General rules in U.S. Case

1.

Show how compensating influence of the value of fur-seals in the earlier terms. — Incidentally that special arrangements for their protection.

Doctrine that the depth of a sea which is throughout navigable must be considered in regard to territorial ownership, can nothing mean one! Compare North Sea.

Parts of correspondence showing of Russian Co, such as to show that there was actually the greatest timidity in interfering with ~~other~~ poachers in any way. If the whole records produced would doubtless see the reasons assigned for such abstention.

Note that in Conclusion the questions of seal life referred to first — reversing order of argument & of submission of questions in treaty.

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Represent in connection with Damages claimed, that these three essential are in truth a small part (materially) of the evidence, as the reports occurring from the industry to both parties in the dispute will show.

Note that Elliot does not appear to be anywhere referred to in U.S. Cases, though up to a certain date he was chief & almost sole authority on Seal life. He has certainly some right to be heard from.

U.S. has been at pains to collect opinions of all sorts of people more referred to before, but been careful to avoid any mention of this trusted agent. — Elliot.

Point not particularly the retrospective character of world evidence in U.S. Case about Islands etc & the absence in very cases of any allusion to new facts in the reports of the very same years.

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Note that U.S. never
entitled their Case
Fur-seal Arbitration

leaving Behring Sea out, &
putting the subsidiary
object of the Treaty as the
sole one.

under management of the Seal Rookeries

"The slaughter of 1868" should come
after, not before the leading "American
Management" The slaughter was
undoubtedly a part of the "American"
Management.

Remark the different position of the
two Nations Arbitration in respect to
discussion of management of seals upon the
Breeding Islands.
~~[illegible]~~ U.S., for all former years since
Alaska purchase defends & went defend
~~the~~ chiefly on official reports made to &
published by the U.S. which, it may be
assumed in common treaty, represent
the facts.
The U.S. has on the other hand interpreted
omitted recourse to some of their reports
& defends largely on retrospective evidence
& affidavits of its officials, some of which
~~to~~ traverse the statements (then non
~~or~~ divulged statements?) already made.
Either then they prove that there ~~are~~ official reports

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in past years were untrustworthy, or
very trustworthy they wish to establish
other statements bearing out new
contentions.

~~Again in contrary~~

E.U.S. must & is entitled to refer to the
official reports in question, besides which,
in regard to Islands, they have only the
report of their own investigating Commissioners.
These Commissioners spent weeks
in carefully examining the facts both on
Pub. Islands, Commander Islands &
Elsewhere in U.S.
The US. Commrs. on the contrary, confined
their work to a brief examination of Pub.
Islands, actually one weeks only
Thus in so far as opinions of the
respective Commrs. go, that of the British
Commrs should carry much the greatest
weight

Opening remarks on Case.

Title of US. Case peculiar & not in conformity with
title of Treaty.
Inversion of order of points of reference in the
"Conclusions"

Note the extraordinary absence of reference to
Bancroft in respect to Pacific Coast
matters, in US. Case.

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Case
~~Report~~ is as remarkable
for some things omitted
as for some contained.

Little structure of U.S. Case
& documents, shows that certain
things were deciding as necessary to
prove a case proved accordingly!

Assumed that a stream that seems
fructuous adjourned (well, thus where
ammunition in reply brisantly adverse
statement made but not recorded)

Iron clad depositions, made
out for subscription. Deponent
not called on to explain himself,
necessary only to admit
what set down.
Lounsbury particularly shows
poverty of imagination in
devising new forms for depositions

Put out that affidavits not only
recent, but practically all got
after commencement. discussions &
therefore really in reply.

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To be done

Full list of all documents we wish back for, so that request may be made in good time.

Sets of photos, with explanations for arbitrators, prepare.

To read through ~~Dogger~~ Bank Berg (~~Russian~~) transcripts etc (Russian) referred to in Ds. Case, with list of memos. upon which any notes required for our case.

asked for done

To obtain copy of Newfoundland Sealing Act of April 1892 referred to in Ds. Case. p. 226.

In library of parliament

Should we, or can we call for an exhibition of the whole of the arbitrators print referred to on p. 44.

See as to turtle fishery & whether characterized as a fishery etc. analogous habits in resorting to shores to deposit eggs but surely were called a land animal

asked for done

Ask for Goff's unpublished Report

See if

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Time required for printing & collation of same, especially of further maps etc.

For Retain Prof. Flowers.

Penguins. Advances in Falkland Islands

Look up all correspondence between H.B. Co & Russian am. Co. Subsequent to cancellation of agreement of 1839.

asked BC done.

Book of photos. for Arbitrators

Write Froude upon extra information on maps.

About a month from Elliott further out his contract official recognition is cancelled with just-sent letters.

preamble is to compile

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Is the Diplomatic Correspondence. App I US. Case pp 153–364 a Reprint of US. Ex. Docs or Selections from them. It should be compared with British Blue books & see if any material omissions

Look up Allan v. Ex Determination of American Bison. — Instance of US. apathy where Company interested.

Find

Get statistics of dispatch price of skins & dispatch goods from dispatch localities.

asked the dove.

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Procedure

1.

The question will arise as to whether we want ~~to grant~~ allow Lord Salisbury's admission that all the rights enjoyed by Russia passed to U.S. when territory divided.

If not admitted the U.S. will claim to argue wave claims & ~~[illegible]~~ defended doctrines, which they have denounced already.

U.S. includes such contentions in case, if ~~W~~ that is the argument then it is also still argument that any claim to closed sea claims to have effect when territory divided.

Both classes of admissions want taken for together.

Had better make out a series of headings of contentions contained in U.S. case for treatment. – Particularly questions of fact & Natural History.

Possibly can adopt one of series of propositions advanced in case as basis for this purpose.

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Should be able to include McCoun's further evidence in Counter Case.

Seal-life questions will I suppose be treated in Counter Case. If so would Counsel have in Commrs' Report & any supplemental report such Counter Case. Explain that though not required till later – Destruction of Seal life by U.S. has rendered desirable

General mode of treatment of Part II. Must it be followed throughout in detail?
~~Draft Case from Commrs. report, to be overlooked & then afterwards.~~

How arrange to get ~~his~~ Elliot's suppressed report ~~pointed~~ produced before arbitrators?

? of advisability of securing ~~his~~ Elliot's evidence? the pros & cons.

Draw attention, at proper stage (? when) to fact that one of most important (or should be most important) documents in U.S. Case, Elliot's Report of 1890, has been withheld.
Quote S of S. on Elliot P.P. (C-6368) p. 15–17. on value of Elliot's work & report

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Which of the various
series of propositions
& suggested principles of
the U.S. case, shall be
submitted to arbitration.
To fully state series involves much repetition,
yet if we merely advance
facts generally it may
confuse the arbitrators
to submit to fully
the facts & all the questions
etc.

The Submission of U.S.
Commrs. refer to judgment
of Pay Allen. p. 405.
We might in like manner
submit our report to
naturalists for verdict,
if advisable.

This submission is sailing pretty close
to the wind in view of stipulation that
Commrs reports should not be made public.

Is it possible that U.S. will before
arbitrators decline to argue the point
fully their case & wish to make up the
second — ~~that~~ dealing with seal life?

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5 - 6
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