night by a party of Indians living on this Island, and known as the Clallams, and had it not been for the timely aid of the Hudson's Bay Company, the inspector would have fallen a victim to their savage designs. In the month of July following we found on the beach, close to the above mentioned Indian camp, the bodies of two white men, apparently Americans, who had when found, cotton cords around their necks which had been used to conceal them under water. Last fall another daring murder was committed in the middle of the day, and in plain sight of us all here, without the slightest chance of our rendering them assistance. Only ten days ago another body was found on our shores which had been the victim of foul play. Inclusive with the above dangers that we are exposed to from our neighboring Indians we are continually in fear of a descent upon us by the bands of marauding Indians, who infest these waters in large numbers, and are greatly retarding the progress of the settlement of this Island.

According to the Treaty concluded June 15, 1846, between the United States and Great Britain.

(52) Messages and Doc. No. 2, Serial No. 1024, p. 77
See also, Ex. Doc. No. 77, Ser. No. 1056, p. 4
See also, Stevens, op. cit. p. 290.
(the provisions of which are plain, obvious, and pointed to us all here), this and all of the islands east of the Canal de Haro belongs to us; we therefore claim American protection in our present exposed and defenseless position.

"With a view of these facts, and for the essential advantage of having this and the surrounding islands immediately settled, we most earnestly pray that you will have stationed on this island a sufficient military force to protect us from the above mentioned dangers until we become sufficiently strong to protect ourselves." (53)

This petition was signed by twenty-two American citizens who resided on the island.

When General Harney received this petition, he realized that it was high time to provide adequate protection for the American citizens on the islands of the Haro Archipelago. General Harney took the matter up with Governor Stevens of Washington Territory, and the Governor urged him to send a military force to San Juan Island at once. The two men were acting, in their opinions, according to the message of Mr. Marcy, Secre-

(54) A note stating that Harney together with other men tried to start a war with England in order to prevent a civil war. "It is claimed that Pickett, together with Harney, Governor Stevens and other Democratic federal officers on the coast, saw a chance of averting the threatening civil war in America; if trouble with Great Britain were to start, the North and the South might be held together. See Pickett, La C. S.--Pickett and His Men, Atlanta, 1899. Appendix contains a statement of George B. McClellan to this effect." See Appendix III for complete details.

Footnotes No. 19, p. 267 in--Fuller, George W.--A History of the Pacific Northwest (New York 1931)
(55) Stevens, op. cit. p. 288.
tary of State, in his letter of July 14, 1855, addressed to Governor Stevens. In this communication, Secretary Marcy instructed Governor Stevens to refrain from all acts on the disputed grounds that might provoke conflict, without giving any excessive rights to Great Britain. Although this letter did not say anything about occupying or not occupying the islands, enough was inferred, however, that excessive rights should not be given to Great Britain. As the conditions were on the Island of San Juan, General Harney felt that he had to send a military force to protect the American citizens or the Americans would be forced to leave, and then of course, the British would be in full possession. General Harney did not lose any time, but provided for military occupation at once.

Just before the order was issued for military occupation of San Juan Island, there were four military camps on the Pacific Northwest. The Headquarters under General Harney was located at Fort Vancouver at the head of the Columbia River, another at Fort Steilacoom, located between Seattle and Tacoma, under the command of Colonel Casey, another at Fort Bellingham in charge

(56) Messages and Doc. No. 2, Serial No. 1024, pp. 39-40
of Captain Pickett, and the other fort was located at Townsend. On July 18, 1859, General Harney notified Colonel Casey at Fort Steilacoom to have the steamer "Massachusetts" transfer the garrisons at Fort Townsend and at Fort Bellingham to San Juan Island. He also informed Colonel Casey that the steamer "Massachusetts" would arm and that it would patrol the waters around the disputed territory in order to prevent any more Indian outrages. On the same date General Harney addressed an order to Capt. Pickett of Port Bellingham informing him to abandon Fort Bellingham for the military occupation of San Juan Island. General Harney made it clear to Capt. Pickett that he was to protect American citizens against the intrusions of the northern Indians, and of the insults of the Hudson's Bay Company. (58)

Capt. Pickett made ready for the transfer to San Juan Island which was effected on the 27th day of July, 1859, with a company of sixty men. When Capt. Pickett landed, he issued an order to all American citizens that he and his company of soldiers were there to protect them against the Indians, and proclaimed that this island

(57) Messages and Doc. No. 2, Serial No. 1024, p. 40
was American soil and that only American laws and American jurisdiction would be recognized.

The news of Capt. Pickett's occupation of San Juan Island was a great surprise to the Hudson's Bay Company, and the proclamation of the daring Captain was a source of even greater indignation to Governor Douglas. As a consequence, Capt. Pickett could not expect much peace in the heart of the enemy's coveted territory.

On the 30th day of July, 1859, Charles Griffin, issued an order in the name of the Hudson's Bay Company, and that an immediate withdrawal of troops was demanded. Charles Griffin also warned the captain that if the withdrawal of troops was not made effective at once, he would be obliged to call upon civil authorities. Capt. Pickett sent a sarcastic note back to Griffin stating that he was not on the Island of San Juan at the request of the Hudson's Bay Company, but by virtue of an order from the United States Government.

When Governor Douglas

(59) Messages and Doc. No. 2, Ser. 1024, pp. 42-43
See also, Ex. Doc. No. 10, Ser. 1027, p. 6
See also, Stevens, op. cit. Vol. II, pp. 290-291
See also, Meany, op. cit. p. 245
(60) Mess. and Doc. No. 2, Part II, Ser. No. 1024, p. 48
(61) Ibid, pp. 48-49
realized that he could not threaten or frighten Capt. Pickett from the island indirectly, he dispatched an order to the captain on August 2, 1859, claiming all of Haro Archipelago as territory belonging to Her Majesty Queen Victoria and under the jurisdiction of British laws. This dispatch read as follows:

"The sovereignty of the Island of San Juan, and the whole of the Haro Archipelago, has always been indubitably claimed to be in the crown of Great Britain. Therefore, I, James Douglas, do hereby formally and solemnly protest against the occupation of said islands, or any part of the said Archipelago, by any person whatever, for or on behalf of any other power, hereby protesting and declaring that the sovereignty thereof by right now is, and always hath been, in Her Majesty Queen Victoria and her predecessors, Kings of Great Britain.

"Given under my hand and seal, at Victoria, Vancouver's Island, on this 2nd day of August, one thousand eight hundred and fifty-nine, and in the twenty-third year of Her Majesty's reign.

James Douglas." (62)

The next day, on August 3, 1859, Governor Douglas sent three British warships, the "Tribune", the "Plumper" and the "Satellite", all of which anchored opposite Capt. Pickett's camp, with the sole object in view of threatening the American Soldiers.

Capt. Geoffrey Phipps Hornby of the largest ship, the Tribune, opened negotiations with Capt. Pickett re-

(63) Ibid, p. 49
See also, Provincial Arch. Extracts from the Diary of Edward Graham Alston—E.A. 5
questing a meeting to talk over the serious problem of occupying an island belonging to Great Britain. Capt. Pickett speedily dispatched a reply agreeing to a meeting at his camp on San Juan Island at two o'clock, August 3, 1859. At this meeting Capt. Hornby informed Capt. Pickett that unless he immediately withdrew the American troops from the island, a conflict between the two English speaking countries would be inevitable. To this threat, Capt. Pickett replied that he would not withdraw his troops unless ordered to do so by his commanding officer. Since Capt. Pickett failed to be frightened, Capt. Hornby suggested a joint military occupation until such time as the governments of England and of the United States could agree on the boundary line. Capt. Pickett absolutely declined the proposition of joint military occupation at that time, and he informed Capt. Hornby that if he tried to land troops on the Island of San Juan a collision would follow. Capt. Pickett, shortly after this interview, notified General Harney at Fort Vancouver regarding the threatening attitude of the British officers, and regarding the reply he had made to Capt. Hornby.

(64) Messages and Doc. No. 2 Part II, Ser. 1024, pp. 50-51
(66) Ibid, p. 49.
General Harney immediately informed Capt. Pickett that the reply he had made to the British Captain was in accordance with his wishes. Then in the meantime, General Harney set out to re-enforce Capt. Pickett on the island. Gen. Harney sent a dispatch on August 7, 1859, to the Senior Officer of the Commanding Squadron on the Pacific, located at San Francisco, asking for naval support. At the same time an order was dispatched to Colonel Casey at Fort Steilacoom commanding him to transfer four of his companies of the 3rd Artillery to San Juan Island to support Capt. Pickett.

On the day following the general's orders August 9, Colonel Casey left Fort Steilacoom with his Artillery on board the steamer "Julia". When the steamer was well away from the fort, it met the steamer "Active" returning from the camp of Capt. Pickett. Capt. Allen of the Active strongly and solemnly advised Colonel Casey not to land any troops on the island because the British warship, the Tribune, was lying abroad side of Capt. Pickett's camp with the evident object of preventing any re-enforcements. Colonel Casey realized what the

(67) Messages and Doc. No. 2, Part II, Ser. 1084, p. 54
(68) Ibid., p. 55
(69) Ibid, pp. 60-62
consequences might be in case he should continue to San Juan Island, but at the same time he did not dare disobey the orders received the day before from the Commanding General. Colonel Casey went on, and fortunately enough, a dense fog came up and concealed his movements from the British warships. The Captain of the Julia on approaching the island hugged the shore as closely as possible. When the ship came within a short distance of Captain Pickett's camp, the steamer drew toward shore and dropped anchor, and all the troops were landed and marched unnoticed to the American Camp. The steamer Julia then proceeded on up to the wharf between Pickett's camp and the British warship, the Tribune, in order to unload the cannons and ammunition on board. The Tribune did not interfere with the landing of the cargo since no soldiers were aboard for re-enforcements.

Governor Douglas had issued orders August 2, 1859 to Captain Hornby, who was in command of the Tribune, to fire on the Americans and drive them from the island, but Capt. Hornby did not obey the orders of the Governor for fear that such an act might precipitate a war with the United States. Capt. Hornby wished to delay the attack on the American Camp on San Juan Island until Admiral Baynes, who was cruising the Pacific waters nearby, could arrive and approve of the plan. As soon as Admiral Baynes'
ship approached the waters where the Tribune was anchored, Capt. Hornby hurried toward the Admiral to tell him the whole story. When the Admiral had heard the tale from Capt. Hornby, he disapproved vigorously the plan adopted by Governor Douglas and said:

"Tut, tut, no, no, the damned fools."

A little later Capt. Hornby in a message to Admiral Baynes, August 15, 1859, expressed his fear that the Americans might attempt to drive off the English Magistrate from the island or land enforcements and in such an event he asked if he should open fire on the Americans. Admiral Baynes replied in a letter of August 16, 1859, in these words:

"It is now my positive order that you do not, on any account whatever, take the initiative in commencing hostilities by firing on them or on any work they may have thrown up."

When Governor Douglas was informed that additional troops had been landed on the Island of San Juan, he sent orders to Admiral Baynes to proceed with all speed with his entire force and drive the Americans from the island. Admiral Baynes brought his ships up to the island as a "bluff", but he did not open fire. He too, disobeyed the orders from James Douglas, Governor of British Columbia.

When Colonel Casey landed on the Island of San Juan

(73) Provincial Arch. (1859-1860) op. cit. p. 111
See also, London Archives 5-731
(The London Arch. notes were copied by Dr. Philips of the Univ. of Mont. and because of his courtesy I am using them.)
(74) Provincial Arch. (1859-1860) op. cit. pp. 104 and 106
See also, London Arch. 5-731 op. cit
See also, Milton, op. cit. p. 284
and saw the threatening situation because of the five British warships within shelling distance of Capt. Pickett's Camp, he speedily opened negotiations with the officers on board the battleships. Colonel Casey sent a note to Capt. Hornby requesting a meeting in order to discuss the situation which was now apparently at the breaking point between the two forces. He also made an inquiry about the where-abouts of the Commanding Officer of the Fleet, and he was informed that Admiral Baynes was aboard the Flag-ship "Ganges" in Esquimalt Harbor. Capt. Hornby was pleased to know that Colonel Casey wanted to talk about means that might prevent a conflict. Colonel Casey left at once to arrange for a conference with Admiral Baynes. When he came within one hundred yards of Admiral Baynes' ship, he anchored his ship and sent a note to Admiral Baynes requesting a conference. Admiral Baynes informed Colonel Casey that he would be glad to have an interview but on board the Ganges. Colonel Casey did not wish to go on board the Admiral's ship and as a consequence no interview was held. He went back to Pickett's Camp to entrench his troops and prepare for the worst. At this time the British had five warships within easy range of San Juan Island with a force of 1,340 men and 167 cannons. The Americans had five companies of infantry and artillery with a total of 461 men and 17 cannons entrenched and ready for battle.

(76) Ibid, p. 64
(77) Ibid, p. 79
The Governments of the United States, of Great Britain and of British Columbia Express Opinions on Military Occupation.

While this preparation for defence was taking place, both British and American Commanders were busy communicating with their respective governments. General Harney wrote to the Commander-in-Chief of the American Army in New York City, to the Adjutant General's Office in Washington, D.C., and to the office of Secretary of War, explaining what had actually transpired on both sides regarding the dispute over the water boundary between Vancouver's Island and the United States. Affidavits, claims and orders received by General Harney regarding the dispute were forwarded to these departments, so the officers of the United States Government and those at the head of the army would have the facts and evidences with which to approve or disprove the actions of the Commanding General on the Pacific Coast.

Mr. Drinkard, acting Secretary of War, was very much surprised when he received all the information regarding the conflict on San Juan Island. He really believed, and so did the President of the United States, that General Harney had taken a stand too decisive and not in harmony with the letter of Mr. Marcy sent to Governor Stevens in 1855. Mr. Drinkard believed that Capt. Hornby's proposition of joint military occupation was the most logical one under the circumstances. Fear-
ing that General Harney might provoke a war between the United States and Great Britain, Mr. Drinkard ordered General Winfield Scott, who was Commander-in-Chief of the American Army, to proceed immediately to the Pacific Coast and take charge of the forces there. General Scott was given orders to make arrangements for a joint military occupation until the two governments could establish a definite boundary line between Vancouver's Island and the continent.

The Government of Great Britain like that of the United States was desirous of a peaceful settlement on the water boundary dispute. Lord Russel repeatedly urged joint military occupation as the easiest way out of the difficulty and warned Capt. Provost that the hot headed actions of General Harney must be met with coolness and moderation. Lord Lyons at Washington, October 15, 1859, in communication with Mr. Case, urged joint military occupation. In a message to the Secretary to the Admiralty, October 25, 1859, Mr. Hammond, writing for Lord Russel, said:

"I am in reply to request that you will express to the Lords Commissioners of the Admiralty the satisfaction which Lord John Russel feels at the conduct pursued by Rear Admiral Baynes in these transactions, and which his Lordship considers to have greatly conduced to the maintenance of pacific relations with the United States." (85)

(82) Mes. and Doc. No. 2. Part II, Ser. No. 1024, pp. 57-59
(83) Provincial Arch. (1859-1860) op. cit. pp. 37, 51, 63
(85) Provincial Arch. (1859-1860) p. 111
Duke Newcastle emphasized the pacific policy of the English Government in a message to Governor Douglas dated September 29, 1859, in which he said in part:

"You are also not to land troops on the island or to take any further steps without instructions from this Department or from Lord Lyons, unless the Americans should endeavor to remove by force the British Magistrate from the island, or unless steps should be required for the protection of the lives and property of British subjects." (86)

Meanwhile Governor Douglas, August 1, 1859, had called a meeting of the Council of the principal officers of Vancouver's Island to sound out their opinions on what action should be taken on San Juan after the military occupation by American troops. The entire council agreed that colonial forces should take no step that would provoke a war with the United States. The members at the meeting felt that it would be better to remove all British subjects from the island than to cause a war then, when England was on the verge of a European war.

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. When he later presented his case to the Legislature at Victoria, he made a fiery speech in which he again stated that he

(86) Provincial Arch. (1859-1860) op. cit. p. 44
(87) Ibid, pp. 68-70
(88) Ibid, p. 70
intended to land troops. 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. 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. 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 that 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.

(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
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. General Scott explained to General Harney the plans of the United States Government emphasizing 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.

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. 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.

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

(94) Ibid, p. 60
(95) Provincial Arch. (1859-1860) op. cit. p. 36
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. 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. 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. 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.

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

(98) Ibid, p. 70
(100) Sen. Ex. Doc. No. 10, Ser. No. 1027, p. 74
commendation for every act that General Harney had done regarding San Juan Island or General Scott. Three days later the legislature extended a vote of thanks to Capt. Pickett for his decisive action against the British.

On April 10, 1860, General Harney issued an order removing Capt. Hunt and returning Capt. Pickett to his old post on San Juan. The reason that he gave for so doing was that a group of citizens on the island had petitioned that Capt. Hunt be removed. 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. Later when hostilities began between the North and South, Capt. Pickett resigned his position at San Juan Island to enter the Army of Virginia. Capt. Hunt was returned to San Juan Island to resume his command.

Joint Military Occupation

On October 26, 1859, Admiral Baynes wrote to the British Admiralty and told them of Scott's proposal; on the

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(101) Meany, op. cit. p. 249
See also, Stevens, op. cit. pp. 294-295
(103) See Appendix IV, for petitions for and against Capt. Hunt.
(105) Meany, op. cit. p. 250
(106) Milton, op. cit. p. 356
same day he telegraphed the news of the proposal to Lord Lyons at Washington. On November 18, 1859, Duke Newcastle suggested to Douglas that the offer of joint military occupation be accepted. 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. 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. Governor Douglas very stiffly refused to show the orders, stating that as the Queen's representative he could not delegate his instructions to others.

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.

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

On March 20, 1860, Admiral Baynes wrote to Capt.

(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
(113) Ibid
Hunt on San Juan Island stating that Marines would be stationed there, and the next day the soldiers were actually landed under the command of Capt. George Bazalgetti. 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. 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 Britain 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 desperate to have an amiable settlement. Lord Lyons suggested that the

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(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
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 Rep-
(117) ublic as arbitrator. 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. On January 14,
1869, Reverdy Johnson of the United States and Lord
Clarendon of England concluded a convention for the sub-
mission 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,
(119)  this arrangement was fruitless.

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
Britain always insisted on a middle channel as a compro-
mise in case the arbitrator could not be satisfied to
(120)  chose either Rosario Straits or Canal de Haro.

(118) Meany, op. cit. pp. 252–
   See also, Meany, op. cit. p. 252
(120) Papers Relating to the Treaty of Washington Vol. 5
     Berlin Arbitration (In introduction to case pre-
     sented to German Emperor.)
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. 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. The arbitrator was bound to choose either the Canal de Haro or the Rosario Straits, and no other channel could be selected. 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

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

(122) Moore, op. cit. pp. 227-228 vol. I
See also, Meaney, p. 253

(123) Papers Relating to the Treaty of Wash. op. cit. p. 4
made a lengthy introduction in which he emphasized that all ministers or 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.

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.

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

(125) Papers Relating to the Treaty of Wash. op. cit. pp. 5-18
not recorded on the leading maps of the world.

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. Mr. Provost emphasized, in particular, that before 1846 the Rosario Straits were more commonly used than was the Canal de Haro. He referred to Vancouver’s explorations 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. Mr. Provost argued that Rosario Straits were safer for navigation because the rising tide was not so strong, and that anchorage was always available. 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 be-

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(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
fore that time. To make the point more emphatic, all of the men 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.

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 be-

tween the two in dispute was the boundary referred to. 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 Suprême Court of Berlin; Dr. Kiepert, the eminent pupil of Carl Ritter; and Dr. Gold-Schmidt, a member of the Suprême Court at Leipzig. Each of these men made a report.

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)

(132) Foreign Relations Part II, Vo. 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.

A year later the boundary line had been surveyed and on March 10, 1875, 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 were kept by each government for future reference.

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.

(135) Moore, op. cit. p. 231
(137) Hertslet, op. cit. Vol. 13, (1877) p. 530
THE CONCLUSION

After the smoke of the controversy had blown away, and years have passed, it is hard to understand how two great powers could have come so close to war over an island that is 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.

The English Government became interested in the Islands of the Haro Archipelago for probably two reasons: first, because Governor Douglas was pushing the claims in America through the Hudson's Bay Company; and second, because the English Government felt that it had already given up so much territory on the Pacific Northwest, that it could ill afford to lose more.

The Hudson's Bay Company was really the power behind the claim for these islands. This company desired to have the Islands of the Haro Archipelago, and particularly San Juan Island, for their commercial value. No doubt James Douglas, as Chief Factor and Governor of Vancouver's Island, was the individual who urged the Hudson's Bay Company to establish a settlement on San Juan Island in order to make a claim of the territory for England. James Douglas, it is to be expected, would do every-
thing that might better the interest of the company which he headed until 1858. Even after he gave up his control of the Hudson's Bay Company to accept the Governorship of British Columbia, Douglas still favored the interests of the company. The English Government at one time criticized Governor Douglas for giving greater privileges to the Hudson's Bay Company than to other persons or organizations. So keenly was Douglas interested in the welfare of the company on San Juan Island that he was willing to bring war between England and the United States if he could thereby hold the island.

General Harney and Captain Pickett had already defied any British force to dislodge them from San Juan Island, but Douglas would not be defied. He was unwilling to give an inch; in fact, he ordered both Capt. Hornby and Admiral Baynes to drive the Americans away, but both of these officers disobeyed the orders of the governor. I believe that Governor Douglas was looking at the Island of San Juan primarily from the standpoint of the interests of the Hudson’s Bay Company, while Admiral Baynes was viewing the whole problem from an international standpoint, and so, Admiral Baynes did not believe that the Honor of Great Britain was at stake because the American troops had occupied an island in dispute. In fact Ad-
miral Baynes believed that the Hudson’s Bay Company had not been fair to England or American colonists, and he would not take the narrow viewpoint of James Douglas. If Douglas and Harney had had their own ways, England and the United States would have been at war with each other.

I think that joint military occupation should have been allowed from the beginning. Some authorities believe that General Harney, Governor Stevens and Captain Pickett were objecting to a fair compromise until the dispute was settled, in order to bring on a war with Great Britain. But I do not see how these prominent men could expect to avoid 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. Capt. Pickett may have felt he was sacrificing himself for his country; he was evidently a man of action and not of thought. But Governor Stevens and General Harney were probably so confident that all islands east of the Canal de Hano were American soil that they resented the intrusion of Hudson’s Bay Company on the island. The American settlers on San Juan Island dis-

(1) Provincial Archives (1859-1860) op. cit. 104
liked and feared the company, and of course they took their grievances to the general and to the Governor of Washington Territory. General Harney and Governor Stevens had perhaps been irritated so long by the action of the company officials and the event of the hog was the straw that broke down 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. So General Scott was able to take a cooler and more sensible view of the situation, but he also took 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 the activities of the Indians, but he did not bother to obtain any information other than that what he already had 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, him-
self, 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.

After the joint military occupation there was comparative quiet on the San Juan Island Question until after the Civil War. Then diplomats felt that the water boundary dispute with England should be ended at the same time other matters arising out of the Civil War were settled. The English officials had wavered from the claim of Rosario Straits as a boundary to the claim of some middle channel. They may have been handicapped by feeling that they were really in the wrong, but the United States held firmly to Canal de Haro, and finally won a diplomatic victory when the Emperor of Germany was asked to decide in favor of either Rosario Straits or Canal de Haro. Mr. Provost's arguments were weak and poorly presented, while Mr. Bancroft's arguments were logical and presented in a masterly way. No wonder the three German Judges awarded the island to the United States by selecting the Canal de Haro as the boundary line intended by the Treaty of June 15, 1846, because England had never had more than a shadow of a claim from the first.
APPENDIX I

James Douglas and the Hudson's Bay Company

Before one can understand why the Hudson's Bay Company should be so anxious for more territory and why the company should urge the British Government to claim the islands east of Canal de Haro, it will be necessary to give a brief description of the Hudson's Bay Company, its activities, and its leaders.

In the early forties, Dr. John McLoughlin was Chief Factor of Fort Vancouver on the Columbia River, and had control of the Hudson's Bay Company's affairs west of the Rocky Mountains. In 1846, Dr. McLoughlin was forced to resign his position and all connections with the Hudson's Bay Company, because he was accused by the company's officials of being pro-American.

Dr. McLoughlin was succeeded by James Douglas, who was largely responsible for the success of the Hudson's Bay Company on the Pacific Coast. James Douglas married a girl who was half Indian, and probably because of this marriage, Douglas was able to deal and trade successfully with the Indians. In 1851, Douglas was not only Chief Factor of the company, but he was appointed

(1) Howay, op. cit., p. 100
(2) Lout, Agnes A. Conquest of the Great Northwest (New York 1918) p. 523
governor of Vancouver's Colony, so with the two-fold position he could control both political and economic affairs of Vancouver's Island.

As was mentioned in the early part of this paper, the Hudson's Bay Company was given exclusive control of Vancouver's Island on the condition that it would encourage colonization. The Hudson's Bay Company was very anxious to have the exclusive trading privilege on the island, but it was not at all anxious to have any people either British or American citizens to come as settlers. James Douglas did not want any one to come into the colony who would offer trade competition for his company or who would settle the land and thus lessen the fur trade with the Indians. When the gold rush came in 1850, on Charlotte Island, Douglas tried all means possible to prevent any one's taking settlements or interfering with the welfare of the Hudson's Bay Company.

James Douglas held his dual position until 1858 when the colony of British Columbia proper and Vancouver's Island were united in one Crown Colony.

(3) McKelvie, B.A.—Early History of the Province of British Columbia (Toronto and London 1926) p. 51
(4) Howay, op. cit. pp. 106-107
(5) Ibid, pp. 120-123
See also, McKelvie, op. cit. pp. 52-53
See also, Wilson, op. cit. p. 485
(6) McKelvie, op. cit., p. 59
At that time Douglas was appointed Governor of the newly organized colony on the condition that he would resign his position with the Hudson's Bay Company. James Douglas accepted the position as governor of British Columbia according to the stipulations of the English Government. Even though Douglas resigned his position with the Hudson's Bay Company, he still favored the company above all other individuals or organizations in the Northwest. The British Government became aware of this preference, and therefore sent a notice to Douglas that the Hudson's Bay Company should have no more privileges than any other person or organization. The action that the British Government took against James Douglas will indicate that he still worked for the welfare of the Hudson's Bay Company even after he had given up all connections with it.

(7) McKelvie, op. cit., pp. 80-82
See also, Howay, op. cit., pp. 124-125
See also, Wilson, op. cit., p. 465
(8) Snowden, op. cit., Vol. IV, pp. 45 and also 67
Douglas to Stevens

"Victoria, Vancouver's Island
28th April 1855

To His Excellency
Governor Stevens

Sir

"I have received a communication from Mr. Charles Griffin a British Subject, residing on the Island of San Juan, giving information to the effect that an armed party of American citizens ostensibly acting under the direction of a person names Barnes, who styles himself Sheriff of Whatcom County, landed on the Island of San Juan and demanded from the said Charles Griffin certain monies in payment of Taxes, on behalf and in the name of the United States of America, a demand which as a British subject acknowledging no authority except that emanating from his own Government, he refused to pay.

"Mr. Barnes and his followers during Mr. Griffin's absence, and while his servants were with one or two exceptions dispersed at their several occupations did abstract a number of valuable sheep, which they put
in the boats, and were about to depart with the same
when Mr. Griffin returned and demanding restitution of
his property was menaced with violence and put in dan-
ger of his life.

"I have taken the liberty of calling your excellency's
attention to that matter for the purpose of learning
from you if the said Mr. Barnes' proceedings were in
that instance authorized or sanctioned in any manner
by the Executive Officers of Washington Territory. His
own verbal statements induced Mr. Griffin to believe
that he had authority from you to levy Taxes on British
subjects residing on the Island of San Juan, but I
am conscious that it would be doing you a great in-
justice to assume, without better evidence, the truth
of such statement; and also prove an ungracious re-
quital for the kindness with which you generously vin-
dicated, at Washington, the cause of truth and justice
when a groundless charge was brought against the char-
acter of this Government.

"Should Mr. Barnes have acted under the orders of
the Executive Officers of Washington Territority, it
is the intention of persons, who have been plundered
of their property to bring forward a claim for damages,
as against the United States, but on the contrary if acting in a lawless manner, without due authority they will proceed by criminal action against the parties as for a felonious carrying away of the property of British subjects on the Territory of Great Britain.

"I trust your Excellency will take measures to prevent the repetition of such acts of violence on the part of American citizens, which must ultimately lead to dissension and bloodshed, an event which all would have cause to deplore.

"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 a part of the British Dominions.

"If our claims be unfounded, the fact must be proven by other means than by acts of violence, which from the nature of the question at issue, must be at once a fruitless and mischievous waste of energy, as they can neither add force to the claims of the United States nor detract from those of Great Britain, founded
on Treaty stipulations, by which the Governments of both nations have agreed to abide.

"Wisdom and sound policy enjoin upon us the part of leaving the question to the decision of the Supreme Governments, and of abstaining from enforcing rights, which neither party is disposed to acknowledge.

"Any other course must eventually lead to dissension and be productive of the most serious evils. Our united force when exerted in the common cause of humanity is hardly sufficient to restrain the wily savage from deeds of Blood, and that influence must, in a great measure, cease with our friendly relations, and both countries will suffer from the absence of that wholesome control, which now holds the native Indian Tribes in check.

"I trust your Excellency continues to entertain the sentiments in respect to this question, which you expressed at our last interview and that every exertion will be made on your side, as well as on ours to prevent disorders, which will complicate, and render the question more difficult to settlement.

"This government will be responsible for the acts of British Subjects and punish all offenses committed by such on the Arro Islands, and I trust your Excel-
lency is disposed to exercise the same vigorous control in that quarter over the conduct of citizens of the United States.

I have the honor to be

Your Excellency's

most obedient

humble Servant

James Douglas
Governor

Vancouver's Island

Olympia, Washington Territory
May, 12, 1855

Sir--- I have the honor to acknowledge the receipt of your communication of April 26, in which you state that information has been received by you to the effect that an armed party of American citizens ostensibly acting under the direction of a person named Barnes, who styles himself sheriff of Whatcom County; landed on the Island of San Juan and demanded from Charles Griffin certain moneys in payment of taxes in behalf and in the name of the United States of America. A demand which as a British subject, acknowledging no authority except that emanating from his own government he refused to pay; that Mr. Barnes and his followers 'abstracted a number of valuable sheep,' and that upon Mr. Griffin's demanding restitution he menaced with violence and put in danger of his life.

Of the matters detailed by you I have no official information save from your communication. It is known, however, that Mr. Barnes is sheriff of Whatcom County.
You further state that you have called my attention to the same for the purpose of ascertaining 'if the said Mr. Barnes' proceedings were in that instance authorized or sanctioned in any manner by the executive officers of Washington territory.'

"The sheriffs of the various counties come under the supervision of the executive in the exercise of the pardoning power, and in the case of a resistance of the laws they act under certain prescribed laws, and to these laws they are responsible for a proper discharge of their duties.

"By the act of the legislative assembly of the territory of Oregon, previous to the separation therefrom of the territory of Washington, the boundary line as between the two governments was held to run through the Canal de Arro, and by act of the legislative assembly of the territory of Washington, 'to organize the county of Whatcom,' the Island of San Juan is included within the bounds of that county.

"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 the duty of the governor to sustain him to the full force of the authority vested in him.

"You say, 'the island of San Juan has been in the possession of British subjects for many years, and it
is with the other islands in the Archipelago de Arro declared to be within the jurisdiction of this colony and under the protection of British laws, I have also the orders of her Majesty's Ministers to treat those islands as parts of the British dominions.

"The acts before referred to have declared these islands to be within the jurisdiction, formerly of the territory of Oregon, now the territory of Washington, and the general laws of those territories, so far as they may be applicable have thereby extended over them.

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

"The contemporaneous exposition of the treaty as evinced by the debates in the United States Senate shows the Canal de Arro to be the boundary line as understood by the United States at that time, and the doubt of the British government as to any claim beyond that line is plainly manifested by the note of Mr. Crompton, the British minister, to Mr. Buchanan, the Secretary of State of the United States, dated January 13, 1848. Indeed in Arrowsmith's Map of Vancouver's Island and the adjacent coast, published in London April 11, 1849, the boundary line is laid down as run-
ning through the Canal de Arro.

"The map is compiled from the surveys of Vancouver, Killett, Simpson and others, and would seem to establish that even as late as some three years subsequent to the treaty, the great English navigators and hydrographers, as well as the American government, considered the Canal de Arro, as in the terms of the treaty, the channel which separated that continent from Vancouver's Island.

"I shall take the earliest opportunity to send a copy of your communication and of this reply to the secretary of state of the United States, and in the meantime I have to reciprocate most earnestly your hope that nothing may occur to interrupt the harmony and good feeling which characterize the relation of neighboring states.

I have the honor to be
Your obedient servant
Isaac I. Stevens
Governor of Washington Territory

To His Excellency
James Douglas
Governor of Vancouver's Island."

(2) Washington Historical Quarterly Vol. 2, p. 354
XIII.

APPENDIX III

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, carry­
ing her noblest sons with her, Captain Pickett remained
on the Island of San Juan. Then he resigned his com­
mission, 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
emport. They knew that within it were hidden the thun­
ders 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 sent 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 looks so stormy now would sink into the great sea of patriotic enthusiasm that would roll in majestic grandeur from the fartherest 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."

(1) Pickett and His Men pp. 123-124
An extract from the appendix, Pickett and His Men.

(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 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 spilled 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."

(2) Pickett, L.C. op. cit. appendix p. 426
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 outrage on his part, not only the service to which he belongs, but the dignity of the country who boasts her liberty of the 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 inquisitor-
ial and unjust interference on his part.

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

Signed by ten citizens

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

(1) Sen. Ex. Doc. No. 29, Ser. 1316
for the suppression of this great nuisance in our midst.

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

J. Everett Hewett (2)
Daniel Oakes
D. F. Newman, Late Magistrate
and thirty others."

(2) Sen. Ex. Doc. No. 29, Serial No. 1316, p. 217
APPENDIX V.

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

"The case envoives 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." (1)

APPENDIX V. (continued)

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:"

APPENDIX VI.

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 Hudson'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 foward 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*. (1)

(1) Provincial Arch. Original Letter of Dallas, Victoria, B.C.
BIBLIOGRAPHY

Primary Sources

1. Executive Document No. 77, Serial No. 1056
2. Executive Documents No. 226, Serial No. 1341
7. Foreign Office, London, Archives 5-731 (These notes were copied by Dr. Philips of the University of Montana while he was at London)
8. Hartslet's Commercial Treaties (30 Vol.)
   Vol. VIII (1851)
   Vol. XIII (1877)
   Vol. XIV (1880)
9. House Miscellaneous Documents No. 2, Serial No. 1349
11. House Executive Documents No. 79, Serial No. 1349
12. Northwest Water Boundary—Great Britain No. 2 (Dispatch from Lord John Russel to Lord Lyons dated November 22, 1860)
15. Senate Executive Documents No. 8, Serial No. 1393
16. Provincial Archives, Victoria, B.C.
   (a) Confidential Correspondence—Island of San Juan (1859-1860) (The only volume in America)
   (b) Original Letters and Copies of Original Letters.

17. Senate Executive Documents No. 29, Serial No. 1316

18. Senate Miscellaneous Documents No. 14, Serial No. 1399

19. Senate Executive Document No. 10, Serial No. 1027

Secondary Sources


3. Bancroft's Works (31 Volumes)
   Vol. 31, Washington, Idaho and Montana (1845-1889)

4. Bryce, George—Hudson's Bay Company
   (London 1900)

   (Vol. 21.)

6. Fish, Russel C.—American Diplomacy
   (New York 1923)

7. Fuller, George W.—A History of the Pacific North-west
   (New York 1931)

8. Hill, Charles E. Leading American Treaties
   (New York 1922)


10. Lout, Agnes C.—Conquest of the Great North-West (New York 1918)

BIBLIOGRAPHY (continued)

Secondary Sources

12. McKelvie, B.C.--Early History of the Province of British Columbia (Toronto & London) 1926

13. Milton, Viscount--History of San Juan Water Boundary Question (London 1889)


17. Pickett, Lasalle C.--Pickett and His Men (Atlanta 1899)


20. Washington Historical Quarterly Vol. 2, pp. 290 and 352


22. Sunday Oregonian, Portland, Oregon, Dec. 7, 1930 p. 6

23. Wilson, Beckles--The Great Company (New York 1906)