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CORRESPONDENCE

RELATIVE TO THE

NEGOTIATION OF THE QUESTION OF DISPUTED RIGHT

TO THE

OREGON TERRITORY,

ON THE

NORTH-WEST COAST OF AMERICA;

SUBSEQUENT TO

The Treaty of Washington of August 9, 1842.

Presented to both Houses of Parliament by Command of Her Majesty.
1846.

LONDON:
(60) PRINTED BY T. R. HARRISON.

LIST OF PAPERS.

No.			Page
1.	Mr. Fox to Mr. Webster	November 15, 1842	1
2.	The Earl of Aberdeen to Mr. Fox	October 18, ——	1
3.	Mr. Webster to Mr. Fox	November 25, ——	2
4.	Mr. Fox to the Earl of Aberdeen	December 12, ——	2
	Inclosure.		
	Extract from Message of the President of the United States	December 7, ——	3
5.	The Earl of Aberdeen to Mr. Fox	January 18, 1843	3
6.	Mr. Fox to the Earl of Aberdeen	December 29, 1842	4
	Inclosure.		
	Special Message of the President of the United States ..	December 23, ——	4
7.	The Earl of Aberdeen to Mr. Fox	August 18, 1843	5
8.	Mr. Fox to the Earl of Aberdeen	September 12, ——	5
9.	Mr. Fox to the Earl of Aberdeen	December 13, ——	6
	Inclosure.		
	Extract from Annual Message of the President of the United States	December 5, ——	6
10.	The Earl of Aberdeen to Mr. Pakenham	December 28, ——	7
11.	Mr. Pakenham to the Earl of Aberdeen	February 27, 1844	8
	Two Inclosures.		
	1. Mr. Pakenham to Mr. Upshur	February 24, ——	8
	2. Mr. Upshur to Mr. Pakenham	February 26, ——	9
12.	Mr. Pakenham to the Earl of Aberdeen	April 14, ——	9
13.	Mr. Pakenham to the Earl of Aberdeen	April 28, ——	9
14.	Mr. Pakenham to the Earl of Aberdeen	May 13, ——	10
15.	Mr. Pakenham to the Earl of Aberdeen	July 29, ——	10
	Inclosure.		
	Mr. Pakenham to Mr. Calhoun	July 22, ——	11
16.	Mr. Pakenham to the Earl of Aberdeen	August 29, ——	11
	Inclosure.		
	Mr. Calhoun to Mr. Pakenham	August 22, ——	12
17.	Mr. Pakenham to the Earl of Aberdeen	September 12, ——	12
	Two Inclosures.		
	1. (A) Statement of the American Plenipotentiary, containing the claims of the United States to the Oregon Territory..	September 3, ——	13
	2. (D) Statement of the British Plenipotentiary	September 12, ——	19
18.	Mr. Pakenham to the Earl of Aberdeen	September 28, ——	23
	Two Inclosures.		
	1. (B) Counter-Statement of the American Plenipotentiary	September 20, ——	24
	2. Protocols of the Conferences between the British and American Plenipotentiaries	Aug. and Sept. ——	26
19.	The Earl of Aberdeen to Mr. Pakenham	November 1, ——	28
20.	Mr. Pakenham to the Earl of Aberdeen	November 28, ——	29
21.	Mr. Pakenham to the Earl of Aberdeen	December 12, ——	29
	Inclosure.		
	Extract from the President's Message of December 3, 1844 ..	.. ..	29
22.	Mr. Pakenham to the Earl of Aberdeen	January 29, 1845	30
	Two Inclosures.		
	1. Mr. Pakenham to Mr. Calhoun	January 15, ——	30
	2. Mr. Calhoun to Mr. Pakenham	January 21, ——	31
23.	The Earl of Aberdeen to Mr. Pakenham	March 3, ——	31
24.	Mr. Pakenham to the Earl of Aberdeen	February 26, ——	32
	Inclosure.		
	President's Message of February 19, 1845	.. ..	32
25.	Mr. Pakenham to the Earl of Aberdeen	March 29, ——	32
26.	The Earl of Aberdeen to Mr. Pakenham	April 18, ——	33
27.	Mr. Pakenham to the Earl of Aberdeen	May 13, ——	33
28.	Mr. Pakenham to the Earl of Aberdeen	July 29, ——	33
	Two Inclosures.		
	1. Mr. Buchanan to Mr. Pakenham	July 12, ——	34
	2. Mr. Pakenham to Mr. Buchanan	July 29, ——	39
29.	Mr. Pakenham to the Earl of Aberdeen	September 13, ——	45
	Inclosure.		
	Mr. Buchanan to Mr. Pakenham	August 30, ——	46

No.			Page
30.	The Earl of Aberdeen to Mr. Pakenham	November 28, 1845	59
31.	Mr. Pakenham to the Earl of Aberdeen	December 2, ——	60
	Inclosure.		
	Extract from the President's Message of December 2, 1845		60
32.	Mr. Pakenham to the Earl of Aberdeen	December 29, ——	64
	Inclosure.		
	Mr. Pakenham to Mr. Buchanan	December 27, ——	65
33.	Mr. Pakenham to the Earl of Aberdeen	January 5, 1846	65
	Inclosure.		
	Mr. Buchanan to Mr. Pakenham	January 3, ——	66
34.	Mr. Pakenham to the Earl of Aberdeen	January 29, ——	66
	Inclosure.		
	Mr. Pakenham to Mr. Buchanan	January 16, ——	67
35.	The Earl of Aberdeen to Mr. Pakenham	March 3, ——	68
36.	Mr. Pakenham to the Earl of Aberdeen	February 5, ——	69
	Inclosure.		
	Mr. Buchanan to Mr. Pakenham	February 4, ——	69
37.	The Earl of Aberdeen to Mr. Pakenham	March 3, ——	71

OREGON TERRITORY.

Correspondence relative to the Negotiation of the Question of Disputed Right to the Oregon Territory, on the North-West Coast of America; subsequent to the Treaty of Washington of August 9, 1842.

No. 1.

Mr. Fox to Mr. Webster.

Sir, *Washington, November* 15, 1842.

WITH reference to our recent conversation upon the question of the Oregon or North-Western Boundary, when I conveyed to you the desire of Her Majesty's Government that instructions should at an early period be addressed to the United States' Minister in London, empowering him to treat with such person as may be appointed by Her Majesty on the part of Great Britain, for a final settlement of that question, I have now the honour to inclose to you the extract of a despatch addressed to me upon that subject by the Earl of Aberdeen, in which the wishes of Her Majesty's Government are fully and satisfactorily set forth.

I feel persuaded that the great importance of the matter at issue, and the friendly and conciliatory manner of Lord Aberdeen's proposal, will induce the President of the United States to bestow thereupon his early and serious attention.

I avail myself, &c.,

(Signed) H. S. FOX.

No. 2.

The Earl of Aberdeen to Mr. Fox.

(Extract.) *Foreign Office, October* 18, 1842.

THE ratifications of the Treaty concluded on the 9th of August between Great Britain and the United States, were exchanged by me on the 13th instant, with the Minister of the United States accredited to the Court of Her Majesty.

The more important question of the disputed Boundary between Her Majesty's North American Provinces and the United States being thus settled, and the feelings which have been mutually produced in the people of both countries by this settlement being evidently favourable, and indicative of a general desire to continue on the best footing with each other, it has appeared to Her Majesty's Government that both parties would act wisely in availing themselves of so auspicious a moment to endeavour to bring to a settlement the only remaining subject of territorial difference, which, although not so hazardous as that of the North-Eastern Boundary, is, nevertheless, even at this moment, not without risk to the good understanding between the two countries, and may, in course of time, be attended with the same description of danger to their mutual peace as

the question which has recently been adjusted. I speak of the line of Boundary west of the Rocky Mountains.

You are aware that Lord Ashburton was furnished with specific and detailed instructions with respect to the treatment of this point of difference between the two Governments, in the general negotiations with which he was entrusted, and which he has brought to a satisfactory issue. For reasons which it is not necessary here to state at length, that point, after having been made the subject of conference with the American Secretary of State, was not further pressed.

The main ground alleged by his Lordship for abstaining from proposing to carry on the discussion with respect to the question of the North-Western Boundary, was the apprehension, lest, by so doing, the settlement of the far more important matter of the North-Eastern Boundary should be impeded, or exposed to the hazard of failure.

This ground of apprehension no longer exists; and Her Majesty's Government, therefore, being anxious to endeavour to remove, so far as depends on them, all cause, however remote, of even contingent risk to the good understanding now so happily restored between two countries which ought never to be at variance with each other, have determined to propose to the Government of the United States to meet them in an endeavour to adjust by treaty the unsettled question of Boundary west of the Rocky Mountains.

On the receipt of this despatch, therefore, I have to desire that you will propose to Mr. Webster to move the President to furnish the United States' Minister at this Court with such instructions as will enable him to enter upon the negotiation of this matter with such person as may be appointed by Her Majesty for that object. And you will assure him, at the same time, that we are prepared to proceed to the consideration of it in a perfect spirit of fairness, and to adjust it on a basis of equitable compromise.

No. 3.

Mr. Webster to Mr. Fox.

Department of State,
Washington, November 25, 1842.

Sir,

I HAVE the honour to acknowledge the receipt of your note of the 15th instant, upon the question of the Oregon or North-Western Boundary, with an extract of a despatch recently addressed to you on the subject by the Earl of Aberdeen, explanatory of the wishes of Her Majesty's Government, both of which I laid before the President a few days afterwards. He directed me to say that he concurred entirely in the expediency of making the question respecting the Oregon Territory a subject of immediate attention and negotiation between the two Governments. He had already formed the purpose of expressing this opinion in his message to Congress; and at no distant day a communication will be made to the Minister of the United States in London.

I pray you to accept, &c.,

(Signed) DANIEL WEBSTER.

No. 4.

Mr. Fox to the Earl of Aberdeen.—(Received December 30.)

(Extract.) *Washington, December* 12, 1842.

THE session of Congress was opened on Monday last, the 5th instant.

I have the honour to inclose copies of the President's annual message, which was transmitted to the two Houses on the 7th instant.

Your Lordship will be surprised (after the official correspondence between Mr. Webster and myself, which was forwarded by the last packet) at the inexact manner in which the message describes the state of the negotiation for the adjustment of the Oregon Boundary. The language of the President leaves it to be inferred that an early settlement of this question is urged by the Government of the United States, rather than by that of Great Britain.

Inclosure in No. 4.

Extract from the Message of the President of the United States of December 7, 1842.

IT would have furnished additional cause for congratulation, if the Treaty could have embraced all subjects calculated in future to lead to a misunderstanding between the two Governments. The territory of the United States commonly called the Oregon Territory, lying on the Pacific Ocean, north of the 42nd degree of latitude, to a portion of which Great Britain lays claim, begins to attract the attention of our fellow-citizens; and the tide of population which has reclaimed what was so lately an unbroken wilderness, in more contiguous regions, is preparing to flow over those vast districts which stretch from the Rocky Mountains to the Pacific Ocean. In advance of the acquirement of individual rights to these lands, sound policy dictates that every effort should be resorted to by the two Governments to settle their respective claims. It became manifest, at an early hour of the late negotiations, that any attempt for the time being satisfactorily to determine those rights, would lead to a protracted discussion which might embrace in its failure other more pressing matters; and the Executive did not regard it as proper to waive all the advantages of an honourable adjustment of other difficulties of great magnitude and importance, because this, not so immediately pressing, stood in the way. Although the difficulty referred to may not, for several years to come, involve the peace of the two countries, yet I shall not delay to urge on Great Britain the importance of its early settlement. Nor will other matters of commercial importance to the two countries be overlooked; and I have good reason to believe that it will comport with the policy of England, as it does with that of the United States, to seize upon this moment, when most of the causes of irritation have passed away, to cement the peace and amity of the two countries, by wisely removing all grounds of probable and future collision.

No. 5.

The Earl of Aberdeen to Mr. Fox.

(Extract.) *Foreign Office, January* 18, 1843.

HER Majesty's Government have observed with surprise and regret a paragraph in the President's late message to Congress, which, if not directly at variance with fact, is at least calculated to mislead. That paragraph relates to the difference existing between Great Britain and the United States on the subject of the territory situated between the Rocky Mountains and the Pacific Ocean.

As the correspondence which has recently passed between the two Governments relative to the Oregon Territory will, probably, in no long time be laid before Congress or Parliament, I might leave the facts, as exhibited in that correspondence, to speak for themselves. But as the President has declared an intention to Congress, of urging, without delay, on Great Britain the importance of an early settlement of this question, I am constrained to observe, that it would have been more candid had he also stated that he had already received from the British Government a pressing overture to negotiate an adjustment of

differences with respect to the Oregon Territory, and that he had responded to that overture in the same conciliatory spirit in which it had been made.

The language held by the President in his message is the more remarkable, since, almost at the very time that he was composing it, Mr. Webster had notified to you, by the President's order, his assent to the British proposition. Mr. Webster's letter bears date the 25th of November, and the President's message was delivered to Congress on the 7th of December.

No. 6.

Mr. Fox to the Earl of Aberdeen.—(Received January 30, 1843.)

My Lord, *Washington, December* 29, 1842.

THE inclosed special message, having reference to the present state of the negotiation between Great Britain and the United States upon the subject of the Oregon Boundary, was transmitted by the President to the Senate on the 23rd instant, in reply to a resolution of the Senate of the previous day, calling upon the Executive for information upon the above subject.

Your Lordship will perceive that in this message the President declines entering into the particulars of the negotiation; but that he again gives, in general terms, the same inexact description of the state of the business, upon which I had occasion to remark in my despatch of the 12th instant, when treating of that part of the President's annual message which related to the Oregon Boundary.

I have, &c.,
(Signed) H. S. FOX.

Inclosure in No. 6.

Special Message from the President to Congress in relation to the Oregon Boundary.

To the Senate of the United States:

I HAVE received the resolution of the 22nd instant, requesting me "to inform the Senate of the nature and extent of the informal communications which took place between the American Secretary of State and the British Special Minister, during the late negotiation in Washington city, upon the subject of the claims of the United States and Great Britain to the territory west of the Rocky Mountains; and also to inform the Senate what were the reasons which prevented any agreement upon the subject at present, and which made it inexpedient to include this subject among the subjects of formal negotiation."

In my message to Congress at the commencement of the present session, in adverting to the territory of the United States on the Pacific Ocean, north of the 42nd degree of north latitude, a part of which is claimed by Great Britain, I remarked that, "in advance of the acquirement of individual right to these lands, sound policy dictated that every effort should be resorted to by the two Govenments to settle their respective claims;" and also stated that I should not delay to urge on Great Britain the importance of an early settlement. Measures have been already taken in pursuance of the purpose thus expressed, and, under the circumstances, I do not deem it consistent with the public interest to make any communication on the subject.

(Signed) JOHN TYLER.

Washington, December 23, 1842.

No. 7.

The Earl of Aberdeen to Mr. Fox.

Sir, *Foreign Office, August* 18, 1843.

BY my despatch of the 18th of October last, you were authorized to propose to the Government of the United States that full powers should be sent to the United States' Minister in this country, to enable him to enter upon a negotiation with Her Majesty's Government for the settlement of the question of Boundary of the Oregon Territory. Mr. Webster replied on the 25th of November to your note of the 15th of that month, in which you submitted that proposition to him, that at no distant day a communication would be made to the Minister of the United States in London upon this subject.

In February last, Mr. Webster informed you that the President had it in contemplation to send a Special Mission to England, for the purpose of opening the negotiation proposed by the British Govenment; and since that time I had been more than once given to understand by Mr. Everett, that it was the intention of the President to prosecute this matter in London; but as yet nothing further has been done.

I have therefore to desire that you will inform me whether any steps have been taken by the American Government in furtherance of this important object; Her Majesty's Government being most desirous that no unnecessary delay should take place in endeavouring to bring this question of Boundary to a satisfactory conclusion.

Should the President now entertain any serious objection, or find any difficulty with respect to the prosecution of the negotiations in London, you are hereby authorized to assure the United States' Secretary of State, that you will be empowered to enter upon that duty at Washington.

I am, &c.,
(Signed) ABERDEEN.

No. 8.

Mr. Fox to the Earl of Aberdeen.—(Received October 1.)

(Extract.) *Washington, September* 12, 1843.

I HAD the honour to receive by the last packet your Lordship's despatch of the 18th ultimo, concerning the present state of the Oregon Boundary negotiation. Having suffered for the last few days from a severe attack of fever, I was unable to confer personally with the United States' Secretary of State. I therefore commissioned Mr. Lettsom, first Attaché to this Legation, in whom, I am happy to say, I place full confidence, to make the required communication for me.

Mr. Lettsom called upon Mr. Upshur, and read to him, by my desire, your Lordship's despatch. He stated to Mr. Upshur that the object of the communication was to make the United States' Government aware how much your Lordship desired that an early progress might be made in the Oregon negotiation, either by transmitting powers and instructions to Mr. Everett in London, or, if the President should prefer it, by my being empowered to enter upon the negotiation at Washington.

Mr. Upshur, after having heard your Lordship's despatch read, replied, that the United States' Government were not inattentive to the subject of the Oregon negotiation, and were, equally with Her Majesty's Government, desirous to promote an early settlement of the question. He said that, immediately upon the President's return to the seat of Government, he should consult with him upon the matter, and would then make to me a further communication. The President is at present in Virginia, but he is expected to be back at Washington for a few days in the course of a week.

Mr. Upshur added to Mr. Lettsom, of his own accord, that he thought it likely the President would prefer to conduct the negotiation at Washington.

No. 9.

Mr. Fox to the Earl of Aberdeen.—(Received December 31.)

(Extract.) *Washington, December* 13, 1843.

I HAVE the honour to inclose copies of the President's annual message transmitted to Congress on the 5th instant.

In that part of the President's message which refers to the Oregon Boundary negotiation, your Lordship will regret to find that the same inexact mode of representing the present state of the negotiation is persisted in, of which we had reason to complain in two messages transmitted by the President to Congress at the beginning of the last session. The inference drawn from the President's expressions by all who are unacquainted with the real state of the case, and with the communications that have passed between the two Governments, must still be, that the President has been occupied in urging upon Her Majesty's Government an early settlement of the Oregon Question; and that Her Majesty's Government, on their part, have either been inattentive to the urgency of the question, or reluctant to proceed to an adjustment of it. This is the unavoidable inference to be drawn from the President's words.

On the other hand, it is satisfactory to observe that the question at issue between Great Britain and the United States, with regard to the Oregon Territory, and the nature of the dispute, are fairly and not intemperately stated in the President's message of this year; and, above all, that no rash or irrevocable assertion is hazarded, of the intention of the United States to persist in their entire claim, nor any declaration which need preclude the President from acceding to an equitable compromise, if the course of the negotiation should lead to such a mode of adjustment.

Inclosure in No. 9.

Extract from the annual Message of the President of the United States, transmitted to Congress December 5, 1843.

A QUESTION of much importance still remains to be adjusted between them (Great Britain and the United States). The territorial limits of the two countries in relation to what is commonly known as the Oregon Territory, still remain in dispute. The United States would be at all times indisposed to aggrandize themselves at the expense of any other nation; but while they would be restrained by principles of honour which should govern the conduct of nations as well as that of individuals, from setting up a demand for territory which does not belong to them, they would as unwillingly consent to a surrender of their rights. After the most rigid and, as far as practicable, unbiassed examination of the subject, the United States have always contended that their rights appertain to the entire region of country lying on the Pacific, and embraced within 42° and 54° 40′ of north latitude. This claim being controverted by Great Britain, those who have preceded the present Executive, actuated, no doubt, by an earnest desire to adjust the matter upon terms mutually satisfactory to both countries, have caused to be submitted to the British Government, propositions for settlement and final adjustment, which, however, have not proved heretofore acceptable to it. Our Minister at London has, under instructions, again brought the subject to the consideration of that Government; and while nothing will be done to compromit the rights or honour of the United States, every proper expedient will be resorted to in order to bring the negotiation, now

in the progress of resumption, to a speedy and happy termination. In the mean time, it is proper to remark, that many of our citizens are either already established in the territory, or are on their way thither for the purpose of forming permanent settlements, while others are preparing to follow; and in view of these facts, I must repeat the recommendation contained in previous messages, for the establishment of military posts, at such places, on the line of travel, as will furnish security and protection to our hardy adventurers against hostile tribes of Indians inhabiting those extensive regions. Our laws should also follow them, so modified as the circumstances of the case may seem to require. Under the influence of our free system of government, new republics are destined to spring up, at no distant day, on the shores of the Pacific, similar in policy and in feeling to those existing on this side of the Rocky Mountains, and giving a wider and more extensive spread to the principles of civil and religious liberty.

No. 10.

The Earl of Aberdeen to Mr. Pakenham.

(Extract.) *Foreign Office, December* 28, 1843.

ONE of the first objects which will engage your attention on your arrival at Washington, will be the negotiation for the settlement of the Boundaries of the Oregon or Columbia Territory.

By a perusal of the communications which have recently passed on this subject between the British and American Governments, you will see that in October, 1842, Her Majesty's Goverement, being desirous of putting an end to any difference which, notwithstanding the successful mission of Lord Ashburton, might still exist, a proposition was made to open a negotiation for the settlement of this question. The President, in his message to Congress in the month of December following, strongly urged the necessity of such a negotiation; and Her Majesty's Government, in the same month of December, repeated the proposal. It was again favourably received by the President, but, from various causes, all further proceedings were suspended on the part of the United States.

Some doubt appeared to exist respecting the seat of the proposed negotiation; and in order to revive this matter, Her Majesty's Government, in a despatch to Mr. Fox, dated the 18th of August last, authorized that gentleman to declare that in case Washington should be preferred by the President, Her Majesty's Government would agree to that arrangement.

Although Her Majesty's Government would not object to follow any course which might be decidedly preferred by the Government of the United States, they have acquired the conviction that, under present circumstances, and during the meeting of Congress, the best prospect of success would be afforded by opening the negotiation at Washington.

The recent message of the President, delivered on the 5th instant, has just been received in this country. It adverts at some length to the subject of the Oregon Territory, and in no very conciliatory manner; but this has produced no change in the intentions of Her Majesty's Government. It is our desire, as it is our duty, to make every effort, consistently with the honour and essential interests of the country, to bring this matter to a speedy and amicable settlement.

On your arrival, therefore, at Washington, you will repeat to the United States' Secretary of State, the desire of Her Majesty's Government to carry on the negotiation; and you will inform him that you are furnished with the requisite full powers to enter upon it with any person whom the President may appoint to meet you.

In order to provide for the immediate acceptance of that proposition by the President, I proceed to give you the necessary instructions for your guidance.

No. 11.

Mr. Pakenham to the Earl of Aberdeen.—(Received March 14.)

(Extract.) *Washington, February* 27, 1844.

CONSIDERING the attempts which have from time to time been made to lead the American people to believe that the Government of the United States were more active than the Government of England in endeavouring to effect a settlement of the Oregon Question, and the resolutions which have been proposed during the past and present sessions of Congress for the summary solution of that question, by proceeding to the occupation of the disputed territory, I thought it advisable, as soon as possible after my arrival at Washington, to take a first step towards the fulfilment of your Lordship's instructions upon that important subject, by officially informing the Secretary of State, of the desire of Her Majesty's Government to resume negotiations for the adjustment of a line of boundary.

For this purpose I delivered to Mr. Upshur, on the 24th instant, a note, a copy of which I have the honour to inclose, expressing my readiness to confer with him, with a view to ulterior negotiation on the matter in question, whenever it might suit his convenience. On that occasion Mr. Upshur simply informed me that he would answer my note in a few days. Yesterday his answer, of which I also inclose a copy, was delivered to me, appointing the morning of to-day for our first conference. My reason for laying before your Lordship these otherwise unimportant communications, is that I think it of consequence, with a view to what may happen hereafter, that the advance which has thus been made on behalf of Her Majesty's Government towards negotiation should be authentically recorded.

My conversation with Mr. Upshur, of this morning, although strictly of a preliminary character, was not altogether unsatisfactory. In the first place, it has elicited the fact that the negotiation on the part of the United States is to be confided to Mr. Upshur; an arrangement from which I am inclined to augur favourably, on account of the opinion entertained by Mr. Fox of that gentleman's integrity and good faith.

Mr. Upshur has further assured me of his entire disposition to carry on the negotiation in a fair spirit of compromise, and above all to endeavour, whatever may be the result, that matters shall not be left in a worse state, with reference to the relations between the two countries, than they are at present.

"We must, at least, take care," he said, and with great appearance of sincerity, "that if we should not succeed in effecting an arrangement, there shall be no quarrel."

Inclosure 1 in No. 11.

Mr. Pakenham to Mr. Upshur.

Washington, February 24, 1844.

AMONG the matters at present under the consideration of the two Governments, there is none respecting which the British Government are more anxious to come to an early and satisfactory arrangement with the Government of the United States, than that relating to the boundaries of the Oregon or Columbia Territory.

The Undersigned, Her Majesty's Envoy Extraordinary and Minister Plenipotentiary, has accordingly been instructed to lose no time in entering into communication with the Secretary of State of the United States upon this subject.

In fulfilment, then, of the commands of his Government, the Undersigned has the honour to acquaint Mr. Upshur, that he will be ready to confer with him with a view to ulterior negotiation on the subject in question, whensoever it shall suit Mr. Upshur's convenience.

The Undersigned, &c.,

(Signed) R. PAKENHAM.

Inclosure 2 in No. 11.

Mr. Upshur to Mr. Pakenham.

Department of State,
Washington, February 26, 1844.

THE Undersigned, Secretary of State of the United States, has the honour to acknowledge the receipt of the note dated the 24th instant, from Mr. Pakenham, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, in which he states that he will be ready to confer with the Undersigned, with the view to ulterior negotiation on the subject of the boundaries of the Oregon or Columbia Territory, whensoever it shall suit his convenience.

In reply, the Undersigned has the honour to inform Mr. Pakenham that he will receive him for that purpose, at the Department of State, tomorrow at eleven o'clock A.M.

The Undersigned, &c.,

(Signed) A. P. UPSHUR.

No. 12.

Mr. Pakenham to the Earl of Aberdeen.—(Received May 13.)

My Lord, *Washington, April* 14, 1844.

SINCE Mr. Calhoun's accession to the office of Secretary of State, nothing has been done in the affair of Oregon; his attention having been exclusively devoted to the negotiation of the Treaty with Texas, which forms the subject of my preceding despatch of this date.

But as that matter is now concluded, as far as the Executive branch of the Government is concerned, I suppose that Mr. Calhoun will be at leisure to attend to the Oregon negotiation in time to allow me to report something on that important subject by the next regular mail.

I have, &c.,

(Signed) R. PAKENHAM.

No. 13.

Mr. Pakenham to the Earl of Aberdeen.—(Received May 16.)

My Lord, *Washington, April* 28, 1844.

NOTHING has yet been done in the affair of the Oregon Boundary, Mr. Calhoun continuing to say that he has not yet had time to acquire the necessary information to enable him to enter on the negotiation.

I have, &c.,

(Signed) R. PAKENHAM.

No. 14.

Mr. Pakenham to the Earl of Aberdeen.—(Received May 29.)

(Extract.) *Washington, May* 13, 1844.

I HAVE again to report to your Lordship that nothing has yet been done in the Oregon negotiation.

A few days ago Mr. Calhoun informed me that his time had been so much taken up with other matters of pressing importance, that he had been unable to look into the papers connected with that question; and he gave me to understand that he should probably be obliged to defer the negotiation until after the adjournment of Congress, which it is supposed will take place in the course of next month.

No. 15.

Mr. Pakenham to the Earl of Aberdeen.—(Received August 14.)

(Extract.) *Washington, July* 29, 1844.

A FEW days after the dispatch of the last packet, I again inquired of Mr. Calhoun how soon it might be likely to suit his convenience to enter into communication with me on the subject of the Oregon Boundary.

He replied, as he had already stated on former occasions, that he had not yet had time to make himself acquainted with the details of the question; that as Congress was no longer in session, he did not think the matter was one of immediate urgency; and that as it was his intention to go home to South Carolina early next month, he proposed to take with him the papers relating to the question, in order that he might, at his leisure, prepare himself to enter formally on the proposed negotiation on his return to Washington.

I told him that, much as Her Majesty's Government desired to see the question of Oregon satisfactorily disposed of, it was not their wish to press this Government inconveniently respecting it; but that, on the other hand, considering the impatience which had been manifested upon the subject during the last and preceding sessions of Congress, and the observations which had been more than once put forth tending to create the belief that Her Majesty's Government were not in reality desirous of meeting this Government fairly on the question, I felt it to be my duty to place something on record, which should prove that there was no want of readiness on our part to proceed with the negotiation at the earliest moment consistent with the convenience of the Government of the United States; and that I therefore intended, with his permission, to address a letter to him repeating what I had already said to him on various occasions in the above sense.

Inclosure in No. 15.

Mr. Pakenham to Mr. Calhoun.

Sir, *Washington, July* 22, 1844.

IN the archives of the Department of State will be found a note which I had the honour to address on the 24th February last to the late Mr. Upshur, expressing the desire of Her Majesty's Government to conclude with the Government of the United States a satisfactory arrangement respecting the boundary of the Oregon or Columbia Territory.

The lamented death of Mr. Upshur, which occurred within a few days after the date of that note; the interval which took place between that event and the appointment of a successor; and the urgency and importance of various matters which offered themselves to your attention immediately after your accession to office, sufficiently explain why it has not hitherto been in the power of your Government, Sir, to attend to the important matter to which I refer.

But the session of Congress having been brought to a close, and the present being the season of the year when the least public business is usually transacted, it occurs to me that you may now feel at leisure to proceed to the consideration of that subject. At all events it becomes my duty to recall it to your recollection, and to repeat the earnest desire of Her Majesty's Government, that a question on which so much interest is felt in both countries, should be disposed of at the earliest moment consistent with the convenience of the Government of the United States.

I have, &c.,

(Signed) R. PAKENHAM.

No. 16.

Mr. Pakenham to the Earl of Aberdeen.—(Received September 15.)

(Extract.) *Washington, August* 29, 1844.

ON the 22nd of this month I received from Mr. Calhoun a note, a copy of which I have the honour to inclose, informing me that he was now at leisure to confer with me on the subject of the Oregon Boundary.

In conformity with his proposal, our first conference took place on the following day, the 23rd instant, when, after mutual assurances of the desire of our respective Governments to approach the question in a fair spirit of compromise, and to spare no pains to effect a settlement of it upon terms consistent with the honour and just interests of either party, we proceeded to examine the actual state of the question as it had remained since the last unsuccessful attempt to adjust it.

Mr. Calhoun then expressed his desire to receive from me any fresh proposal which I might be empowered to offer on the part of Her Majesty's Government, tending to an approximation of the views of the two Governments. I told him that I should be ready to offer such a proposal at our next conference, when I hoped that he also would be prepared to suggest some arrangement by which the views and expectations of the two Governments might be reconciled.

Our second conference took place on the 26th, when I laid before him the proposal* authorized by your Lordship's instructions relative to a free port either on the mainland or on Vancouver's Island, south of the 49th degree of north latitude.

This proposal was at once declined by Mr. Calhoun, as altogether inadequate. He then informed me that before we proceeded farther with the negotiation, it was his intention to prepare a written statement of the case of the United States as it presented itself to his view, and taking into account certain new circumstances affecting it, which had come into existence since the temporary arrangement of 1827 was concluded. That

* See page 27, Minute of a Conference, &c.

this statement he would deliver to me, to be either answered by myself, or referred to Her Majesty's Government, as I might think proper.

I of course could not do otherwise than accede to the course of proceeding thus proposed by Mr. Calhoun; and it now remains to be seen what new arguments he is prepared to bring forward, either to give strength to the claim of this country as originally presented, or to invalidate that of Great Britain.

Inclosure in No. 16.

Mr. Calhoun to Mr. Pakenham.

Department of State,
Washington, August 22, 1844.

Sir,

THE various subjects which necessarily claimed my attention on entering on the duties of my office have heretofore, as you justly suppose in your note of the 22nd of July last, prevented me from appointing a time to confer with you, and enter on the negotiation in reference to the Oregon Territory.

These have, at length, been dispatched; and in reply to the note which you did me the honour to address to me, of the date above mentioned, I have to inform you that I am now ready to enter on the negotiation, and for that purpose propose a conference to-morrow, at 1 o'clock P. M., at the Department of State, if perfectly convenient to you, but if not, at any other which it may suit your convenience to appoint.

The Government of the United States participates in the anxious desire of that of Great Britain that the subject may be early and satisfactorily arranged.

I have, &c.,
(Signed) J. C. CALHOUN.

No. 17.

Mr. Pakenham to the Earl of Aberdeen.—(Received September 30.)

My Lord, *Washington, September* 12, 1844.

YOUR Lordship will have been informed by my despatch of 29th August of what had taken place up to that date on the subject of the Oregon negotiation.

I have now the honour to transmit, for your Lordship's information, a copy of a statement presented by Mr. Calhoun, explaining his reasons for declining the proposal which I had made to him in accordance with your Lordship's instructions, which he says would have the effect of restricting the possessions of the United States, to limits far more circumscribed than their claims clearly entitle them to.

For the present Mr. Calhoun limits himself to the entire region drained by the Columbia River, to which he asserts that they are fairly entitled on the several grounds detailed in his statement.

I do not think that your Lordship will find in this paper anything of importance that has not already been urged in other words by the gentlemen who represented the United States in the previous negotiations, with the exception, perhaps, of what is said of the rapid increase of population in the Valley of the Mississippi, which Mr. Calhoun now refers to as justifying a claim on the grounds of continuity.

Mr. Calhoun, your Lordship will perceive, divides the claim of the United States to the territory drained by the Columbia into their own proper claims, by virtue of priority of discovery, and priority of exploration and settlement, and those derived from France and Spain. In my answer to his statement, a copy of which I have the honour to inclose, I endeavour to show that the claim derived from France is good for nothing; that the claim derived from Spain is restricted by the stipula-

tions of the Nootka Convention; and that, as relates to discovery and exploration, we can refer to discoveries both antecedent to, and posterior to, their alleged discovery of the mouth of the Columbia, which would place the British claim under that head at least upon a par with the claim of the United States.

I also endeavour to prove that, considering the circumstances on both sides, the arrangement proposed by Great Britain was fair and liberal, and that it did ample justice to the claims of the United States.

I am conscious, my Lord, that in my counter-statement, nothing is said that had not already been said, and far more forcibly, by my predecessors in the negotiation; but your Lordship will be pleased to recollect that the matter has been so thoroughly investigated and debated in former discussions as to make it very difficult to throw any new light upon it.

At the conclusion of Mr. Calhoun's statement allusion is made to the "other claims which the United States may have to other portions of the territory." This has obliged me to request that he will define more particularly what are the claims to which he thus alludes.

I have, &c.,
(Signed) R. PAKENHAM.

Inclosure 1 in No. 17.

A

Statement of the American Plenipotentiary, containing the Claims of the United States to the Oregon Territory.

THE Undersigned, American Plenipotentiary, declines the proposal of the British Plenipotentiary on the ground that it would have the effect of restricting the possessions of the United States to limits far more circumscribed than their claims clearly entitle them to. It proposes to limit their northern boundary by a line drawn from the Rocky Mountains along the 49th parallel of latitude to the north-easternmost branch of the Columbia River, and thence down the middle of that river to the sea, giving to Great Britain all the country north, and to the United States, all south of that line, except a detached territory extending on the Pacific and the Straits of Fuca, from Bulfinch's Harbour to Hood's Canal. To which it is proposed, in addition, to make free to the United States any port which the United States' Government might desire, either on the mainland, or on Vancouver's Island, south of latitude 49°.

By turning to the map hereto annexed, and on which the proposed boundary is marked in pencil, it will be seen that it assigns to Great Britain almost the entire region on its north side drained by the Columbia River, and lying on its northern bank. It is not deemed necessary to state at large the claims of the United States to this territory and the grounds on which they rest in order to make good the assertion that it restricts the possessions of the United States within narrower bounds than they are clearly entitled to. It will be sufficient for this purpose to show that they are fairly entitled to the entire region drained by the river; and to the establishment of this point the Undersigned proposes accordingly to limit his remarks at present.

Our claims to the portion of the territory drained by the Columbia River may be divided into those we have in our own proper right and those we have derived from France and Spain. We ground the former, as against Great Britain, on priority of discovery, and priority of exploration and settlement; we rest our claim to discovery, as against her, on that of Captain Gray, a citizen of the United States, who, in the ship "Columbia," of Boston, passed its bar and anchored in the river, ten miles above its mouth, on the 11th of May, 1792; and who afterwards sailed up the river twelve or fifteen miles, and left it on the 20th of the same month, calling it "Columbia," after his ship, which name it still retains. On these facts our claim to the discovery and entrance into the river rests. They are too well attested to be controverted; but they

have been opposed by the alleged discoveries of Meares and Vancouver. It is true that the former explored a portion of the coast through which the Columbia flows into the Ocean, in 1788 (five years before Captain Gray crossed the bar, and anchored in the river), in order to ascertain whether the river, as laid down in the Spanish charts, and called the St. Roe, existed or not; but it is equally true that he did not even discover it. On the contrary, he expressly declares in his account of the voyage, as the result of his observations, that "we can now safely assert that there is no such river as that of the St. Roe, as laid down in the Spanish charts:" and as if to perpetuate his disappointment, he called the promontory lying north of the inlet where he expected to discover it, Cape Disappointment, and the inlet itself, Deception Bay. It is also true that Vancouver, in April, 1792, explored the same coast; but it is no less so, that he failed to discover the river, of which his own journal furnishes the most conclusive evidence, as well as his strong conviction that no such river existed. So strong was it, indeed, that when he fell in with Captain Gray shortly afterwards, and was informed by him that he had been off the mouth of a river in latitude 49° 10′, whose outset was so strong as to prevent his entering, he remained still incredulous and strongly expressed himself to that effect in his journal. It was shortly after this interview that Captain Gray again visited its mouth, crossed its bar, and sailed up the river, as has been stated. After he left it, he visited Nootka Sound, where he communicated his discoveries to Quadra, the Spanish Commandant at that place, and gave him a chart and description of the mouth of the river. After his departure, Vancouver arrived there in September, when he was informed of the discoveries of Captain Gray, and obtained from Quadra, copies of the chart he had left with him. In consequence of the information thus obtained he was induced to visit again that part of the coast. It was during this visit that he entered the river on the 20th of October and made his survey.

From these facts it is manifest that the alleged discoveries of Meares and Vancouver cannot, in the slightest degree, shake the claim of Captain Gray to priority of discovery. Indeed so conclusive is the evidence in his favour that it has been attempted to evade our claim on the novel and wholly untenable ground that his discovery was made not in a national but private vessel. Such and so incontestible is the evidence of our claim, as against Great Britain, from priority of discovery as to the mouth of the river, crossing its bar, entering it, and sailing up its stream, on the voyage of Captain Gray alone, without taking into consideration the prior discovery of the Spanish navigator, Heceta, which will be more particularly referred to hereafter.

Nor is the evidence of the priority of our discovery of the head branches of the river, and its exploration, less conclusive. Before the Treaty was ratified by which we acquired Louisiana in 1803, an expedition was planned, at the head of which were placed Meriwether, Lewis, and William Clark, to explore the River Missouri and its principal branches to their sources; and then to seek and trace to its termination in the Pacific, some stream, "whether the Columbia, the Oregon, the Colorado, or any other which might offer the most direct and practicable water-communication across the continent for the purpose of commerce." The party began to ascend the Missouri in May, 1804, and in the summer of 1805, reached the head waters of the Columbia River. After crossing many of the streams falling into it, they reached the Kooskooskie, in latitude 43° 34′; descended that to the principal southern branch, which they called Lewis; followed that to its junction with the great northern branch, which they called Clark; and thence descended to the mouth of the river, where they landed and encamped on the north side, on Cape Disappointment, and wintered. The next spring they commenced their return, and continued their exploration of the river, noting its various branches, and tracing some of the principal; and finally arrived at St. Louis in September, 1806, after an absence of two years and three months. It was this important expedition which brought to the knowledge of the world this great river, the greater by far on the western side

of this continent, with its numerous branches, and the vast regions through which it flows above the point to which Gray and Vancouver had ascended.

It took place many years before it was visited and explored by any subject of Great Britain, or of any other civilized nation, so far as we are informed. It as clearly entitles us to the claim of priority of discovery as to its head branches, and the exploration of the river and region through which it passes, as the voyages of Captain Gray and the Spanish navigator Heceta entitle us to priority in reference to its mouth and the entrance into its channel. Nor is our priority of settlement less certain. Establishments were formed by American citizens on the Columbia as early as 1809 and 1810. In the latter year a company was formed in New York, at the head of which was John Jacob Astor, a wealthy merchant of that city, the object of which was to form a regular chain of establishments on the Columbia River and the contiguous coasts of the Pacific, for commercial purposes. Early in the spring of 1811, they made their establishment on the south side of the river, a few miles above Point George, where they were visited in July following by Mr. Thompson, a surveyor and astronomer of the North-West Company, and his party. They had been sent out by that company to forestall the American Company in occupying the mouth of the river, but found themselves defeated in their object. The American Company formed two other connected establishments higher up the river, one at the confluence of the Okinegan with the north branch of the Columbia, about six hundred miles above its mouth, and the other on the Spoken, a stream falling into the north branch some fifteen miles above.

These posts passed into the possession of Great Britain during the war which was declared the next year; but it was provided by the first Article of the Treaty of Ghent, which terminated it, that "*all territories, places, and possessions whatever, taken by either party from the other during the war, or which may be taken after the signing of the Treaty, excepting the islands hereafter mentioned (in the Bay of Fundy), shall be restored without delay.*" Under this provision, which embraces all the establishments of the American Company on the Columbia, Astoria was formally restored on the 6th of October, 1818, by agents duly authorized on the part of the British Government to restore the possession, and to an agent duly authorized on the part of the United States' Government to receive it, which placed our possession where it was before it passed into the hands of British subjects.

Such are the facts on which we rest our claims to priority of discovery and priority of exploration and settlement, as against Great Britain, to the region drained by the Columbia River. So much for the claims we have in our own proper right to that region.

To these we have added the claims of France and Spain. The former we obtained by the Treaty of Louisiana, ratified in 1803, and the latter by the Treaty of Florida, ratified in 1819. By the former we acquired all the rights which France had to Louisiana, "*to the extent it now has* (1803) *in the hands of Spain, and that it had when France possessed it, and as it should be after the treaties subsequently entered into by Spain and other States.*" By the latter His Catholic Majesty "*ceded to the United States all his rights, claims, and pretensions* to the country lying west of the Rocky Mountains and north of a line drawn on the 42nd parallel of latitude, from a point on the south banks of the Arkansas in that parallel to the South Sea; that is, to the whole region claimed by Spain west of those mountains and north of that line."

The cession of Louisiana gave us undisputed right west of the Mississippi, extending to the summit of the Rocky Mountains, and stretching south between that river and those mountains to the possessions of Spain, the line between which and ours was afterwards determined by the Treaty of Florida. It also added much to the strength of our title to the region beyond the Rocky Mountains by restoring to us the important link of continuity westward of the Pacific, which had been surrendered by the Treaty of 1763, as will be hereafter shown.

That continuity furnishes a just foundation for a claim of territory,

in connection with those of discovery and occupation, would seem unquestionable. It is admitted by all that neither of them is limited by the precise spot discovered or occupied. It is evident that in order to make either available it must extend at least some distance beyond that actually discovered or occupied, but how far, as an abstract question, is a matter of uncertainty. It is subject in each case to be influenced by a variety of considerations. In the case of an island it has been usually maintained in practice to extend the claims of discovery or occupancy to the whole. So, likewise, in the case of a river, it has been usual to extend them to the entire region drained by it, more especially in cases of a discovery and settlement at the mouth,—and emphatically so, when accompanied by exploration of the river and region through which it flows; such, it is believed, may be affirmed to be the opinion and practice in such cases since the discovery of this continent. How far the claim of continuity may extend in other cases is less perfectly defined, and can be settled only by reference to the circumstances attending each. When this continent was first discovered Spain claimed the whole in virtue of the grant of the Pope; but a claim so extravagant and unreasonable was not acquiesced in by other countries and could not be long maintained. Other nations, especially England and France, at an early period contested her claim. They fitted out voyages of discovery and made settlements on the eastern coast of North America. They claimed for their settlements usually specific limits along the coasts or bays on which they were formed, and generally a region of corresponding width extending across the entire continent to the Pacific Ocean; such was the character of the limits assigned by England in the charters which she granted to her former colonies, now the United States, when there were no special reasons for varying from it.

How strong she regarded her claim to the region covered by these charters, and extending westwards of her settlements, the war between her and France, which was terminated by the Treaty of Paris, 1763, furnishes a striking illustration. That great contest which ended so gloriously for England, and effected so great and durable a change on this continent, commenced in a conflict between her claims and those of France, resting on her side on this very right of continuity extending westward from her settlements to the Pacific Ocean; and on the part of France on the same right, but extending to the region drained by the Mississippi and its waters, on the ground of settlement and exploration. Their respective claims which led to the war first clashed on the River Ohio, the waters of which the colonial charters in their western extension covered, but which France had been unquestionably the first to settle and explore. If the relative strength of these different claims may be tested by the result of that remarkable contest, that of continuity westward must be pronounced to be the stronger of the two; England has had at least the advantage of the result, and would seem to be foreclosed against contesting the principle, particularly as against us, who contributed so much to that result, and on whom that contest and her example and pretensions, from the first settlement of our country, have contributed to impress it so deeply and indelibly.

But the Treaty of 1763, which terminated that memorable and eventful struggle, yielded, as has been stated, the claim and all the chartered rights of the colonies beyond the Mississippi. The Seventh Article established that river as the permanent boundary between the possessions of Great Britain and France on this continent. So much as relates to the subject is in the following words: "*The confines between the dominions of His Britannic Majesty in that part of the world (the Continent of America) shall be fixed irrevocably by a line drawn along the middle of the River Mississippi from its source to the River Ibterville, and from thence by a line drawn along the middle of this river, and the Lake Maurepas and Ponchartrain to the sea.*"

This important stipulation, which thus establishes the Mississippi as the line "*fixed irrevocably*" between the dominions of the two countries on this continent, in effect extinguishes in favour of France whatever claims Great Britain may have had to the region lying west of the Missis-

sippi. It of course could not affect the right of Spain, the only other nation which had any pretence of claim west of that river, but it prevented the right of continuity previously claimed by Great Britain, from extending beyond it, and transferred it to France, The Treaty of Louisiana restored and vested in the United States all the claims acquired by France, and surrendered by Great Britain under the provisions of that treaty to the country west of the Mississippi, and among others the one in question. Certain it is that France had the same right of continuity, in virtue of her possessions in Louisiana, and the extinguishment of the right of England by the Treaty of 1763, to the whole country west of the Rocky Mountains, and lying west of Louisiana, as against Spain, which England had to the country westward of the Alleghany Mountains, as against France, with this difference, that Spain had nothing to oppose to the claim of France at the time but the right of discovery (and even that England has since denied), while France had opposed to the right of England in her case, that of discovery, exploration, and settlement. It is therefore not at all surprising that France should claim the country west of the Rocky Mountains (as may be inferred from her maps), on the same principle that Great Britain had claimed and dispossessed her of the regions west of the Alleghany; or that the United States, as soon as they had acquired the rights of France, should assert the same claim, and take measures immediately after to explore it, with a view to occupation and settlement. But since then we have strengthened our title by adding to our own proper claims and those of France, the claims also of Spain, by the Treaty of Florida, as has been stated.

The claims which we have acquired from her, between the Rocky Mountains and the Pacific, rest in her priority of discovery. Numerous voyages of discovery, commencing with that of Maldonado in 1528, and ending with that under Galiano and Valdez in 1752, were undertaken by her authority along the north-western coast of North America. That they discovered and explored not only the entire coast of what is now called the Oregon Territory, but still further north, are facts too well established to be controverted at this day. The voyages which they performed will accordingly be passed over at present, without being particularly alluded to, with the exception of that of Heceta. His discovery of the mouth of the Columbia River has been already referred to. It was made on the 15th of August, 1775, many years anterior to the voyages of Meares and Vancouver, and even prior to Cook's, who did not reach the north-west coast till 1778. The claims it gave to Spain of priority of discovery were transferred to us, with all others belonging to her by the Treaty of Florida, which, added to the discoveries of Captain Gray, place our right to the discovery of the mouth and entrance into the inlet and river beyond all controversy.

It has been objected that we claim under various and conflicting titles which mutually destroy each other; such indeed might be the fact while they were held by different parties; but since we have rightly acquired both those of Spain and France, and concentrated the whole in our hands, they mutually blend with each other, and form one strong and connected chain of title against the opposing claims of all others, including Great Britain.

In order to present more fully and perfectly the grounds on which our claim to the region in question rests it will now be necessary to turn back to the time when Astoria was restored to us under the provisions of the Treaty of Ghent; and to trace what has since occurred between the two countries in reference to the territory, and inquire whether their respective claims have been affected by the settlements since made in the territory by Great Britain, or the occurrences which have since taken place.

The restoration of Astoria took place under the provisions of the Treaty of Ghent on the 6th day of October, 1818, the effect of which was to put Mr. Prevost, the agent authorized by our Government to receive it, in possession of the establishment, with the right at all times to be reinstated and considered the party in possession, as was explicitly admitted by Lord Castlereagh in the first negotiation between the two

Governments in reference to the Treaty. The words of Mr. Rush, our Plenipotentiary on that occasion, in his letter to Mr. Adams, then Secretary of State, of the 14th of February, 1818, reporting what passed between him and his Lordship are, "That Lord Castlereagh admitted in the most ample extent our right to be reinstated, and to be the party in possession, while treating of the title."

The negotiation terminated in the Convention of the 20th October, 1818, the third Article of which is in the following words: "It is agreed that any country that may be claimed by either party on the north-west coast of America, westward of the Stony Mountains, shall, together with its harbours, bays, and creeks, and the navigation of all rivers within the same, be free and open, for the term of ten years from the date of the signature of the present Convention, to the vessels, citizens, and subjects of the two Powers, it being well understood that this agreement is not to be construed to the prejudice of any claim which either of the two High Contracting Parties may have to any part of the said country, nor shall it be taken to affect the claim of any Power or State to any part of the said country; the only object of the High Contracting Parties, in that respect, being to prevent disputes and differences among themselves."

The two acts, the restoration of our possession and the signature of the Convention, were nearly contemporaneous, the latter taking place but fourteen days subsequent to the former; we were then, as admitted by Lord Castlereagh, entitled to be considered as the party in possession: and the Convention, which stipulated that the territory should be free and open for the term of ten years, from the date of its signature, to the vessels, citizens, and subjects of the two countries, without prejudice to any claim which either party may have to any part of the same, preserved and perpetuated all our claims to the territory, including the acknowledged right to be considered the party in possession as perfectly, during the period of its continuance, as they were the day the Convention was signed; of this there can be no doubt.

After an abortive attempt to adjust the claims of the two parties to the territory in 1824, another negotiation was commenced in 1826, which terminated in renewing on the 6th of August, 1827, the Third Article of the Convention of 1818, prior to its expiration. It provided for the indefinite extension of all the provisions of the Third Article of that Convention, and also, that either party might terminate it at any time it might think fit, by giving one year's notice, after the 20th of October, 1828. It took, however, the precaution of providing expressly, "*that nothing contained in this Convention, or in the Third Article of the Convention of the 20th of October*, 1818, *hereby continued in force, shall be construed to impair, or in any manner affect the claims which either of the contracting Parties may have to any part of the country westward of the Stony or Rocky Mountains.*" That Convention is now in force, and has continued to be so since the expiration of that of 1818. By the joint operation of the two our right to be considered the party in possession and all the claims we had to the territory, while in possession, are preserved in as full vigour as they were at the date of its restoration in 1818, without being affected or impaired by the settlements since made by the subjects of Great Britain.

Time indeed so far from impairing our claims has greatly strengthened them since that period, for since then the Treaty of Florida transferred to us all the rights, claims, and pretensions of Spain to the whole territory, as has been stated. In consequence of this our claims to the portion drained by the Columbia River, the point now the subject of consideration, have been much strengthened by giving us the incontestable claim to the discovery of the mouth of the river by Heceta above stated. But it is not in this particular only that it has operated in our favour. Our well-founded claim, grounded on continuity, has greatly strengthened during the same period, by the rapid advance of our population towards the territory; its great increase, especially in the Valley of the Mississippi, as well as the greatly increased facility of passing to the territory by more accessible routes; and the far stronger and rapidly swelling tide of population that has recently commenced flowing into it.

When the first convention was concluded in 1818 our whole population did not exceed nine millions of people. The portion of it inhabiting the States in the great Valley of the Mississippi was probably under the million seven hundred thousand, of which not more than two hundred thousand were on the west side of that river. Now our population may be safely estimated at not less than nineteen millions, of which at least eight millions inhabit the states and territories in the Valley of the Mississippi, and of which upwards of one million are in the states and territories west of that river. This portion of our population is now increasing far more rapidly than ever, and will in a short time fill the whole tier of States on its western bank.

To this great increase of population, especially in the Valley of the Mississippi, may be added the increased facility of reaching the Oregon Territory in consequence of the discovery of the remarkable pass in the Rocky Mountains at the head of the La Platte. The depression is so great and the pass so smooth that loaded waggons now travel with facility from the Missouri to the navigable waters of the Columbia River. These joint causes have had the effect of turning the current of our population towards the territory; and an emigration estimated at not less than one thousand, during the last, and fifteen hundred during the present year, has flowed into it. The current thus commenced will no doubt continue to flow with increased volume hereafter. There can then be no doubt, now that the operation of the same causes which impelled our population westwards from the shores of the Atlantic across the Alleghany to the Valley of the Mississippi will impel them onward with accumulating force across the Rocky Mountains into the Valley of the Columbia, and that the whole region drained by it is destined to be peopled by us.

Such are our claims to that portion of the territory, and the grounds on which they rest. The Undersigned believes them to be well founded, and trusts that the British Plenipotentiary will see in them sufficient reasons why he should decline his proposal.

The Undersigned Plenipotentiary abstains, for the present, from presenting the claims which the United States may have to other portions of the territory.

The Undersigned, &c., (Signed) J. C. CALHOUN.

Washington, September 3, 1844.

Inclosure 2 in No. 17.

D

Statement of the British Plenipotentiary, containing the Claims of Great Britain to the Oregon Territory.

THE Undersigned, British Plenipotentiary, has studied with much interest and attention the statement marked A, presented by the American Plenipotentiary, setting forth the grounds on which he declines the proposal offered by the British Plenipotentiary as a compromise of the difficulties of the Oregon Question. The arrangement contemplated by that proposal would, in the estimation of the American Plenipotentiary, have the effect of restricting the possessions of the United States to limits far more circumscribed than their claims clearly entitle them to.

The claims of the United States to the portion of territory drained by the Columbia River are divided into those adduced by the United States in their own proper right and those which they have derived from France and Spain.

The former, as against Great Britain, they ground on priority of discovery, and priority of exploration and settlement.

The claim derived from France originates in the Treaty of 1803 by which Louisiana was ceded to the United States, with all its rights and appurtenances, as fully and in the same manner as they had been acquired by the French Republic; and the claim derived from Spain is founded on the Treaty concluded with that Power in the year 1819, whereby His Catholic Majesty ceded to the United States all his rights, claims, and pretensions

to the territories lying east and north of a certain line terminating on the Pacific in the forty-second degree of north latitude.

Departing from the order in which these three separate claims are presented by the American Plenipotentiary, the British Plenipotentiary will first beg leave to observe, with regard to the claim derived from France, that he has not been able to discover any evidence tending to establish the belief that Louisiana, as originally possessed by France, and afterwards transferred to Spain, then retroceded by Spain to France, and ultimately ceded by the latter Power to the United States, extended in a westerly direction beyond the Rocky Mountains. There is, on the other hand, strong reason to suppose that, at the time when Louisiana was ceded to the United States, its acknowledged western boundary was the Rocky Mountains. Such appears to have been the opinion of President Jefferson under whose auspices the acquisition of Louisiana was accomplished.

In a letter written by him in August 1803, are to be found the following words:—"The boundaries (of Louisiana) which I deem not admitting question, are the high lands on the western side of the Mississippi, inclosing all its waters, the Missouri, of course, and terminating in the line drawn from the north-west point of the Lake of the Woods, to the nearest source of the Mississippi, as lately settled between Great Britain and the United States."

In another and more formal document dated in July, 1807, that is to say, nearly a year after the return of Lewis and Clarke from their expedition to the Pacific, and fifteen years after Gray had entered the Columbia River, is recorded Mr. Jefferson's opinion of the impolicy of giving offence to Spain by any intimation that the claims of the United States extended to the Pacific,—and we have the authority of an American historian, distinguished for the attention and research which he has bestowed on the whole subject of the Oregon Territory, for concluding that the western boundaries of Louisiana, as it was ceded by France to the United States, were those indicated by nature, namely, the high lands separating the waters of the Mississippi from those flowing into the Pacific.

From the acquisition, then, of Louisiana, as it was received from France, it seems clear that the United States can deduce no claim to territory west of the Rocky Mountains. But, even it were otherwise, and if France had ever possessed or asserted a claim to territory west of the Rocky Mountains, as appertaining to the territory of Louisiana, that claim, whatever it might be, was necessarily transferred to Spain, when Louisiana was ceded to that Power in 1762, and of course became subject to the provisions of the Treaty between Spain and Great Britain, of 1790, which effectually abrogated the claim of Spain to exclusive dominion over the unoccupied parts of the American continent.

To the observations of the American Plenipotentiary respecting the effect of continuity in furnishing a claim to territory the Undersigned has not failed to pay due attention, but he submits that what is said on this head may more properly be considered as demonstrating the greater degree of interest which the United States possess, by reason of contiguity, in acquiring territory in that direction, than as affecting in any way the question of right.

The Undersigned will endeavour to show hereafter that in the proposal put in on the part of Great Britain the natural expectations of the United States on the ground of contiguity have not been disregarded.

Next comes to be examined the claim derived from Spain.

It must, indeed, be acknowledged that, by the Treaty of 1819, Spain did convey to the United States all that she had the power to dispose of on the north-west coast of America, north of the forty-second parallel of latitude, but she could not by that transaction annul or invalidate the rights which she had by a previous transaction acknowledged to belong to another Power.

By the Treaty of 28th October, 1790, Spain acknowledged in Great Britain certain rights with respect to those parts of the western coast of America not already occupied.

This acknowledgment had reference especially to the territory which

forms the subject of the present negotiation. If Spain could not make good her own right to exclusive dominion over those regions still less could she confer such a right on another Power; and hence Great Britain argues that from nothing deduced from the Treaty of 1819 can the United States assert a valid claim to exclusive dominion over any part of the Oregon Territory.

There remains to be considered the claim advanced by the United States on the ground of prior discovery and prior exploration and settlement.

In that part of the memorandum of the American Plenipotentiary which speaks of the Spanish title it is stated that the mouth of the river, afterwards called the Columbia River, was first discovered by the Spanish navigator, Heceta. The admission of this fact would appear to be altogether irreconcileable with a claim to priority of discovery from anything accomplished by Captain Gray. To one, and to one only, of those commanders can be conceded the merit of first discovery. If Heceta's claim is acknowledged then Captain Gray is no longer the discoverer of the Columbia River; if, on the other hand, preference be given to the achievement of Captain Gray then Heceta's discovery ceases to be of any value. But it is argued that the United States now represent both titles, the title of Heceta and the title of Gray; and therefore that under the one or the other, it matters not which, enough can be shown to establish a case of prior discovery as against Great Britain. This may be true as far as relates to the act of first seeing and first entering the mouth of the Columbia River; but if the Spanish claim to prior discovery is to prevail whatever rights may thereon be founded are necessarily restricted by the stipulations of the Treaty of 1790 which forbid a claim to exclusive possession. If the act of Captain Gray in passing the bar and actually entering the river is to supersede the discovery of the entrance, which is all that is attributed to Heceta, then the principle of progressive or gradual discovery being admitted as conveying, in proportion to the extent of discovery or exploration, superior rights, the operations of Vancouver in entering, surveying, and exploring, to a considerable distance inland, the River Columbia, would, as a necessary consequence, supersede the discovery of Captain Gray, to say nothing of the act of taking possession, in the name of his Sovereign, which ceremony was duly performed and authentically recorded by Captain Vancouver.

This brings us to the examination of the conflicting claims of Great Britain and the United States on the ground of discovery, which may be said to form the essential point in the discussion, for it has above been shown that the claim derived from France must be considered as of little or no weight; while that derived from Spain, in as far as relates to exclusive dominion, is neutralized by the stipulations of the Nootka Convention.

It will be admitted that when the United States became an independent nation they possessed no claim, direct or indirect, to the Columbia Territory. Their western boundary in those days was defined by the Treaty of 1783; Great Britan, on the contrary, had at that time already directed her attention to the north-west coast of America, as is sufficiently shown by the voyage and discoveries of Captain Cook who, in 1778 visited and explored a great portion of it from latitude 44° northwards.

That Great Britain was the first to acquire what may be called beneficial interests in those regions by commercial intercourse will not either be denied; in proof of this fact we have the voyages of the several British subjects who visited the coast and adjacent islands previously to the dispute with Spain; and that her commerce, actual as well as prospective, in that part of the world was considered a matter of great national importance is shown by the resolute measures she took for its protection when Spain manifested a resolution to interfere with it.

The discoveries of Meares in 1788, and the complete survey of the coast and its adjacent islands, from about latitude 40° northwards, which was effected by Captain Vancouver, in 1792, 1793, and 1794, would appear to give to Great Britain, as against the United States, as

strong a claim on the ground of discovery and exploration coastwise as can well be imagined, limited only by what was accomplished by Gray at the mouth of the Columbia, which, as far as discovery is concerned, forms the strong point on the American side of the question.

In point of accuracy and authenticity, it is believed that the performances of Cook and Vancouver stand pre-eminently superior to those of any other country whose vessels had in those days visited the north-west coast, while in point of value and importance surely the discovery of a single harbour, although at the mouth of an important river, cannot, as giving a claim to territory, be placed in competition with the vast extent of discovery and survey accomplished by the British navigators.

As regards exploration inland entire justice must be done to the memorable exploit of Messrs. Lewis and Clarke, but those distinguished travellers were not the first who effected a passage across the Oregon Territory, from the Rocky Mountains to the Pacific. As far back as 1793 that feat had been accomplished by Mackenzie, a British subject. In the course of this expedition Mackenzie explored the upper waters of a river, since called Fraser's River which, in process of time, was traced to its junction with the sea, near the forty-ninth degree of latitude, thus forming, in point of exploration, a counterpoise to the exploration of that part of the Columbia which was first visited by Lewis and Clarke.

Priority of settlement is the third plea on which the American claim proper is made to rest.

In 1811 an establishment for the purposes of trade was formed at the south side of the Columbia River, near to its mouth, by certain American citizens; this establishment passed, during the war, into the hands of British subjects, but it was restored to the American Government in the year 1818 by an understanding between the two Governments. This is the case of priority of settlement, since which it has not in reality been occupied by the Americans. The American Plenipotentiary lays some stress on the admission attributed to Lord Castlereagh, then Principal Secretary of State for Foreign Affairs, that the American Government had the most ample right to be reinstated, and to be the party in possession, while treating of the title. The Undersigned is not inclined to dispute an assertion resting on such respectable authority, but he must observe, in the first place, that the reservation implied by the words "while treating of the title," exclude any inference which might otherwise be drawn from the preceding words prejudicial to the title of Great Britain; and further, that when the authority of the American Minister is thus admitted, for an observation which is pleaded against England, it is but fair that on the part of the United States credit should be given to England for the authenticity of a despatch from Lord Castlereagh to the British Minister at Washington, which was communicated verbally to the Government of the United States, when the restoration of the establishment called Astoria or Fort George, was in contemplation, containing a complete reservation of the right of England to the territory at the mouth of the Columbia. (Statement of British Plenipotentiaries, December, 1826.)

In fine, the present state of the question between the two Governments appears to be this: Great Britain possesses and exercises, in common with the United States, a right of joint occupancy in the Oregon Territory, of which right she can be divested, with respect to any part of that territory, only by an equitable partition of the whole between the two Powers.

It is, for obvious reasons, desirable that such a partition should take place as soon as possible, and the difficulty appears to be in devising a line of demarcation which shall leave to each party that precise portion of the territory best suited to its interest and convenience.

The British Government entertained the hope that by the proposal lately submitted for the consideration of the American Government that object would have been accomplished; according to the arrangements therein contemplated, the northern boundary of the United States west of the Rocky Mountains, would, for a considerable distance, be carried along the same parallel of latitude which forms their northern boundary on the eastern side of those mountains, thus uniting the present Eastern Boun-

dary of the Oregon Territory with the Western Boundary of the United States from the 49th parallel downwards. From the point where the 49° of latitude intersects the north-eastern branch of the Columbia River, called in that part of its course Mc Gillivray's River, the proposed line of boundary would be along the middle of that river, till it joins the Columbia, then along the middle of the Columbia to the Ocean, the navigation of the river remaining perpetually free to both parties.

In addition Great Britain offers a separate territory on the Pacific, possessing an excellent harbour, with a further understanding that any port or ports, whether on Vancouver's Island or on the Continent, south of the 49th parallel, to which the United States might desire to have access, shall be made free ports.

It is believed that, by this arrangement, ample justice would be done to the claims of the United States, on whatever ground advanced, with relation to the Oregon Territory. As regards extent of territory they would obtain, acre for acre, nearly half of the entire territory to be divided; as relates to the navigation of the principal river, they would enjoy a perfect equality of right with Great Britain; and with respect to harbours, it will be seen that Great Britain shows every disposition to consult their convenience in that particular.

On the other hand, were Great Britain to abandon the line of the Columbia as a frontier, and to surrender her right to the navigation of that river, the prejudice occasioned to her by such an arrangement would, beyond all proportion, exceed the advantage accruing to the United States from the possession of a few more square miles of territory. It must be obvious to every impartial investigator of the subject that in adhering to the line of the Columbia Great Britain is not influenced by motives of ambition with reference to extent of territory, but by considerations of utility, not to say necessity, which cannot be lost sight of, and for which allowance ought to be made in an arrangement professing to be based on considerations of mutual convenience and advantage.

The Undersigned believes that he has now noticed all the arguments advanced by the American Plenipotentiary in order to show that the United States are fairly entitled to the entire region drained by the Columbia River. He sincerely regrets that their views on this subject should differ in so many essential respects.

It remains for him to request that, as the American Plenipotentiary declines the proposal offered on the part of Great Britain, he will have the goodness to state what arrangement he is, on the part of the United States, prepared to propose for an equitable adjustment of the question; and more especially, that he will have the goodness to define the nature and extent of the claims which the United States may have to other portions of the territory, to which allusion is made in the concluding part of his statement, as it is obvious that no arrangement can be made with respect to part of the territory in dispute while a claim is reserved to any portion of the remainder.

The Undersigned, &c., (Signed) R. PAKENHAM.

Washington, September 12, 1844.

No. 18.

Mr. Pakenham to the Earl of Aberdeen.—(*Received October* 15.)

(Extract.) *Washington, September* 28, 1844.

WITH reference to my despatches of 29th August and of 12th September on the subject of the Oregon negotiation I have now the honour to transmit a copy of a second paper presented by Mr. Calhoun, in rejoinder to my reply to his first statement, a copy of which was transmitted with my despatch of 12th September.

Inclosure 1 in No. 18.

B

Counter-Statement of the American Plenipotentiary.

Department of State,
Washington, September 20, 1844.

THE Undersigned, American Plenipotentiary, has read with attention the counter-statement of the British Plenipotentiary, but without weakening his confidence in the validity of the title of the United States to the territory, as set forth in his statement marked A. As therein set forth, it rests, in the first place, on priority of discovery sustained by their own proper claims, and by those derived from Spain through the Treaty of Florida.

The Undersigned does not understand the counter-statement as denying that the Spanish navigators were the first to discover and explore the entire coasts of the Oregon Territory; nor that Heceta was the first who discovered the mouth of the Columbia River; nor that Captain Gray was the first to pass its bar, enter its mouth, and sail up its stream; nor that these, if jointly held by the United States, would give them the priority of discovery which they claim.

On the contrary, it would seem that the counter-statement, from the ground it takes, admits that such would be the case on that supposition; for it assumes that Spain, by the Nootka Sound Convention, in 1790, divested herself of all claims to the territory founded on the prior discovery and explorations of her navigators; and that she could consequently transfer none to the United States by the Treaty of Florida. Having put aside the claims of Spain by this assumption, the counter-statement next attempts to oppose the claims of the United States by those founded on the voyages of Captains Cook and Meares, and to supersede the discovery of Captain Gray, on the ground that Vancouver sailed further up the Columbia River than he did, although he affected it by the aid of his discoveries and charts.

The Undersigned forbears to enter into an examination of the truth or error of the position which the counter-statement has assumed, without assigning the reasons in support of it. It is sufficient on his part to say that in his opinion there is nothing in the Nootka Sound Convention, or in the transactions which led to it, or the circumstances attending it, to warrant the assumption. The Convention relates wholly to other subjects; and contains not a word in reference to the claims of Spain. It is on this assumption that the counter-statement rests its objection to the well-founded American claims to priority of discovery; without it there would not be a plausible objection left to them.

The two next claims on which the United States rest their title to the territory as set forth in statement A, are founded on their own proper right, and cannot possibly be affected by the assumed claims of Great Britain, derived from the Nootka Convention.

The first of these is priority of discovery and exploration of the head waters and upper portion of the Columbia River, by Lewis and Clarke, by which that great stream was first brought to the knowledge of the world, with the exception of a small portion near the Ocean, including its mouth. This the counter-statement admits, but attempts to set off against it the prior discovery of Mackenzie of the head waters of Frazer's River—quite an inferior stream which drains the northern portion of the territory. It is clear that whatever right Great Britain may derive from his discovery, it can in no degree affect the right of the United States to the region drained by the Columbia, which may be emphatically called the River of the territory.

The next of these, founded on their own proper right, is priority of settlement. It is not denied by the counter-statement that we formed the first settlements in the portion of the territory drained by the Columbia River; nor does it deny that Astoria, the most considerable of them, was restored under Article III. of the Treaty of Ghent, by agents on the part of Great Britain, duly authorized to make the restoration, to an agent on

the part of the United States, duly authorized to receive it. Nor does it deny that, in virtue thereof, they have the right to be reinstated and considered the party in possession, while treating of the title, as was admitted by Lord Castlereagh in the Negotiation of 1818; nor that the Convention of 1818, signed a few days after the restoration [of Astoria], and that of 1827, which is still in force, have preserved and perpetuated, until now, all the rights they possessed to the territory at the time, including that of being reinstated and considered the party in possession, while the question of title was depending, as is now the case. It is true it attempts to weaken the effect of these implied admissions, in the first place, by designating positive treaty stipulations as "an understanding between the two Governments," but a change of phraseology cannot possibly transform treaty obligations into a mere understanding; and in the next place, by stating that we have not, since the restoration of Astoria, actually occupied it; but that cannot possibly affect our right to be reinstated and to be considered in possession, secured to us by the Treaty of Ghent, implied in the act of restoration, and since preserved by positive treaty stipulations. Nor can the remarks of the counter-statement in reference to Lord Castlereagh's admission weaken our right of possession secured by the Treaty, and its formal and unconditional restoration by duly authorized agents. It is on these, and not on the denial of the authenticity of Lord Castlereagh's despatch, that the United States rest their right of possession, whatever verbal communication the British Minister may have made at the time to our Secretary of State; and it is on these that they may safely rest it, setting aside altogether the admission of Lord Castlereagh.

The next claims on which our title to the territory rests are those derived from France by the Treaty ceding Louisiana to the United States, including those she derived from Great Britain by the Treaty of 1763. It established the Mississippi as the irrevocable boundary between the territories of France and Great Britain, and thereby the latter surrendered to France all her claims on this continent west of that river, including, of course, all within the chartered limits of her colonies which extended to the Pacific Ocean. On these, united with those of France, as the possessor of Louisiana, we rest our claim of continuity, as extending to that ocean, without an opposing claim, except that of Spain, which we have since acquired, and consequently removed, by the Treaty f Florida.

The existence of these claims the counter-statement denies, on the authority of Mr. Jefferson; but, as it appears to the Undersigned, without adequate reasons. He does not understand Mr. Jefferson as denying that the United States acquired any claim to the Oregon Territory by the acquisition of Louisiana, either in his letter of 1803, referred to by the counter-statement, and from which it gives an extract, or in the document of 1807, to which it also refers. It is manifest from the extract itself, that the object of Mr. Jefferson was, not to state the extent of the claims acquired with Louisiana, but simply to state how far its unquestioned boundaries extended, and these he limited westwardly by the Rocky Mountains. It is in like manner manifest from the document, as cited by the counter-statement, that his object was not to deny that our claims extended to the territory, but simply to express his opinion of the impolicy in the then state of our relations with Spain of bringing them forward. This, so far from denying that we had claims, admits them by the clearest implication. If, indeed, in either case, his opinion had been equivocally expressed, the prompt measures adopted by him to explore the territory after the Treaty was negotiated, but before it was ratified, clearly show that it was his opinion not only that we had acquired claims to it, but highly important claims, which deserved prompt attention.

In addition to this denial of our claims to the territory on the authority of Mr. Jefferson, which the evidence relied on does not seem to sustain, the counter-statement intimates an objection to continuity as the foundation of a right, on the ground that it may more properly be considered (to use its own words) as demonstrating the greater degree of interest which the United States possessed by reason of contiguity, in

acquiring territory in a westward direction. Contiguity may, indeed, be regarded as one of the elements constituting the right of continuity, which is more comprehensive, and is necessarily associated with the right of occupancy, as has been shown in Statement A. It also shows that the laws which usage has established in the application of the right to this continent, give to the European settlements on its eastern coasts an indefinite extension westward. It is now too late for Great Britain to deny a right on which she has acted so long, and by which she has profited so much, or to regard it as a mere facility not affecting in any way the question of right. On what other right has she extended her claims westwardly to the Pacific Ocean, from her settlements round Hudson's Bay; or expelled France from the east side of the Mississippi in the war which terminated in 1763?

As to the assumption of the counter-statement that Louisiana, while in the possession of Spain, became subject to the Nootka Sound Convention, which, it is alleged, abrogated all the claims of Spain to the territory, including those acquired with Louisiana, it will be time enough to consider it after it shall be attempted to be shown that such, in reality, was the effect. In the mean time, the United States must continue to believe that they acquired from France by the Treaty of Louisiana important and substantial claims to the territory.

The Undersigned cannot consent to a conclusion to which, on a review of the whole ground, the counter-statement arrives, that the present state of the question is, that Great Britain possesses and exercises, in common with the United States, a right of joint occupancy in the Oregon Territory, of which she can be divested only by an equitable partition of the whole between the two Powers. He claims, and he thinks he has shown, a clear title, on the part of the United States, to the whole region drained by the Columbia, with the right of being reinstated and considered the party in possession while treating of the title, in which character he must insist on their being considered, in conformity with positive treaty stipulations. He cannot, therefore, consent that they shall be regarded, during the negotiation, merely as occupants in common with Great Britain; nor can he, while thus regarding their rights, present a counter proposal, based on the supposition of a joint occupancy merely, until the question of title to the territory is fully discussed. It is, in his opinion, only after a discussion which shall fully present the titles of the parties respectively to the territory that their claims to it can be fairly and satisfactorily adjusted. The United States desire only what they may deem themselves justly entitled to, and are unwilling to take less. With their present opinion of their title, the British Plenipotentiary must see that the proposal which he made at the second conference, and which he more fully sets forth in his counter-statement, falls far short of what they believe themselves justly entitled to.

In reply to the request of the British Plenipotentiary that the Undersigned should define the nature and extent of the claims which the United States have to the other portions of the territory, and to which allusion is made in the concluding part of Statement A, he has the honour to inform him, in general terms, that they are derived from Spain by the Florida Treaty, and are founded on the discoveries and exploration of her navigators, and which they must regard as giving them a right to the extent to which they can be established, unless a better can be opposed. (Signed) J. C. CALHOUN.

Inclosure 2 in No. 18.

Protocols of the Conferences between the British and American Plenipotentiaries.

ON the 23rd of August, 1844, a conference was held by appointment at the office of the Secretary of State in the city of Washington, between the Honourable John C. Calhoun, Secretary of State of the United States, and the Right Honourable Richard Pakenham, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, both duly authorized by their respective Governments to treat of the respective claims of the

two countries to the Oregon Territory, with the view to establish a permanent boundary between the two countries westward of the Rocky Mountains to the Pacific Ocean.

The conference was opened by assurances on both sides of the desire of their respective Governments to approach the question with an earnest desire, and, in the spirit of compromise, to effect an adjustment consistent with the honour and just interests of either party. The Plenipotentiaries then proceeded to examine the actual state of the question as it stood at the last unsuccessful attempt to adjust it.

This done, the American Plenipotentiary desired to receive from the British Plenipotentiary any fresh proposal he might be instructed to offer on the part of his Government towards affecting an adjustment.

The British Plenipotentiary said he would be ready to offer such a proposal at their next conference, hoping that the American Plenipotentiary would be ready to present a proposal on the part of his Government.

The conference adjourned to meet on Monday the 26th instant.

(Signed) R. PAKENHAM.
J. C. CALHOUN.

On the 26th of August, 1844, the second conference was held between the respective Plenipotentiaries, at the office of the Secretary of State.

The British Plenipotentiary offered a paper containing a proposal for adjusting the conflicting claims of the two countries. The American Plenipotentiary declined the proposal. Some remarks followed in reference to the claims of the two countries to the territory, when it became apparent that a more full understanding of their respective views in reference to them was necessary at this stage in order to facilitate future proceedings.

It was accordingly agreed that written statements containing their views should be presented before any further attempt should be made to adjust them.

It was also agreed that the American Plenipotentiary should present a statement at the next conference; and that he should inform the British Plenipotentiary when he was prepared to hold it.

(Signed) R. PAKENHAM.
J. C. CALHOUN.

Minute of the Second Conference between the Plenipotentiaries of Great Britain and the United States, held at the Office of the Secretary of State, on the 26th August, 1844.

The minute of the preceding conference having been read over and signed the British Plenipotentiary informed the Plenipotentiary of the United States that the proposal which he was instructed to offer on behalf of his Government, with a view to a settlement of the North-Western Boundary Question, was as follows:—

That whereas the proposals made on both sides in the course of the last negotiation had been mutually declined, Her Majesty's Government were prepared, in addition to what had already been offered on the part of Great Britain, and in proof of their earnest desire to arrive at an arrangement suitable to the interest and wishes of both parties, to undertake to make free to the United States any port or ports which the United States' Government might desire, either on the mainland, or on Vancouver's Island south of latitude 49°.

On the 2nd of September, 1844, the third conference was held at the office of the Secretary of State, according to appointment.

The American Plenipotentiary presented a written statement of his views of the claims of the United States to the portion of territory drained by the waters of the Columbia River, marked A; and containing his reasons for declining to accept the proposal offered by the British Plenipotentiary at their second conference.

(Signed) R. PAKENHAM.
J. C. CALHOUN.

On the 12th of September, 1844, the fourth conference was held at the office of the Secretary of State, when the British Plenipotentiary presented his statement marked D, counter to that of the American Plenipotentiary, marked A, presented at the preceding conference.

(Signed) R. PAKENHAM.
J. C. CALHOUN.

At the fifth conference, held at the office of the Secretary of State, on the 20th of September, the American Plenipotentiary delivered to the British Plenipotentiary a statement, marked B, in rejoinder to his counter-statement marked D.

(Signed) R. PAKENHAM.
J. C. CALHOUN.

The sixth conference was held on the 24th of September, when the British Plenipotentiary stated that he had read with due attention the statement marked B, presented by the American Plenipotentiary at the last conference, but that it had not weakened the impression previously entertained by him, with regard to the claims and rights of Great Britain, as explained in the paper lately presented by him, marked D. That, reserving for a future occasion such observations as he might wish to present, by way of explanations, in reply to the statement last presented by the American Plenipotentiary, he was for the present obliged to declare, with reference to the concluding part of that statement, that he did not feel authorized to enter into discussion respecting the territory north of 49th parallel of latitude, which was understood by the British Government to form the basis of negotiation on the side of the United States, as the line of the Columbia formed that on the side of Great Britain.

That the proposal which he had presented was offered by Great Britain as an honourable compromise of the claims and pretensions of both parties, and that it would of course be understood as having been made subject to the condition recorded in the protocol of the third conference held between the respective Plenipotentiaries in London, in December, 1826. (Signed) R. PAKENHAM.
J. C. CALHOUN.

No. 19.

The Earl of Aberdeen to Mr. Pakenham.

Sir, *Foreign Office, November* 1, 1844.

YOUR several despatches respecting the progress of your negotiations with the United States' Government on the Oregon Question, down to the date of the 28th September, have engaged the attentive consideration of Her Majesty's Government.

I have much pleasure in informing you that the manner in which you have conducted those negotiations has met with the entire approval of Her Majesty's Government.

Notwithstanding the concessions we may be prepared to make, on taking a general view of the matter as it now stands, it appears to Her Majesty's Government that there remains little reasonable hope that the United States will relax their pretensions, and meet us in any scheme for a compromise which we could safely and honourably adopt. Under these circumstances, and taking into view the state of excitement so prevalent in the United States upon this subject, by which the free action of the Government is greatly fettered, if not altogether paralysed, I think it will be desirable, if an opportunity should offer, to have recourse, without delay, to arbitration, as the mode most likely to be available for the settlement of the question.

You will, therefore, do well to profit by any favourable opportunity which may present itself to sound the American Government on this point, and if you should find them disposed to accede to such a mode of adjustment, you will formally propose it to the Secretary of State.

This proceeding having been once settled by an interchange of notes, it will then be for the parties to determine by Convention, as in the case of the North-East Boundary, the choice of the arbiter, and the mode in which their respective cases shall be laid before him.

I am, &c.,
(Signed) ABERDEEN.

No. 20.

Mr. Pakenham to the Earl of Aberdeen.—(Received December 17.)

(Extract.) *Washington, November* 28, 1844.

I HAVE had the honour to receive your Lordship's despatches of 1st and 4th November.

In obedience to the instructions contained in the former of these despatches I will take advantage of the first suitable opportunity to sound the American Government on the subject of settling the Oregon Question by arbitration.

No. 21.

Mr. Pakenham to the Earl of Aberdeen.—(Received December 30.)

(Extract.) *Washington, December* 12, 1844.

IN consequence of the tedious passage of the "Caledonia" steam-packet, which brought out the last mail from England, and of a delay which occurred in the transmission of the correspondence from Boston to New York, it was not until the day before yesterday that I had the honour to receive your Lordship's despatches of 18th November.

I have the honour to acquaint your Lordship that a proper opportunity has not yet occurred to carry into effect the instructions contained in your Lordship's despatch of 1st November, by which I was directed to propose to the American Government to settle the Oregon Question by arbitration.

Your Lordship will not fail to observe the notice which is taken of the Oregon Question in the President's message, copies of which I forward.

Inclosure in No. 21.

Extract from the President's Message of December 3, 1844.

SINCE the close of your last session a negotiation has been formally entered upon between the Secretary of State and Her Britannic Majesty's Minister Plenipotentiary and Envoy Extraordinary residing at Washington, relative to the rights of their respective nations in and over the Oregon Territory. That negotiation is still pending. Should it, during your session, be brought to a definitive conclusion, the result will be promptly communicated to Congress. I would, however, again call your attention to the recommendations contained in previous messages, designed to protect and facilitate emigration to that territory. The establishment of military posts at suitable points upon the extended line of land travel would enable our citizens to migrate in comparative safety to the fertile regions below the falls of the Columbia, and make the provision of the existing Convention for the joint occupation of the territory by the subjects of Great Britain and the citizens of the United States more available than heretofore to the latter. These posts would continue places of rest for the weary emigrant, where he would be sheltered securely against the danger of attack from the Indians, and be enabled to recover from the exhaustion of a long line of travel. Legislative enactments should also be made which should spread over him the ægis of our laws, so as to afford protection to his person and property when he shall have reached

his distant home. In this latter respect the British Government has been much more careful of the interests of such of her people as are to be found in that country than have the United States. She has made necessary provision for their security and protection against the acts of the viciously-disposed and lawless, and her emigrant reposes in safety under the panoply of her laws. Whatever may be the result of the pending negotiation such measures are necessary. It will afford me the greatest pleasure to witness a happy and favourable termination to the existing negotiation upon terms compatible with the public honour; and the best efforts of the Government will continue to be directed to this end.

No. 22.

Mr. Pakenham to the Earl of Aberdeen.—(Received February 14.)

(Extract.) *Washington, January* 29, 1845.

I HAVE the honour herewith to inclose a copy of a letter which I addressed on the 15th of this month to the United States' Secretary of State, proposing, in fulfilment of the instructions contained in your Lordship's despatch of 1st November, the settlement of the Oregon Question by arbitration.

From Mr. Calhoun's answer, a copy of which I also inclose, your Lordship will perceive with regret that the President does not think proper to accede to the proposal, still entertaining the hope, as Mr. Calhoun is pleased to say, that the question can be settled by the negotiation now pending between the two countries.

Notwithstanding this unfavourable reply from the American Government I think that no harm will result, but rather some good, from our having made the offer.

Inclosure 1 in No. 22.

Mr. Pakenham to Mr. Calhoun.

Sir, *Washington, January* 15, 1845.

I DID not fail to communicate to Her Majesty's Government all that had passed between us with reference to the question of the Oregon Boundary up to the end of last September, as detailed in the statements interchanged by us, and in the protocols of our conferences.

Those papers remain under the consideration of Her Majesty's Government; and I have reason to believe that at no distant period I shall be put in possession of the views of Her Majesty's Government on the several points which became most prominent in the course of the discussion.

But considering on the one hand the impatience which is manifested in the United States for a settlement of this question, and on the other the length of time which would probably be still required to effect a satisfactory adjustment of it between the two Governments, it has occurred to Her Majesty's Government that, under such circumstances, no more fair or honourable mode of settling the question could be adopted than that of arbitration.

This proposition I am accordingly authorized to offer for the consideration of the Government of the United States, and, under the supposition that it may be found acceptable, further to suggest that the consent of both parties to such a course of proceeding being recorded by an interchange of notes, the choice of arbiter, and the mode in which their respective cases shall be laid before him, may hereafter be made the subject of a more formal agreement between the two Governments.

I have, &c.,
(Signed) R. PAKENHAM.

Inclosure 2 in No. 22.

Mr. Calhoun to Mr. Pakenham.

Department of State,
Washington, January 21, 1845.

Sir,

I HAVE laid before the President your communication of the 15th instant, offering on the part of Her Majesty's Government to submit the settlement of the question between the two countries, in reference to the Oregon Territory, to arbitration.

The President instructs me to inform you that while he unites with Her Majesty's Government in the desire to see the question settled as early as may be practicable, he cannot accede to the offer.

Waiving all other reasons for declining it, it is sufficient to state that he continues to entertain the hope that the question may be settled by the negotiation now pending between the two countries; and that he is of opinion it would be unadvisable to entertain a proposal to resort to any other mode, so long as there is hope of arriving at a satisfactory settlement by negotiation; and especially to one which might rather retard than expedite its final adjustment.

I avail, &c.,
(Signed) J. C. CALHOUN.

No. 23.

The Earl of Aberdeen to Mr. Pakenham.

(Extract.) *Foreign Office, March* 3, 1845.

UNDER the confident persuasion that the bill having for its object to authorize the President to take measures for occupying the Oregon Territory on the part of the United States, after having first given notice to Great Britain of the renunciation of the Treaty of 1818—27, in conformity with the engagement reciprocally taken to that effect by the two countries, will be rejected by the Senate, Her Majesty's Government are desirous of making another effort for accomplishing the adjustment of the Oregon controversy by arbitration. It appears to them that if ever there was a case peculiarly fitted and calling for that mode of settlement, it is that in question. The possession of the litigated country is an object of no immediate or pressing national interest or importance to either party; therefore any moderate delay which might occur in finally determining the right to that possession is comparatively immaterial. On the other hand the artificial excitement which has been aroused in both countries, with the violent proceedings of the House of Representatives, seems to afford but little chance of being able to arrive by direct negotiation at any equitable compromise.

Under these circumstances, unless some fair proposition for settlement by negotiation should have been made to you by the United States' Secretary of State, on the rejection of the bill of occupation by the Senate, which we anticipate, you will again urge the Secretary of State in the strongest manner, and for the sake of averting the evils of a serious misunderstanding between the two countries, to press on the President the expediency of resorting, in a spirit of mutual compromise, to a settlement by arbitration, as the only practicable mode of finally adjusting our differences on this important question.

No. 24

Mr. Pakenham to the Earl of Aberdeen.—(Received March 18.)

(Extract.) *Washington, February* 26, 1845.

I REQUEST your Lordship's attention to the inclosed copy of a message lately sent by the President to the Senate, in answer to a resolution of that body requesting information as to the state of the Oregon Question.

Inclosure in No. 24.

President's Message.

To the Senate of the United States:

IN answer to the resolution of the Senate of the 11th December, 1844, requesting the President to lay before the Senate, if in his judgment that may be done without prejudice to the public interests, a copy of any instructions which may have been given by the Executive to the American Minister in England, on the subject of the title to and occupation of the Territory of Oregon, since the 4th day of March, 1841; also a copy of any correspondence which may have passed between this Governmentand that of Great Britain, or between either of the two Governments and the Minister of the other, in relation to that subject since that time—I have to say that, in my opinion, as the negotiation is still pending, the information sought for cannot be communicated without prejudice to the public service. I deem it, however, proper to add that considerable progress has been made in the discussion, which has been carried on in a very amicable spirit between the two Governments; and that there is reason to hope that it may be terminated, and the negotiation be brought to a close within a short period.

I have delayed answering the resolution under the expectation expressed in my annual message that the negotiation would have been terminated before the close of the present session of Congress, and that the information called for by the resolution of the Senate might be communicated.

(Signed) JOHN TYLER.

Washington, February 19, 1845.

No. 25.

Mr. Pakenham to the Earl of Aberdeen.—(Received April 14.)

(Extract.) *Washington, March* 29, 1845.

SINCE the installation of the new Government I have had two conversations with Mr. Buchanan, Mr. Calhoun's successor in the office of Secretary of State.

The first was on the occasion of a visit of ceremony which I paid him on receiving official notice of his appointment; on which occasion he professed his desire to contribute by every means in his power to the continuance of a good understanding with England.

At our second interview the subject of Oregon was introduced, when I took occasion to inform him of the instructions which I had lately received from your Lordship (those contained in your Lordship's despatch of the 3rd instant) again to press on the Government of the United States the expediency of resorting to a settlement by arbitration as the only practicable mode of finally adjusting our differences on this important question.

Mr. Buchanan observed that he had not yet had an opportunity of ascertaining what might be the views of the President on this particular

point connected with the Oregon Question; but he said he would not fail to take advantage of the earliest moment to direct the President's attention to it.

For his own part, although he did not seem to be much taken with the idea of an arbitration, he did not appear prepared altogether to reject it; what he said was that he did not at all despair of effecting a settlement of the question by negotiation, "by adopting," to use his own words, "the principle of giving and taking."

No. 26.

The Earl of Aberdeen to Mr. Pakenham.

(Extract.) *Foreign Office, April* 18, 1845.

HER Majesty's Government have been gratified by learning from your despatch of the 29th ultimo that the door does not appear to be altogether closed upon all chance of the settlement of the Oregon Question by negotiation. On the contrary, they are willing to hope from the tenour of that despatch that neither the President nor the new Secretary of State may be found averse still to attempt such a mode of adjusting our differences.

No. 27.

Mr. Pakenham to the Earl of Aberdeen.—(Received June 1.)

(Extract.) *Washington, May* 13, 1845.

SINCE I had last the honour of writing to your Lordship I have had some conversations with Mr. Buchanan, and yesterday rather a formal one, respecting the present state of the Oregon negotiation.

I asked him to tell me frankly what course his Government intended to pursue with a view to an amicable adjustment of that important question, observing that your Lordship had heard with much satisfaction of the friendly assurance which he had given to me soon after his accession to office, and which I had lost no time in reporting to your Lordship, of the desire of the present Administration to cultivate the best understanding with England, and that your Lordship felt justified in hoping that there would be found a confirmation of that good disposition in his manner of dealing with the only question of any serious importance now pending between the two countries.

Mr. Buchanan replied that I might feel no hesitation in repeating to your Lordship, to the fullest extent, the manifestation already made by him of the friendly disposition of this Government; that, with respect to the question to which I had more immediately referred, he felt obliged to say that the mode last proposed by Great Britain for a settlement of it, that of arbitration, did not meet with the concurrence of the President and his Cabinet; that they all entertained objections to that course of proceeding; and that they preferred negotiation hoping, as they did hope, that by negotiation a satisfactory result would at last be attained.

No. 28.

Mr. Pakenham to the Earl of Aberdeen.—(Received August 16.)

(Extract.) *Washington, July* 29, 1845.

I HAVE the honour herewith to transmit a copy of a paper which was delivered to me by Mr. Buchanan on the 16th of this month, containing his proposal for the settlement of the Oregon Boundary.

Inclosure 1 in No. 28.

Mr. Buchanan to Mr. Pakenham.

J. B.

Department of State,
Washington, July 12, 1845.

THE Undersigned, &c., now proceeds to resume the negotiation on the Oregon Question, at the point where it was left by his predecessor.

The British Plenipotentiary, in his note to Mr. Calhoun of 12th September last, requests "that, as the American Plenipotentiary declines the proposal offered on the part of Great Britain, he will have the goodness to state what arrangement he is, on the part of the United States, prepared to propose, for an equitable adjustment of the question, and, more especially, that he will have the goodness to define the nature and extent of the claims which the United States may have to other portions of the territory to which allusion is made in the concluding part of his statement, as it is obvious that no arrangement can be made with respect to a part of the territory in dispute while a claim is reserved to any portion of the remainder."

The Secretary of State will now proceed (reversing the order in which these requests have been made), in the first place, to present the title of the United States to the territory north of the Valley of the Columbia; and will then propose on the part of the President the terms upon which, in his opinion, this long-pending controversy may be justly and equitably terminated between the parties.

The title of the United States to that portion of the Oregon Territory between the Valley of the Columbia and the Russian Line, in 54° 40′ north latitude, is recorded in the Florida Treaty. Under this Treaty, dated on the 22nd February, 1819, Spain ceded to the United States all her "rights, claims, and pretensions" to any territories west of the Rocky Mountains, and north of the 42nd parallel of latitude. We contend that, at the date of this cession, Spain had a good title, as against Great Britain, to the whole Oregon Territory; and if this be established, the question is then decided in favour of the United States.

But the American title is now encountered at every step by declarations that we hold it subject to all the conditions of the Nootka Sound Convention between Great Britain and Spain, signed at the Escurial on the 28th October, 1790. Great Britain contends that under this Convention the title of Spain was limited to a mere common right of joint occupancy with herself over the whole territory. To employ the language of the British Plenipotentiary, "If Spain could not make good her own right of exclusive dominion over those regions, still less could she confer such a right on another Power; and hence Great Britain argues that from nothing deduced from the Treaty of 1819 can the United States assert a valid claim to exclusive dominion over any part of the Oregon Territory." Hence it is that Great Britain, resting her pretensions on the Nootka Sound Convention, has necessarily limited her claim to a mere right of joint occupancy over the whole territory, in common with the United States, as the successor of Spain, leaving the right of exclusive dominion in abeyance.

It is then of the first importance that we should ascertain the true construction and meaning of the Nootka Sound Convention.

If it should appear that this Treaty was transient in its very nature; that it conferred upon Great Britain no right but that of merely trading with the Indians whilst the country should remain unsettled, and making the necessary establishments for this purpose; that it did not interfere with the ultimate sovereignty of Spain over the territory; and, above all, that it was annulled by the war between Spain and Great Britain in 1796, and has never since been renewed by the parties: then the British claim to any portion of this territory will prove to be destitute of foundation.

It is unnecessary to detail the circumstances out of which this Convention arose. It is sufficient to say that John Meares, a British subject, sailing under the Portuguese flag, landed at Nootka Sound in 1788, and

made a temporary establishment there for the purpose of building a vessel; and that the Spaniards, in 1789, took possession of this establishment under the orders of the Viceroy of Mexico, who claimed for Spain the exclusive sovereignty of the whole territory in the north-west coast of America up to the Russian line. Meares appealed to the British Government for redress against Spain, and the danger of war between the two nations became imminent. This was prevented by the conclusion of the Nootka Sound Convention. That Convention provides, by its first and second articles, for the restoration of the lands and buildings of which the subjects of Great Britain had been dispossessed by the Spaniards, and the payment of an indemnity for the injuries sustained. This indemnity was paid by Spain; but no sufficient evidence has been adduced that either Nootka Sound, or any other spot upon the coast, was ever actually surrendered by that Power to Great Britain. All we know with certainty is, that Spain continued in possession of Nootka Sound until 1795, when she voluntarily abandoned the place. Since that period no attempt has been made (unless very recently) by Great Britain or her subjects to occupy either this or any other part of Vancouver's Island. It is thus manifest that she did not formerly attach much importance to the exercise of the rights, whatever they may have been, which she had acquired under the Nootka Sound Convention.

The only other portion of this Convention important for the present discussion will be found in the third and the fifth Articles. They are as follows:—"Article III. In order to strengthen the bonds of friendship, and to preserve in future a perfect harmony and good understanding between the Two Contracting Parties, it is agreed that their respective subjects shall not be disturbed or molested either in navigating or carrying on their fisheries in the Pacific Ocean, or in the South Seas, or in landing on the coasts of those seas in places not already occupied, for the purpose of carrying on their commerce with the natives of the country or of making settlements there, the whole subject nevertheless to the restrictions specified in the three following articles." The material one of which is Article V. "As well in the places which are to be restored to the British subjects, by virtue of the first Article, as in all other parts of the north-western coasts of North America, or of the islands adjacent, situate to the north of the parts of the said coast already occupied by Spain, wherever the subjects of either of the Two Powers shall have made settlements since the month of April, 1789, or shall hereafter make any, the subjects of the other shall have free access, and shall carry on their trade without any disturbance or molestation."

It may be observed as a striking fact which must have an important bearing against the claim of Great Britain, that this Convention, which was dictated by her to Spain, contains no provision impairing the ultimate sovereignty which that Power had asserted for nearly three centuries over the whole western side of North America, as far north as the 61st degree of latitude, and which had never been seriously questioned by any European nation. This had been maintained by Spain with the most vigilant jealousy ever since the discovery of the American continent and had been acquiesced in by all European Governments. It had been admitted, even beyond the latitude 54° 40′ north by Russia, then the only Power having claims which could come in collision with Spain, and that too under a Sovereign peculiarly tenacious of the territorial rights of her empire. This will appear from the letter of Count Fernan de Nunez, the Spanish Ambassador at Paris, to M. de Montmorin, the Secretary of the Foreign Department of France, dated Paris, June 16, 1790. From this letter it seems that complaints had been made by Spain to the Court of Russia, against Russian subjects, for violating the Spanish territory on the north-west coast of America, south of the 61st degree of north latitude, in consequence of which that Court, without delay, assured the King of Spain, "that it was extremely sorry that the repeated orders issued to prevent the subjects of Russia from violating in the smallest degree the territory belonging to another Power should have been disobeyed."

This Convention of 1790 recognizes no right in Great Britain, either present or prospective, to plant permanent colonies on the north-west coast

of America; or to exercise such exclusive jurisdiction over any portion of it as is essential to sovereignty. Great Britain obtained from Spain all she then desired, a mere engagement that her subjects should "not be disturbed or molested in landing on the coasts of those seas in places not already occupied for the purpose of carrying on their commerce with the natives of the country, or of making settlements there." What kind of "settlements?" This is not specified, but surely their character and duration are limited by the object which the Contracting Parties had in view. They must have been such only as were necessary and proper "for the purpose of carrying on commerce with the natives of the country." Were these settlements intended to expand into colonies, to expel the natives, to deprive Spain of her sovereign rights, and to confer the exclusive jurisdiction over the whole territory on Great Britain? Surely Spain never designed any such results; and if Great Britain has obtained these concessions by the Nootka Sound Convention, it has been by the most extraordinary construction ever imposed upon human language. But this Convention also stipulates that to these settlements which might be made by the one party, "the subjects of the other shall have free access, and shall carry on their trade without any disturbance or molestation." What trade? certainly that "with the natives of the country," as prescribed in the third Article; and this from the very nature of things could continue only whilst the country should remain in possession of the Indians. On no other construction can this Convention escape from the absurdities attributed to it by British statesmen, when under discussion before the House of Commons:—"In every place in which we might settle" (said Mr., afterwards Earl Grey) "access was left for the Spaniards: where we might form a settlement on one hill, they might erect a fort on another; and a merchant must run all the risks of a discovery, and all the expenses of an establishment for a property which was liable to be the subject of continued dispute, and could never be placed upon a permanent footing."

Most certainly this Treaty was in its very nature temporary, and the rights of Great Britain under it were never intended to "be placed upon a permanent footing." It was to endure no longer than the existence of those peculiar causes which called it into being. Such a treaty, creating British and Spanish settlements intermingled with each other, and dotted over the whole surface of the territory, wherever a British or Spanish merchant could find a spot favourable for trade with the Indians, never could have been intended for a permanent arrangement between civilized nations.

But whatever may be the true construction of the Nootka Sound Convention, it has in the opinion of the Undersigned long ceased to exist.

The general rule of national law is that war terminates all subsisting treaties between the belligerent Powers. Great Britain has maintained this rule to its utmost extent. Lord Bathurst, in negotiating with Mr. Adams in 1815, says, "that Great Britain knows of no exception to the rule that all treaties are put an end to by a subsequent war between the same parties."

Perhaps the only exception to this rule, if such it may be styled, is that of a treaty recognizing certain sovereign rights as belonging to a nation which had previously existed independently of any treaty engagements. These rights which the treaty did not create, but merely acknowledged, cannot be destroyed by war between the parties; such was the acknowledgment of the fact by Great Britain, under the definitive Treaty of 1783, that the United States were "free, sovereign, and independent." It will scarcely be contended that the Nootka Sound Convention belongs to this class of treaties. It is difficult to imagine any case in which a treaty containing mutual engagements still remaining unexecuted would not be abrogated by war. The Nootka Sound Convention is strictly of this character. The declaration of war, therefore, by Spain against Great Britain in October, 1796, annulled its provisions, and freed the parties from its obligations. This whole treaty consisted of mutual express engagements to be performed by the Contracting Parties. Its most important

Article (the third), in reference to the present discussion, does not even grant in affirmative terms, the right to the Contracting Parties to trade with the Indians, and to make settlements. It merely engages, in negative terms, that the subjects of the Contracting Parties "shall not be disturbed or molested in the exercise of these treaty privileges." Surely this is not such an engagement as will continue to exist in despite of war between the parties. It is gone for ever unless it has been revived in express terms by the Treaty of Peace, or some other treaty between the parties. Such is the principle of public law and the practice of civilized nations.

Has the Nootka Sound Convention been thus revived? This depends entirely upon the true construction of the Treaty of Madrid of the 24th of August, 1814, which contains the only agreement between the parties since the war of 1796, for the renewal of engagements existing previously to that date. The first of the three Additional Articles to this Treaty provides as follows:—"It is agreed that pending the negotiation of a new treaty of commerce Great Britain shall be admitted to trade with Spain upon the same conditions as those which existed previously to 1796; all the treaties of commerce which at that period subsisted between the two nations being hereby ratified and confirmed."

The first observation to be made upon this Article is that it is confined in terms to the trade with Spain, and does not embrace her colonies or remote territories. These had always been closed against foreign Powers. Spain had never conceded the privilege of trading with her colonies to any nation except in the single instance of the "Asiento," which was abrogated in 1740; nor did any of the treaties of commerce which were in force between the two nations previously in 1796 make such a concession to Great Britain. That this is the true construction of the Third Additional Article of the Treaty of Madrid appears conclusively from another part of the instrument. Great Britain, by an irresistible inference, admitted that she had acquired no right under it to trade with the colonies or remote territories of Spain, when she obtained a stipulation in the same Treaty, that "in the event of the commerce of the Spanish American Colonies being opened to foreign nations, His Catholic Majesty promises that Great Britain shall be admitted to trade with those possessions as the most favoured nation."

But even if the Third Article of the Treaty of 1814 were not thus expressly limited to the revival of the trade of Great Britain with the Kingdom of Spain in Europe, without reference to any other portion of her dominions, the Nootka Sound Convention can never be embraced under the denomination of a treaty of commerce between the two Powers. It contains no provision whatever to grant or to regulate trade between British and Spanish subjects. Its essential part, so far as concerns the present question, relates not to any trade or commerce between the subjects of the respective Powers. It merely prohibits the subjects of either from disturbing or molesting those of the other in trading with third parties, the natives of the country. The grant "of making settlements," whether understood in its broadest or most restricted sense, relates to territorial acquisition, and not to trade or commerce in any imaginable form. The Nootka Sound Convention then cannot in any sense be considered a treaty of commerce, and was not therefore revived by the Treaty of Madrid of 1814. When the war commenced between Great Britain and Spain in 1796, several treaties subsisted between them which were both in title and substance treaties of commerce. These, and these alone, were revived by the Treaty of 1814.

That the British Government itself had no idea in 1818 that the Nootka Sound Convention was then in force may be fairly inferred from their silence upon the subject during the whole negotiation of that year on the Oregon Question. This Convention was not once referred to by the British Plenipotentiaries. They then rested their claims on other foundations. Surely that which is now their main reliance would not have escaped the observation of such statesmen had they then supposed it was in existence.

In view of all these considerations, the Undersigned respectfully

submits that if Great Britain has valid claims to any portion of the Oregon Territory they must rest upon a better foundation than that of the Nootka Sound Convention.

It is far from the intention of the Undersigned to repeat the arguments by which his predecessor (Mr. Calhoun) has demonstrated the American title "to the entire region drained by the Columbia River and its branches." He has shown that to the United States belongs the discovery of the Columbia River, and that Captain Gray was the first civilized man who ever entered its mouth and sailed up its channel, baptizing the river itself with the name of his vessel; that Messrs. Lewis and Clarke, under a commission from their Government, first explored the waters of this river, almost from its head-springs to the Pacific, passing the winter of 1805-6 on its northern shore near the Ocean; that the first settlement upon this river was made by a citizen of the United States at Astoria; and that the British Government solemnly recognized our right to the possession of this settlement, which had been captured during the war, by surrendering it up to the United States on the 6th day of October, 1818, in obedience to the Treaty of Ghent. If the discovery of the mouth of a river, followed up within a reasonable time by the first exploration, both of its main channel and of its branches, and appropriated by the first settlements on its banks, do not constitute a title to the territory drained by its waters in the nation performing these acts, then the principles consecrated by the practice of civilized nations ever since the discovery of the New World must have lost their force. These principles were necessary to preserve the peace of the world. Had they not been enforced in practice clashing claims to newly-discovered territory and perpetual strife among the nations would have been the inevitable result.

The title of the United States to the entire region drained by the Columbia River and its branches was perfect and complete before the date of the Treaties of joint occupation of October 1818, and August 1827; and under the express provisions of these Treaties this title, whilst they endure, can never be impaired by any Act of the British Government. In the strong language of the Treaty of August, 1827, "nothing contained in this Convention, or in the Third Article of the Convention of October, 1818, hereby continued in force, shall be construed to impair, or in any manner affect, the claims which either of the Contracting Parties may have to any part of the country westward of the Stony or Rocky Mountains." Had not the Convention contained this plain provision which has prevented the respective Parties from looking with jealousy on the occupation of portions of the territory by the citizens and subjects of each other, its chief object which was to preserve peace and prevent collisions in those distant regions, would have been entirely defeated. It is then manifest that neither the grant of this territory for a term of years made by Great Britain to the Hudson's Bay Company in December, 1821, nor the extension of this grant in 1838, nor the settlements, trading posts, and forts, which have been established by that Company under it, can in the slightest degree strengthen the British or impair the American title to any portion of the Oregon Territory. The British claim is neither better nor worse than it was on the 20th of October, 1818, the date of the first Convention.

The title of the United States to the Valley of the Columbia is older than the Florida Treaty of February, 1819, under which the United States acquired all the rights of Spain to the north-west coast of America, and exists independently of its provisions. Even supposing then, that the British construction of the Nootka Sound Convention were correct, it could not apply to this portion of the territory in dispute. A convention between Great Britain and Spain, originating from a dispute concerning a petty trading establishment at Nootka Sound, could not abridge the rights of other nations. Both in public and private law an agreement between two parties can never bind a third without his consent, either expressed or implied.

The extraordinary proposition will scarcely be again urged that our acquisition of the rights of Spain, under the Florida Treaty, can in any manner weaken or impair our pre-existing title. It may often become

expedient for nations, as it is for individuals, to purchase an outstanding title merely for the sake of peace, and it has never heretofore been imagined that the acquisition of such a new title rendered the old one less valid. Under this principle a party having two titles would be confined to his worst and would forfeit his best. Our acquisition of the rights of Spain, then, under the Florida Treaty, whilst it cannot affect the prior title of the United States to the Valley of the Columbia, has rendered it more clear and unquestionable before the world. We have a perfect right to claim under both these titles, and the Spanish title alone, even if it were necessary to confine ourselves to it, would, in the opinion of the President, be good, as against Great Britain, not merely to the Valley of the Columbia, but the whole territory of Oregon.

Our own American title to the extent of the Valley of the Columbia, resting as it does on discovery, exploration, and possession,—a possession acknowledged by a most solemn act of the British Government itself,—is a sufficient assurance against all mankind; whilst our superadded title derived from Spain extends our exclusive rights over the whole territory in dispute as against Great Britain.

Such being the opinion of the President in regard to the title of the United States he would not have consented to yield any portion of the Oregon Territory had he not found himself embarrassed, if not committed, by the acts of his predecessors. They had uniformly proceeded upon the principle of compromise in all their negotiations. Indeed the first question presented to him, after entering upon the duties of his office was, whether he should abruptly terminate the negotiations which had been commenced and conducted between Mr. Calhoun and Mr. Pakenham on the principle avowed in the first protocol, not of contending for the whole territory in dispute, but of treating of the respective claims of the Parties "with the view to establish a permanent boundary between the two countries, westward of the Rocky Mountains."

In view of these facts the President has determined to pursue the present negotiation to its conclusion upon the principle of compromise in which it commenced, and to make one more effort to adjust this long-pending controversy. In this determination he trusts that the British Government will recognize his sincere and anxious desire to cultivate the most friendly relations between the two countries, and to manifest to the world that he is actuated by a spirit of moderation. He has, therefore, instructed the Undersigned again to propose to the Government of Great Britain that the Oregon Territory shall be divided between the two countries by the forty-ninth parallel of north latitude from the Rocky Mountains to the Pacific Ocean; offering, at the same time, to make free to Great Britain any port or ports on Vancouver's Island, south of this parallel, which the British Government may desire. He trusts that Britain may receive this proposition in the friendly spirit in which it was dictated, and that it may prove the stable foundation of lasting peace and harmony between the two countries. The line proposed will carry out the principle of continuity equally for both parties, by extending the limits both of ancient Louisiana and Canada to the Pacific, along the same parallel of latitude which divides them east of the Rocky Mountains, and it will secure to each a sufficient number of commodious harbours on the north-west coast of America.

The Undersigned, &c.,

(Signed) JAMES BUCHANAN.

Inclosure 2 in No. 28.

Mr. Pakenham to Mr. Buchanan.

Washington, July 29, 1845.

NOTWITHSTANDING the prolix discussion which the subject has already undergone, the Undersigned, &c., feels obliged to place on record a few observations in reply to the statement marked J. B., which he had

the honour to receive on the 16th of this month from the hands of the Secretary of State of the United States, terminating with a proposition on the part of the United States, for the settlement of the Oregon Question.

In this paper it is stated that "the title of the United States to that portion of the Oregon Territory between the Valley of the Columbia and the Russian line in 54° 40′ north latitude, is recorded in the Florida Treaty. Under this Treaty, dated on 22nd February, 1819, Spain ceded to the United States all her 'rights, claims, and pretensions' to any territories west of the Rocky Mountains, and north of the 42nd parallel of latitude. We contend," says the Secretary of State, "that at the date of this cession, Spain had a good title, as against Great Britain, to the whole Oregon Territory; and if this be established, the question is then decided in favour of the United States;" the Convention between Great Britain and Spain, signed at the Escurial on the 28th of October, 1790, notwithstanding.

"If," says the American Plenipotentiary, "it should appear that this Treaty was transient in its very nature; that it conferred upon Great Britain no right but that of merely trading with the Indians, whilst the country should remain unsettled, and making the necessary establishments for this purpose; that it did not interfere with the ultimate sovereignty of Spain over the territory; and, above all, that it was annulled by the war between Spain and Great Britain in 1796, and has never since been renewed by the parties, then the British claim to any portion of this territory will prove to be destitute of foundation."

The Undersigned will endeavour to show not only that when Spain concluded with the United States the Treaty of 1819, commonly called the Florida Treaty, the Convention between the former Power and Great Britain, in 1790, was considered by the parties to it to be still in force; but even that if no such Treaty had ever existed, Great Britain would stand, with reference to a claim to the Oregon Territory, in a position at least as favourable as the United States.

The Treaty of 1790 is not appealed to by the British Government, as the American Plenipotentiary seems to suppose, as their "main reliance" in the present discussion; it is appealed to to show that by the Treaty of 1819, by which "Spain ceded to the United States all her rights, claims, and pretensions to any territories west of the Rocky Mountains, and north of the 42nd parallel of latitude," the United States acquired no right to exclusive dominion over any part of the Oregon Territory.

The Treaty of 1790 embraced, in fact, a variety of objects: it partook, in some of its stipulations, of the nature of a commercial convention; in other respects it must be considered as an acknowledgment of existing rights, an admission of certain principles of international law, not to be revoked at the pleasure of either party, or to be set aside by a cessation of friendly relations between them.

Viewed in the former light its stipulations might have been considered as cancelled, in consequence of the war which subsequently took place between the Contracting Parties, were it not that by the Treaty concluded at Madrid on the 28th of August, 1814, it was declared that all the treaties of commerce which subsisted between the two nations (Great Britain and Spain) in 1796 were thereby ratified and confirmed.

In the latter point of view the restoration of a state of peace was of itself sufficient to restore the admission contained in the Convention of 1790 to their full original force and vigour.

There are besides very positive reasons for concluding that Spain did not consider the stipulations of the Nootka Convention to have been revoked by the war of 1796 so as to require, in order to be binding on her, that they should have been expressly revived on the restoration of peace between the two countries.

Had Spain considered that Convention to have been annulled by the war, in other words, had she considered herself restored to her former position and pretensions, with respect to exclusive dominion over the unoccupied parts of the North American Continent, it is not to be imagined that she would have passively submitted to see the contending claims of Great Britain and the United States to a portion of that territory made

the subject of negotiation and formal diplomatic transaction between those two nations. It is, on the contrary, from her silence with respect to the continued occupation by the British of their settlements in the Columbia Territory subsequently to the Convention of 1814, and when as yet there had been no transfer of her rights, claims, or pretensions, to the United States, and from her silence also while important negotiations respecting the Columbia Territory, incompatible altogether with her ancient claim to exclusive dominion, were in progress between Great Britain and the United States, fairly to be inferred, that Spain considered the stipulations of the Nootka Convention, and the principles therein laid down, to be still in force.

But the American Plenipotentiary goes so far as to say that the British Government itself had no idea in 1818 that the Nootka Sound Convention was then in force because no reference was made to it on the part of England during the negotiation of that year on the Oregon Question.

In reply to this argument it will be sufficient for the Undersigned to remind the American Plenipotentiary that in the year 1818 no claim as derived from Spain was or could be put forth by the United States, seeing that it was not until the following year, the year 1819, that the Treaty was concluded by which Spain transferred to the United States her rights, claims, and pretensions to any territories west of the Rocky Mountains, and north of the 42nd parallel of latitude. Hence it is obvious that in the year 1818 no occasion had arisen for appealing to the qualified nature of the rights, claims, and pretensions so transferred,—a qualification imposed, or at least recognised by the Convention of Nootka.

"The title of the United States to the Valley of the Columbia River," the American Plenipotentiary observes, "is older than the Florida Treaty of February, 1819, and exists independently of its provisions. Even supposing then that the British construction of the Nootka Sound Convention was correct it could not apply to this portion of the territory in dispute."

The Undersigned must be permitted respectfully to inquire upon what principle, unless it be upon the principle which forms the foundation of the Nootka Convention, could the United States have acquired a title to any part of the Oregon Territory, previously to the Treaty of 1819, and independently of its provisions?

By discovery, exploration, settlement, will be the answer.

But, says the American Plenipotentiary, in another part of his statement, the rights of Spain to the west coast of America, as far north as the 61st degree of latitude, were so complete as never to have been seriously questioned by any European nation. They "had been maintained by Spain with the most vigilant jealousy ever since the discovery of the American Continent, and had been acquiesced in by all European Powers. They had been admitted even by Russia, and that too under a Sovereign peculiarly tenacious of the territorial rights of her empire, who, when complaints had been made to the Court of Russia against Russian subjects for violating the Spanish territory on the north-west coast of America did not hesitate to assure the King of Spain that she was extremely sorry that the repeated orders issued to prevent the subjects of Russia from violating in the smallest degree the territory belonging to another Power should have been disobeyed."

In what did this alleged violation of territory consist? Assuredly in some attempted acts of discovery, exploration, or settlement.

At that time Russia stood in precisely the same position with reference to the exclusive rights of Spain as the United States, and any acts in contravention of those rights, whether emanating from Russia or from the United States, would necessarily be judged by one and the same rule. How then can it be pretended that acts which in the case of Russia were considered as criminal violation of the Spanish territory, should, in the case of citizens of the United States, be appealed to as constituting a valid title to the territory affected by them? And yet from this inconsistency the American Plenipotentiary cannot escape if he persists in considering the American title to have been perfected by discovery,

exploration, and settlement, where as yet Spain had made no transfer of her rights, if, to use his own words, "that title is older than the Florida Treaty, and exists independently of its provisions."

According to the doctrine of exclusive dominion the exploration of Lewis and Clarke, and the establishments founded at the mouth of the Columbia by American citizens, must be condemned as encroachments on the territorial rights of Spain.

According to the opposite principle by which discovery, exploration, and settlement, are considered as giving a valid claim to territory, those very acts are referred to in the course of the same paper as constituting a complete title in favour of the United States.

Besides, how shall we reconcile this high estimation of the territorial rights of Spain, considered independently of the Nootka Sound Convention, with the course observed by the United States in their diplomatic transactions with Great Britain previously to the conclusion of the Florida Treaty? The claim advanced for the restitution of Fort George under the First Article of the Treaty of Ghent, the arrangement concluded for the joint occupation of the Oregon Territory by Great Britain and the United States, and, above all, the proposal actually made on the part of the United States for a partition of the Oregon Territory, all which transactions took place in the year 1818, when as yet Spain had made no transfer or cession of her rights, appear to be as little reconcileable with any regard for those rights, when still vested in Spain, as the claim founded on discovery, exploration, and settlement accomplished previously to the transfer of those rights to the United States.

Supposing the arrangement proposed in the year 1818, or any other arrangement for the partition of the Oregon Territory, to have been concluded in those days between Great Britain and this country, what would in that case have become of the exclusive rights of Spain?

There would have been no refuge for the United States but in an appeal to the principles of the Nootka Convention.

To deny then the validity of the Nootka Convention is to proclaim the illegality of any title founded on discovery, exploration, or settlement, previous to the conclusion of the Florida Treaty.

To appeal to the Florida Treaty as conveying to the United States any exclusive rights is to attach a character of encroachment and of violation of the rights of Spain to every act to which the United States appealed in the negotiation of 1818, as giving them a claim to territory on the north-west coast.

These conclusions appear to the Undersigned to be irresistible.

The United States can found no claim on discovery, exploration, and settlement, effected previously to the Florida Treaty, without admitting the principles of the Nootka Convention, and the consequent validity of the parallel claims of Great Britain founded on like acts; nor can they appeal to any exclusive right as acquired by the Florida Treaty, without upsetting all claims adduced in their own proper right, by reason of discovery, exploration, and settlement, antecedent to that arrangement.

The Undersigned trusts he has now shown that the Convention of 1790 (the Nootka Sound Convention) has continued in full and complete force up to the present moment, by reason, in the first place, of the commercial character of some of its provisions, as such expressly renewed by the Convention of August, 1814, between Great Britain and Spain.

By reason, in the next place, of the acquiescence of Spain in various transactions to which it is not to be supposed that that Power would have assented, had she not felt bound by the provisions of the Convention in question.

And, thirdly, by reason of the repeated acts of the Government of the United States previous to the conclusion of the Florida Treaty, manifesting adherence to the principles of the Nootka Convention, or at least dissent from the exclusive pretensions of Spain.

Having thus replied, and he hopes satisfactorily, to the observations of the American Plenipotentiary with respect to the effect of the Nootka Sound Convention, and the Florida Treaty, as bearing upon the subject of the present discussion, the Undersigned must endeavour to show that

even if the Nootka Sound Convention had never existed, the position of Great Britain in regard to her claim, whether to the whole or to any particular part of the Oregon Territory, is at least as good as that of the United States.

This branch of the subject must be considered, first, with reference to principle; to the right of either party, Great Britain or the United States, to explore or make settlements in the Oregon Territory, without violation of the rights of Spain: and next, supposing the first point to be decided affirmatively, with reference to the relative value and importance of the acts of discovery, exploration, and settlement effected by each.

As relates to the question of principle, the Undersigned thinks he can furnish no better argument than that contained in the following words, which he has already once quoted from the statement of the American Plenipotentiary:—"The title of the United States to the Valley of the Columbia is older than the Treaty of Florida of February, 1819, under which the United States acquired all the rights of Spain to the north-west coast of America, and exists independently of its provisions." And again, "the title of the United States to the entire region drained by the Columbia River and its branches was perfect and complete before the date of the Treaties of joint occupation of October, 1818, and August, 1827."

The title thus referred to must be that resting on discovery, exploration, and settlement.

If this title then is good, or rather, was good, as against the exclusive pretensions of Spain previously to the conclusion of the Florida Treaty, so must the claims of Great Britain, resting on the same grounds, be good also.

Thus, then, it seems manifest, that, with or without the aid of the Nootka Sound Convention, the claims of Great Britain resting on discovery, exploration, and settlement, are in point of principle equally valid with those of the United States.

Let us now see how the comparison will stand when tried by the relative value, importance, and authenticity of each.

Rejecting previous discoveries north of the 43rd parallel of latitude as not sufficiently authenticated, it will be seen on the side of Great Britain, that in 1778 Captain Cook discovered Cape Flattery, the southern entrance of the Straits of Fuca; Cook must also be considered the discoverer of Nootka Sound, in consequence of the want of authenticity in the alleged previous discovery of that port by Perez.

In 1787, Captain Berkeley, a British subject, in a vessel under Austrian colours, discovered the Straits of Fuca; in the same year Captain Duncan, in the ship "Princess Royal," entered the straits, and traded at the village of Classet.

In 1788, Meares, a British subject, formed the establishment at Nootka, which gave rise to the memorable discussion with the Spanish Government, ending in the recognition by that Power of the right of Great Britain to form settlements in the unoccupied parts of the north-west portion of the American Continent, and in an engagement on the part of Spain to reinstate Meares in the possession from which he had been ejected by the Spanish commander.

In 1792, Vancouver, who had been sent from England to witness the fulfilment of the above-mentioned engagement, and to effect a survey of the north-west coast, departing from Nootka Sound, entered the Straits of Fuca, and after an accurate survey of the coast and inlets on both sides, discovered a passage northwards into the Pacific, by which he returned to Nootka, having thus circumnavigated the island which now bears his name; and here we have, as far as relates to Vancouver's Island, as complete a case of discovery, exploration, and settlement, as can well be presented, giving to Great Britain, in any arrangement that may be made with regard to the territory in dispute, the strongest possible claim to the exclusive possession of that island.

While Vancouver was prosecuting discovery and exploration by sea, Sir Alexander Mackenzie, a partner in the North-West Company, crossed the Rocky Mountains, discovered the head waters of the river since called

Frazer's River, and, following for some time the course of that river, effected a passage to the sea, being the first civilized man who traversed the continent of America from sea to sea in these latitudes. On the return of Mackenzie to Canada the North-West Company established trading posts in the country to the westward of the Rocky Mountains.

In 1806 and 1811, respectively, the same company established posts on the Tacoutché Tessé and the Columbia.

In the year 1811, Thompson, the astronomer of the North-West Company, discovered the northern head waters of the Columbia, and following its course till joined by the rivers previously discovered by Lewis and Clarke he continued his journey to the Pacific.

From that time until the year 1818, when the arrangement for the joint occupancy of the territory was concluded, the North-West Company continued to extend their operations throughout the Oregon Territory, and to occupy, it may be said, as far as occupation can be effected in regions so inaccessible and destitute of resources.

While all this was passing the following events occurred, which constitute the American claim in their own proper right.

In 1792, Gray entered the mouth of the Columbia River. In 1805, Lewis and Clarke effected a passage across the Rocky Mountains, and discovering a branch of the Columbia River, followed it until they reached the Ocean.

In 1811, the trading post or settlement of Astoria was established at the mouth of the Columbia on the southern side of that river.

This post or settlement passed, during the last war, into British hands, by the voluntary act of the persons in charge of it, a fact most clearly established; it was restored to the United States in 1818, with certain well-authenticated reservations; but it was never actually occupied by American citizens, having from the moment of the original transfer or sale continued to be occupied by British subjects.

These are the acts of discovery, exploration, and settlement referred to by the United States, as giving them a claim to the Valley of the Columbia in their own proper right.

The British Government are disposed to view them in the most liberal sense, and to give to them the utmost value to which they can in fairness be entitled; but there are circumstances attending each and all of them, which must, in the opinion of any impartial investigator of the subject, take from them a great deal of the effect which the American negotiators assign to them, as giving to this country a claim to the entire region drained by the Columbia and its branches.

In the first place, as relates to the discovery of Gray, it must be remarked, that he was a private navigator, sailing principally for the purposes of trade; which fact establishes a wide difference, in a national point of view, between the discoveries accomplished by him, and those effected by Cook and Vancouver, who sailed in ships of the Royal Navy of Great Britain, and who were sent to the north-west coast for the express purpose of exploration and discovery.

In the next place, it is a circumstance not to be lost sight of that it was not for several years followed up by any act which could give it value in a national point of view: it was not in truth made known to the world, either by the discoverer himself, or by his Government. So recently as the year 1826, the American Plenipotentiaries in London remarked with great correctness, in one of their reports, that, "respecting the mouth of the Columbia River, we know nothing of Gray's discoveries but through British accounts."

In the next place, the connection of Gray's discovery with that of Lewis and Clarke is interrupted by the intervening exploration of Lieutenant Broughton of the British surveying ship "Chatham."

With respect to the expedition of Lewis and Clarke, it must, on a close examination of the route pursued by them, be confessed that neither on their outward journey to the Pacific, nor on their homeward journey to the United States, did they touch upon the head waters of the principal branch of the Columbia River, which lie far to the north of the parts of the country traversed or explored by them. Thompson, of the British

North-West Company, was the first civilized person who navigated the northern, in reality, the main branch of the Columbia, or traversed any part of the country drained by it. It was by a tributary of the Columbia that Lewis and Clarke made their way to the main stream of that river, which they reached at a point distant, it is believed, not more than 200 miles from the point to which the river had already been explored by Broughton.

These facts, the Undersigned conceives, will be found sufficient to reduce the value of Lewis and Clarke's exploration on the Columbia to limits which would by no means justify a claim to the whole valley drained by that river and its branches.

As to the settlement, the qualified nature of the rights devolved to the United States by virtue of the restitution of Fort Astoria has already been pointed out.

It will then be seen, the Undersigned confidently believes, that on the ground of discovery, exploration, and settlement, Great Britain has nothing to fear from a comparison of her claims to the Oregon Territory, taken as a whole, with those of the United States. That, reduced to the valley drained by the Columbia, the facts on which the United States rest their case are far from being of that complete and exclusive character which would justify a claim to the whole Valley of the Columbia; and that, especially as relates to Vancouver's Island, taken by itself, the preferable claim of Great Britain, in every point of view, seems to have been clearly demonstrated.

After this exposition of the views entertained by the British Government respecting the relative value and importance of the British and American claims the American Plenipotentiary will not be surprised to hear that the Undersigned does not feel at liberty to accept the proposal offered by the American Plenipotentiary for the settlement of the question.

This proposal, in fact, offers less than that tendered by the American Plenipotentiaries in the negotiation of 1826, and declined by the British Government.

On that occasion it was proposed that the navigation of the Columbia should be made free to both parties. On this point nothing is said in the proposal to which the Undersigned has now the honour to reply. While with respect to the proposed freedom of the ports on Vancouver's Island, south of latitude 49°, the facts which have been appealed to in this paper, as giving to Great Britain the strongest claim to the possession of the whole island, would seem to deprive such proposal of any value.

The Undersigned therefore trusts that the American Plenipotentiary will be prepared to offer some further proposal for the settlement of the Oregon Question more consistent with fairness and equity, and with the reasonable expectations of the British Government, as defined in the statement marked D*, which the Undersigned had the honour to present to the American Plenipotentiary at the early part of the present negotiation.

The Undersigned, &c.,

(Signed) R. PAKENHAM.

No. 29.

Mr. Pakenham to the Earl of Aberdeen.—(Received September 29.)

(Extract.) *Washington, September* 13, 1845.

I FEEL great concern in laying before your Lordship the inclosed copy of a communication which I have received from the United States' Secretary of State, containing a long argument in reply to the statement last presented by me on the subject of the Oregon Boundary (a copy of which accompanied my despatch of 29th July), and ending, as your Lordship will perceive, by withdrawing the proposal lately made by Mr. Buchanan for the settlement of that question.

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* See Mr. Pakenham's Statement, &c., p. 19.

Inclosure in No. 29.

Mr. Buchanan to Mr. Pakenham.

J. B. 2.

Department of State,
Washington, August 30, 1845.

THE Undersigned, Secretary of State to the United States, deems it his duty to make some observations in reply to the statement of Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, marked R. P. and dated 29th July, 1845.

Preliminary to the discussion, it is necessary to fix our attention upon the precise question under consideration, in the present stage of the negotiation. This question simply is, were the titles of Spain and the United States, when united by the Florida Treaty on the 22nd of February, 1819, good as against Great Britain, to the Oregon Territory, as far north as the Russian line in the latitude of 54° 40′? If they were, it will be admitted that this whole territory now belongs to the United States.

The Undersigned again remarks that it is not his purpose to repeat the argument by which his predecessor, Mr. Calhoun, has demonstrated the American title to "the entire region drained by the Columbia and its branches." He will not thus impair its force.

It is contended on the part of Great Britain, that the United States acquired and hold the Spanish title, subject to the terms and conditions of the Nootka Sound Convention, concluded between Great Britain and Spain at the Escurial on the 28th October 1790.

In opposition to the argument of the Undersigned, contained in his statement marked J. B., maintaining that this Convention had been annulled by the war between Spain and Great Britain in 1796, and has never since been revived by the parties, the British Plenipotentiary, in his statement marked R. P., has taken the following positions:—

1st. "That when Spain concluded with the United States the Treaty of 1819, commonly called the Florida Treaty, the Convention concluded between the former Power and Great Britain in 1790, was considered by the parties to it to be still in force."

And 2nd. "But that even if no such treaty had ever existed, Great Britain would stand, with reference to a claim to the Oregon Territory, in a position at least as favourable as the United States."

The Undersigned will follow, step by step, the argument of the British Plenipotentiary in support of these propositions.

The British Plenipotentiary states, "that the Treaty of 1790 is not appealed to by the British Government, as the American Plenipotentiary seems to suppose, as their main reliance in the present discussion;" but to show that by the Florida Treaty of 1819, "the United States acquired no right to exclusive dominion over any part of the Oregon Territory."

The Undersigned had believed that ever since 1826, the Nootka Convention has been regarded by the British Government as their main, if not their only, reliance. The very nature and peculiarity of their claim identified it with the construction which they have imposed upon this Convention, and necessarily exclude every other basis of title. What but to accord with this construction could have caused Messrs. Huskisson and Addington, the British Commissioners, in specifying their title on the 16th December 1826, to declare, that "Great Britain claims no exclusive sovereignty over any portion of that territory? Her present claim, not in respect to any part, but to the whole, is limited to a right of joint occupancy, in common with other States, leaving the right of exclusive dominion in abeyance." And again, "By that Convention (of Nootka) it was agreed that all parts of the North-Western Coast of America, not already occupied at that time by either of the Contracting Parties, should thenceforward be equally open to the subjects of both for all purposes of commerce and settlement, the sovereignty remaining in abeyance." But on this subject we are not left to mere inferences, however clear. The British Commissioners, in their statement from which I have just quoted, have

virtually abandoned any other title which Great Britain may have previously asserted to the territory in dispute, and expressly declare, "that whatever that title may have been, however, either on the part of Great Britain, or on the part of Spain, prior to the Convention of 1790, *it was thenceforward no longer to be traced in vague narratives of discoveries, several of them admitted to be apocryphal, but in the text and stipulations of that Convention itself.*" And again, in summing up their whole case they say, "admitting that the United States have acquired all the rights which Spain possessed up to the Treaty of Florida, either in virtue of discovery, or, as is pretended, in right of Louisiana, Great Britain maintains that the nature and extent of these rights, as well as of the rights of Great Britain, are fixed and defined by the Convention of Nootka," &c.

The Undersigned, after a careful examination, can discover nothing in the note of the present British Plenipotentiary to Mr. Calhoun of the 12th September last, to impair the force of these declarations and admissions of his predecessors. On the contrary, its general tone is in perfect accordance with them.

Whatever may be the consequences, then, whether for good or for evil, whether to strengthen or to destroy the British claim, it is now too late for the British Government to vary their position. If the Nootka Convention confers upon them no such rights as they claim, they cannot at this late hour go behind its provisions, and set up claims which, in 1826, they admitted had been "merged in the text and stipulations of that Convention itself."

The Undersigned regrets that the British Plenipotentiary has not noticed his exposition of the true construction of the Nootka Convention. He had endeavoured, and, he believes, successfully, to prove that this Treaty was transient in its very nature; that it conferred upon Great Britain no right but that of merely trading with the Indians whilst the country should remain unsettled, and making the necessary establishments for this purpose; and that it did not interfere with the ultimate sovereignty of Spain over the territory. The British Plenipotentiary has not attempted to resist these conclusions. If they be fair and legitimate, then it would not avail Great Britain, even if she could prove the Nootka Convention to be still in force. On the contrary, this Convention, if the construction placed upon it by the Undersigned be correct, contains a clear virtual admission on the part of Great Britain, that Spain held the eventual right of sovereignty over the whole disputed territory, and consequently that it now belongs to the United States. The value of this admission made in 1790 is the same, whether or not the Convention has continued to exist until the present day. But he is willing to leave this point on the uncontroverted argument contained in his former statement.

But is the Nootka Sound Convention still in force? The British Plenipotentiary does not contest the clear general principle of public law, "that war terminates all subsisting treaties between the belligerent Powers." He contends, however, in the first place, that this Convention is partly commercial, and that so far as it partakes of this character, it was revived by the Treaty concluded at Madrid on the 28th August 1814, which declares "that all the treaties of commerce which subsisted between the two parties (Great Britain and Spain) in 1796, were thereby ratified and confirmed; and, secondly, that in other respects, it must be considered as an acknowledgment of subsisting rights, an admission of certain principles of international law," not to be revoked by war.

In regard to the first proposition, the Undersigned is satisfied to leave the question to rest upon his former argument, as the British Plenipotentiary has contented himself with merely asserting the fact, that the commercial portion of the Nootka Sound Convention was revived by the Treaty of 1814, without even specifying what he considers to be that portion of the Convention. If the Undersigned had desired to strengthen his former position, he might have repeated with great effect the argument contained in the note of Lord Aberdeen to the Duke of Sotomayor dated 30th June, 1845, in which his Lordship clearly established that all the treaties of commerce subsisting between Great Britain and Spain previous

to 1796, were confined to the trade with Spain alone, and did not embrace her colonies and remote possessions.

The second proposition of the British Plenipotentiary deserves greater attention. Does the Nootka Sound Convention belong to that class of treaties containing an acknowledgment of subsisting rights—an admission of certain principles of international law—not to be abrogated by war? Had Spain by this Convention acknowledged the right of all nations to make discoveries, plant settlements, and establish colonies on the North-West Coast of America, bringing with them their sovereign jurisdiction, there would then have been much force in the argument: but such an admission never was made, and never was intended to be made by Spain. The Nootka Convention is arbitrary and artificial in the highest degree; and is anything rather than the mere acknowledgment of simple and elementary principles consecrated by the law of nations. In all its provisions it is expressly confined to Great Britain and Spain, and acknowledges no right whatever in any third Power to interfere with the North-West Coast of America. Neither in its terms nor in its essence does it contain any acknowledgment of previously-subsisting territorial rights in Great Britain or any other nation. It is strictly confined to future engagements, and these are of a most peculiar character. Even under the construction of its provisions maintained by Great Britain, her claim does not extend to plant colonies, which she would have had a right to do under the law of nations, had the country been unappropriated; but it is limited to a mere right of joint occupancy, not in respect to any part, but to the whole, the sovereignty remaining in abeyance. And to what kind of occupancy? Not separate and distinct colonies, but scattered settlements intermingled with each other over the whole surface of the territory, for the single purpose of trading with the Indians, to all of which the subjects of each Power should have free access, the right of exclusive dominion remaining suspended. Surely it cannot be successfully contended that such a Treaty is "an admission of certain principles of international law," so sacred and so perpetual in their nature as not to be annulled by war. On the contrary, from the character of its provisions, it cannot be supposed for a single moment that it was intended for any purpose but that of a mere temporary arrangement between Great Britain and Spain. The law of nations recognizes no such principle in regard to unappropriated territory as those embraced in this Treaty; and the British Plenipotentiary must fail in the attempt to prove that it contains "an admission of certain principles of international law," which will survive the shock of war.

But the British Plenipotentiary contends that, from the silence of Spain during the negotiations of 1818 between Great Britain and the United States, respecting the Oregon Territory, as well as from her silence with respect to the continued occupation by the British of their settlements in the Columbia Territory subsequently to the Convention of 1814, "it may fairly be inferred that Spain considered the stipulations of the Nootka Convention, and the principles therein laid down, to be still in force."

The Undersigned cannot imagine a case where the obligations of a treaty, once extinguished by war, can be revived without a positive agreement to this effect between the parties. Even if both parties, after the conclusion of peace, should perform positive and unequivocal acts, in accordance with its provisions, these must be construed as merely voluntary, to be discontinued by either at pleasure. But in the present case, it is not even pretended that Spain performed any act in accordance with the Convention of Nootka Sound, after her Treaty with Great Britain of 1814. Her mere silence is relied upon to revive that Convention.

The Undersigned asserts confidently, that neither by public nor private law, will the mere silence of one party, whilst another is encroaching upon his rights, even if he had knowledge of this encroachment, deprive him of these rights. If this principle be correct as applied to individuals, it holds with much greater force in regard to nations. The feeble may not be in a condition to complain against the powerful; and thus the encroachment of the strong would convert itself into a perfect title against the weak.

In the present case, it was scarcely possible for Spain even to have learned the pendency of negotiations between the United States and Great Britain in relation to the North-West Coast of America, before she had ceded all her rights on that coast to the former by the Florida Treaty of 22nd February 1819. The Convention of joint occupancy between the United States and Great Britain, was not signed at London until the 20th October 1818, but four months previous to the date of the Florida Treaty; and the ratifications were not exchanged, and the Convention published, until the 30th of January 1819.

Besides, the negotiations which terminated in the Florida Treaty, had been commenced as early as December 1815, and were in full progress on the 20th October 1818, when the Convention was signed between Great Britain and the United States. It does not appear, therefore, that Spain had any knowledge of the existence of these negotiations; and even if this were otherwise, she would have had no motive to complain, as she was in the very act of transferring all her rights to the United States.

But, says the British Plenipotentiary, Spain looked in silence on the continued occupation by the British of their settlements in the Columbia Territory subsequently to the Convention of 1814; and therefore she considered the Nootka Sound Convention to be still in force. The period of this silence, so far as it could affect Spain, commenced on the 28th day of August, 1814, the date of the Additional Articles of the Treaty of Madrid, and terminated on the 22nd February, 1819, the date of the Florida Treaty. Is there the least reason, from this silence, to infer an admission by Spain of the continued existence of the Nootka Sound Convention? In the first place, this Convention was entirely confined "to landing on the coasts of those seas, in places not already occupied for the purpose of carrying on their commerce with the natives of the country, or of making settlements there." It did not extend to the interior. At the date of this Convention, no person dreamed that British traders from Canada or Hudson's Bay would cross the Rocky Mountains, and encroach on the rights of Spain from that quarter. Great Britain had never made any settlement on the North-Western Coast of America from the date of the Nootka Sound Convention until the 22nd February, 1819; nor, so far as the Undersigned is informed, has she done so down to the present moment. Spain could not, therefore, have complained of any such settlement. In regard to the encroachments which had been made from the interior by the North-West Company, neither Spain nor the rest of the world had any specific knowledge of their existence. But even if the British Plenipotentiary had brought such knowledge home to her, which he has not attempted, she had been exhausted by one long and bloody war, and was then engaged in another with her colonies, and was besides negotiating for a transfer of all her rights on the North-Western Coast of America to the United States. Surely these were sufficient reasons for her silence, without inferring from it that she acquiesced in the continued existence of the Nootka Convention. If Spain had entertained the least idea that the Nootka Convention was still in force, her good faith and her national honour would have caused her to communicate this fact to the United States before she had ceded this territory to them for an ample consideration: not the least intimation of the kind was ever communicated.

Like Great Britain in 1818, Spain in 1819 had no idea that the Nootka Sound Convention was still in force. It had then passed away and was forgotten.

The British Plenipotentiary alleges that the reason why Great Britain did not assert the existence of the Nootka Convention during the negotiations between the two Governments in 1818, was, that no occasion had arisen for its interposition, the American Government not having then acquired the title of Spain. It is very true that the United States had not then acquired the Spanish title; but is it possible to imagine that throughout the whole negotiation, the British Commissioners, had they supposed this Convention to have been in existence, would have remained entirely silent in regard to a treaty which, as Great Britain now alleges, gave her equal and co-ordinate rights with Spain to the whole North-West

Coast of America? At that period Great Britain confined her claims to those arising from discovery and purchase from the Indians. How vastly she could have strengthened these claims, had she then supposed the Nootka Convention to be in force, with her present construction of its provisions. Even in 1824, it was first introduced into the negotiation, not by her Commissioners, but by Mr. Rush, the American Plenipotentiary.

But the British Plenipotentiary argues that the United States "can found no claim on discovery, exploration, and settlement, effected previously to the Florida Treaty, without admitting the principles of the Nootka Convention;" "nor can they appeal to any exclusive right as acquired by the Florida Treaty, without upsetting all claims adduced in their own proper right, by reason of discovery, exploration, and settlement antecedent to that arrangement."

This is a most ingenious method of making two distinct and independent titles held by the same nation, worse than one; of arraying them against each other, and thus destroying the validity of both. Does he forget that the United States own both these titles, and can wield them either separately or conjointly against the claim of Great Britain at their pleasure? From the course of his remarks it might be supposed that Great Britain, and not the United States, had acquired the Spanish title under the Florida Treaty. But Great Britain is a third party, an entire stranger to both these titles, and has no right whatever to marshal the one against the other.

By what authority can Great Britain interpose in this manner? Was it ever imagined in any court of justice, that the acquisition of a new title destroyed the old one, and *vice versâ*, that the purchase of the old title destroyed the new one? In a question of mere private right, it would be considered absurd if a stranger to both titles should say to the party who had made a settlement, you shall not avail yourself of your possession, because this was taken in violation of another outstanding title; and although I must admit that you have also acquired this outstanding title, yet even this shall avail you nothing; because having taken possession previously to your purchase, you thereby evinced that you did not regard such title as valid. And yet such is the mode by which the British Plenipotentiary has attempted to destroy both the American and Spanish title. On the contrary, in the case mentioned, the possession and the outstanding title being united in the same individual, these conjoined would be as perfect as if both had been vested in him from the beginning.

The Undersigned, while strongly asserting both these titles, and believing each of them separately to be good as against Great Britain, has studiously avoided instituting any comparison between them. But admitting, for the sake of argument merely, that the discovery by Captain Gray of the mouth of the Columbia, its exploration by Lewis and Clarke, and the settlement upon its banks at Astoria, were encroachments on Spain, she, and she alone, had a right to complain; Great Britain was a third party, and as such had no right to interfere in the question between Spain and the United States. But Spain, instead of complaining of these acts as encroachments, on the 25th February 1819, by the Florida Treaty, transferred her whole title to the United States. From that moment all possible conflict between the two titles was ended, both being united in the same party. Two titles which might have conflicted theretofore, were thus blended together. The title now vested in the United States is just as strong as though every act of discovery, exploration, and settlement, on the part of both Powers, had been performed by Spain alone, before she had transferred all her rights to the United States. The two Powers are one in this respect; the two titles are one, and, as the Undersigned will show hereafter, they serve to confirm and strengthen each other. If Great Britain, instead of the United States, had acquired the title of Spain, she might have contended that these acts of the United States were encroachments; but standing in the attitude of a stranger to both titles, she has no right to interfere in the matter.

The Undersigned deems it unnecessary to pursue this branch of the subject further than to state, that the United States, before they had

acquired the title of Spain, always treated that title with respect. In the negotiation of 1818 the American Plenipotentiaries did not assert that the United States had a perfect right to that country; but insisted that their claim was at least good against Great Britain; and the Convention of October 20 1818, unlike that of Nootka Sound, "reserved the claims of any other Power or State to any part of the said country." This reservation could have been intended for Spain alone. But ever since the United States acquired the Spanish title, they have always asserted and maintained their right, in the strongest terms, up to the Russian line, even whilst offering, for the sake of harmony and peace, to divide the territory in dispute by the 49th parallel of latitude.

The British Plenipotentiary, then, has entirely failed to sustain his position that the United States can found no claim on discovery, exploration, and settlement, without admitting the principle of the Nootka Convention. That Convention died on the commencement of the war between Spain and England in 1796, and has never since been revived.

The British Plenipotentiary endeavours to prove that "even if the Nootka Sound Convention had never existed, the position of Great Britain in regard to her claim, whether to the whole or to any particular portion of the Oregon Territory, is at least as good as that of the United States." In order to establish this position, he must show that the British claim is equal in validity to the titles both of Spain and the United States. These can never now be separated. They are one and the same. Different and diverging as they may have been before the Florida Treaty, they are now blended together and identified. The separate discoveries, explorations, and settlements of the two Powers previous to that date, must now be considered as if they had all been made by the United States alone. Under this palpable view of the subject, the Undersigned was surprised to find that, in the comparison and contrast instituted by the British Plenipotentiary between the claim of Great Britain and that of the United States, he had entirely omitted to refer to the discoveries, explorations, and settlements made by Spain. The Undersigned will endeavour to supply the omission.

But before he proceeds to the main argument on this point, he feels himself constrained to express his surprise that the British Plenipotentiary should again have invoked, in support of the British title, the inconsistency between the Spanish and American branches of the title of the United States; the Undersigned cannot forbear to congratulate himself upon the fact that a gentleman of Mr. Pakenham's acknowledged ability has been reduced to the necessity of relying chiefly upon such a support for sustaining the British pretensions. Stated in brief, the argument is this:—the American title is not good against Great Britain, because inconsistent with that of Spain; and the Spanish title is not good against Great Britain, because inconsistent with that of the United States. The Undersigned had expected something far different from such an argument in a circle. He had anticipated that the British Plenipotentiary would have attempted to prove that Spain had no right to the North-Western Coast of America; that it was vacant and unappropriated, and hence, under the law of nations, was open to discovery, exploration and settlement by all nations. But no such thing. On this vital point of his case he rests his argument solely on the declaration made by the Undersigned, that the title of the United States to the Valley of the Columbia was perfect and complete before the Treaties of joint occupation of October 1818, and August 1827, and before the date of the Florida Treaty in 1819. But the British Plenipotentiary ought to recollect that this title was asserted to be complete, not against Spain, but against Great Britain; that the argument was conducted not against a Spanish, but a British Plenipotentiary; and that the United States, and not Great Britain, represent the Spanish title. And further, that the statement from which he extracts these declarations, was almost exclusively devoted to prove, in the language quoted by the British Plenipotentiary himself, "that Spain had a good title, as against Great Britain, to the whole of the Oregon Territory." The Undersigned has never, as he before observed, instituted any comparison between the American and the Spanish title. Holding both,

having a perfect right to rely upon both, whether jointly or separately, he has strongly asserted each of them in their turn, fully persuaded that either the one or the other is good against Great Britain, and that no human ingenuity can make the Spanish title, now vested in the United States, worse than it would have been had it remained in the hands of Spain.

Briefly to illustrate and enforce this title, shall be the remaining task of the Undersigned. And in the first place he cannot but commend the frankness and candour of the British Plenipotentiary in departing from the course of his predecessors, and rejecting all discoveries previous to those of Captain Cook, in the year 1778, as foundations of British title. Commencing with discovery at a period so late, the Spanish title, on the score of antiquity, presents a strong contrast to that of Great Britain. The Undersigned has stated, as an historical and striking fact which must have an important bearing against the claim of Great Britain, that this Convention (the Nootka), which was dictated by her to Spain, contains no provision impairing the ultimate sovereignty which that Power had asserted for nearly three centuries over the whole western side of North America as far north as the 61st degree of latitude, and which had never been seriously questioned by any European nation. This had been maintained by Spain with the most vigilant jealousy ever since the discovery of the American Continent, and had been acquiesced in by all European Governments. It had been admitted, even beyond the latitude of 54° 40′ north, by Russia, then the only Power having claims which could come in collision with Spain, and that too under a Sovereign peculiarly tenacious of the territorial rights of her empire. These historical facts had not been, as they could not be, controverted by the British Plenipotentiary, although they were brought under his particular observation, and were even quoted by him with approbation, for the purpose of showing the inconsistency of the several titles held by the United States. In the language of Count Fernan de Nuñez, the Spanish Ambassador at Paris, to M. de Montmorin, the Secretary of the Foreign Department of France, under date of 16th June 1790, "By the treaties, demarcation, takings of possession, and the most decided acts of sovereignty exercised by the Spaniards in these stations, from the reign of Charles II, and authorized by that Monarch in 1792, the original vouchers for which shall be brought forward in the course of the negotiation, all the coast to the north of the Western America on the side of the South Sea, as far as beyond what is called Prince William's Sound, which is in the 61st degree, is acknowledged to belong exclusively to Spain."

Compared with this ancient claim of Spain, acquiesced in by all European nations for centuries, the claim of Great Britain, founded on discoveries commenced at so late a period as the year 1778, must make an unfavourable first impression.

Spain considered the North-Western Coast of America as exclusively her own. She did not send out expeditions to explore that coast for the purpose of rendering her title more valid. When it suited her own convenience, or promoted her own interest, she fitted out such expeditions of discovery, to ascertain the character and extent of her own territory. And yet her discoveries along that coast are far earlier than those of the British.

That Juan de Fuca, a Greek in the service of Spain, in 1592, discovered and sailed through the strait now bearing its name, from its southern to its northern extremity, and thence returned through the same passage, no longer admits of reasonable doubt. An account of this voyage was published in London in 1625, in a work called "The Pilgrims" by Samuel Purchas. This account was received from the lips of Fuca himself at Venice in April 1596, by Michael Lock, a highly respectable English merchant.

During a long period this voyage was deemed fabulous, because subsequent navigators had in vain attempted to find these straits. Finally, after they had been found, it was discovered that the description of De Fuca corresponded so accurately with their geography and the facts presented by nature upon the ground, it was no longer possible to consider

his narrative as fabulous. It is true that the opening of the straits upon the south lies between the 48th and 49th parallels of latitude, and not between the 47 and 48th parallels, as he had supposed; but this mistake may be easily explained by the inaccuracy so common throughout the 16th century, in ascertaining the latitude of places in newly-discovered countries.

It is also true that De Fuca, after passing through the straits, supposed he had reached the Atlantic, and had discovered the passage, so long and so anxiously sought after, between the two oceans; but from the total ignorance and misapprehension which prevailed at that early day of the geography of this portion of North America, it was natural for him to believe that he had made this important discovery.

Justice has at length been done to his memory; and these straits which he discovered will in all future time bear his name. Thus the merit of the discovery of the Straits of Fuca belongs to Spain, and this nearly two centuries before they had been entered by Captain Berkeley, under the Austrian flag.

It is unnecessary to detail the discoveries of the Spaniards, as they regularly advanced to the north from their settlements on the western coasts of North America, until we reach the voyage of Captain Juan Perez in 1774. That navigator was commissioned by the Vice-Roy of Mexico to proceed, in the corvette "Santiago," to the 60th degree of north latitude, and from that point to examine the coast down to Mexico. He sailed from San Blas on the 25th January 1774. In the performance of this commission, he landed first on the north-west coast of Queen Charlotte's Island, near the 54th degree of north latitude, and thence proceeded south along the shore of that island and of the great Island of Quadra and Vancouver, and then along the coasts of the continent, until he reached Monterey. He went on shore, and held intercourse with the natives at several places, and especially at the entrance of a bay in latitude 49½ degrees, which he called Port San Lorenzo, the same now known by the name of Nootka Sound. In addition to the journals of this voyage, which render the fact incontestable, we have the high authority of Baron Humboldt in its favour. That distinguished traveller, who had access to the manuscript documents in the city of Mexico, states, that "Perez and his pilot Estevan Martinez, left the port of San Blas on the 24th January 1774. On the 9th August, they anchored, the first of all European navigators, in Nootka Road, which they called the port of San Lorenzo, and which the illustrious Cook, four years afterwards, called King George's Sound."

In the next year, 1775, the Vice-Roy of Mexico again fitted out the "Santiago," under the command of Bruno Heceta, with Perez her former commander, as Ensign; and also a schooner called the "Señora," commanded by Juan Francisco de la Bodega y Quadra. These vessels were commissioned to examine the North-Western Coast of America as far as the 65th degree of latitude, and sailed in company from San Blas on the 15th March 1775.

It is unnecessary to enumerate the different places on the coast examined by these navigators, either in company or separately. Suffice it to say, that they landed at many places on the coast from the 41st to the 57th degree of latitude; on all of which occasions they took possession of the country in the name of their Sovereign, according to a prescribed regulation, celebrating mass, reading declarations asserting the right of Spain to the territory, and erecting crosses with inscriptions to commemorate the event. Some of these crosses were afterwards found standing by British navigators. In relation to these voyages, Baron Humboldt says, "In the following year" (1775 after that of Perez) "a second expedition set out from San Blas, under the command of Heceta, Agala, and Quadra; Heceta discovered the mouth of the Rio Columbia, called it the Entrada de Heceta, the Pic of San Jacinto (Mount Edgecumbe) near Norfolk Bay, and the fine port of Bucareli. I possess two very curious small maps engraved in 1788 in the city of Mexico, which give the bearings of the coast from the 27th to the 58th degree of latitude as they were discovered in the expedition of Quadra."

In the face of these incontestable facts, the British Plenipotentiary says, that "Captain Cook must also be considered the discoverer of Nootka Sound, in consequence of the want of authenticity in the alleged previous discovery of that port by Perez." And yet Cook did not even sail from England until the 12th July, 1776, nearly two years after Perez had made this discovery. The chief object of Cook's voyage was the discovery of a north-west passage, and he never landed at any point of the continent south of Nootka Sound. It is true that in coasting along the continent, before he reached this place, he had observed Cape Flattery, but he was entirely ignorant that this was the southern entrance of the Sound of Fuca. In his journal he admits that he had heard some account of the Spanish voyages of 1774 and 1775 before he left England; and it is beyond question that before his departure accounts of the voyage of Quadra had been published both in Madrid and London. From Nootka Sound Cook did not again see land until he reached the 57th degree of north latitude.

In 1787, it is alleged by the British Plenipotentiary, that Captain Berkeley, a British subject, discovered the Straits of Fuca; but these Straits had been discovered by Juan de Fuca nearly two centuries before. Besides, if there had been any merit in this discovery of Captain Berkeley, it would have belonged to Austria, in whose service he was and under whose colours he sailed, and cannot be appropriated by Great Britain.

And here it is worthy of remark, that these discoveries of Cook and Berkeley in 1778 and 1787 are all those on which the British Plenipotentiary relies, previous to the date of the Nootka Sound Convention in October 1790, to defeat the ancient Spanish title to the North-West Coast of America.

The Undersigned will now take a position which cannot, in his opinion, be successfully assailed, and this is, that no discovery, exploration, or settlement, made by Great Britain on the North-West Coast of America, after the date of the Nootka Sound Convention, and before it was terminated by the war of 1796, can be invoked by that Power, in favour of her own title or against the title of Spain. Even according to the British construction of that Convention, the sovereignty over the territory was to remain in abeyance during its continuance, as well in regard to Great Britain as to Spain. It would therefore have been an open violation of faith on the part of Great Britain, after having secured the privileges conferred upon her by the Convention, to turn round against her partner, and perform any acts calculated to divest Spain of her ultimate sovereignty over any portion of the coast. The palpable meaning of the Convention was, that during its continuance, the rights of the respective parties, whatever they may have been, should remain just as they had existed at its commencement.

The Government of Great Britain is not justly chargeable with any such breach of faith. Captain Vancouver acted without instructions in attempting to take possession of the whole North-Western Coast of America in the name of his Sovereign. This officer, sent out from England to execute the Convention, did not carry with him any authority to violate it in this outrageous manner.

Without this Treaty he would have been a mere intruder. Under it Great Britain had a right to make discoveries and surveys, not thereby to acquire a title, but merely to enable her subjects to select spots the most advantageous, to use the language of the Convention, "for the purpose of carrying on commerce with the natives of the country, or of making settlements there."

If this construction of the Nootka Sound Convention be correct, and the Undersigned does not perceive how it can be questioned, then Vancouver's passage through the Straits of Fuca in 1792, and Alexander Mackenzie's journey across the continent in 1793, can never be transformed into elements of title in favour of Great Britain.

But even if the Undersigned could be mistaken in these positions, it would be easy to prove that Captain John Kendrick, in the American sloop "Washington," passed through the Straits of Fuca in 1789, three years before Captain Vancouver performed the same voyage. The very

instructions to the latter before he left England in January 1791, refer to this fact which had been communicated to the British Government by Lieutenant Meares, who has rendered his name so notorious by its connexion with the transactions preceding the Nootka Sound Convention. It is, moreover, well known, that the whole southern division of the Straits had been explored by the Spanish navigators Elisa and Quimpa; the first in 1790, and the latter in 1791.

After what has been said, it will be perceived how little reason the British Plenipotentiary has for stating that his Government has, "as far as relates to Vancouver's Island, as complete a case of discovery, exploration and settlement, as can well be presented, giving to Great Britain in any arrangement that may be made with regard to the territory in dispute, the strongest possible claim to the exclusive possession of that island."

The discovery thus relied upon is that of Nootka Sound by Cook in 1778, when it has been demonstrated that this port was first discovered by Perez in 1774. The exploration is that by Vancouver in passing through the Strait of Fuca in 1792, and examining the coasts of the territory in dispute, when De Fuca himself had passed through these straits in 1592, and Kendrick again in 1789, and a complete examination of the Western Coast had been made in 1774 and 1775, both by Perez and Quadra. As to possession, if Meares was ever actually restored to his possessions at Nootka Sound, whatever these may have been, the Undersigned has never seen any evidence of the fact. It is not to be found in the journal of Vancouver, although this officer was sent from England for the avowed purpose of witnessing such a restoration. The Undersigned knows not whether any new understanding took place between the British and Spanish Governments on this subject; but one fact is placed beyond all doubt, that the Spaniards continued in the undisturbed possession of Nootka Sound until the year 1795, when they voluntarily abandoned the place. Great Britain has never at any time since occupied this or any other position on Vancouver's Island. Thus, on the score either of discovery, exploration, or possession, this island seems to be the very last portion of the territory in dispute to which she can assert a just claim.

In the mean time the United States were proceeding with the discoveries which served to complete and confirm the Spanish-American title to the whole of the disputed territory. Captain Robert Gray, in June 1789, in the sloop "Washington," first explored the whole eastern coast of Queen Charlotte's Island. In the autumn of the same year, Captain John Kendrick, having in the mean time surrendered the command of the "Columbia" to Captain Gray, sailed, as has been already stated, in the sloop "Washington," entirely through the Straits of Fuca.

In 1791, Captain Gray returned to the North Pacific in the "Columbia," and in the summer of that year examined many of the inlets and passages between the 54th and 56th degrees of latitude, which the Undersigned considers it unnecessary to specify. On the 7th May 1792, he discovered and entered Bulfinch's Harbour, where he remained at anchor three days, trading with the Indians.

On the 11th May 1792, Captain Gray entered the mouth of the Columbia, and completed the discovery of that great river. This river had been long sought in vain by former navigators. Both Meares and Vancouver, after examination, had denied its existence. Thus is the world indebted to the enterprise, perseverance, and intelligence of an American Captain of a trading vessel for their first knowledge of this, the greatest river on the Western Coast of America; a river whose head-springs flow from the gorges of the Rocky Mountains, and whose branches extend from the 42nd to the 53rd parallels of latitude. This was the last and most important discovery on the coast, and has perpetuated the name of Robert Gray. In all future time this great river will bear the name of his vessel.

It is true that Bruno Heceta, in 1775, had been opposite the bay of the Columbia, and the currents and eddies of the water caused him, as

he remarks, to believe that this was "the mouth of some great river, or of some passage to another sea:" and his opinion seems decidedly to have been, that this was the opening of the strait discovered by Juan de Fuca in 1592. To use his own language, "Notwithstanding the great difference between the position of this bay and the passage mentioned by De Fuca, I have little difficulty in conceiving that they may be the same, having observed equal or greater differences in the latitude of other capes and ports on this coast, as I shall show at its proper time; and in all cases the latitudes thus assigned are higher than the real ones."

Heceta, from his own declaration, had never entered the Columbia, and he was in doubt whether the opening was the mouth of a river or an arm of the sea; and subsequent examinations of the coast by other navigators had rendered the opinion universal that no such river existed, when Gray first bore the American flag across its bar, sailed up it channel for twenty-five miles, and remained in the river nine days trading with the Indians.

The British Plenipotentiary attempts to depreciate the value to the United States of Gray's discovery, because his ship the "Columbia," was a trading and not a national vessel. As he furnishes no reason for this distinction, the Undersigned will confine himself to the remark, that a merchant-vessel bears the flag of her country at her mast-head, and continues under its jurisdiction and protection in the same manner as though she had been commissioned for the express purpose of making discoveries. Besides, beyond all doubt, this discovery was made by Gray; and to what nation could the benefit of it belong, unless it be to the United States? Certainly not to Great Britain; and if to Spain, the United States are now her representative.

Nor does the Undersigned perceive in what manner the value of this great discovery can be lessened by the fact that it was first published to the world through the journal of Captain Vancouver, a British authority. On the contrary, its authenticity being thus acknowledged by the party having an adverse interest, is more firmly established than if it had been first published in the United States.

From a careful examination and review of the subject, the Undersigned ventures the assertion, that to Spain belongs all the merit of the discovery of the North-West Coast of America south of the Russian line, not a spot on which, unless it may have been the shores of some interior bays and inlets, after the entrance to them had been known, was ever beheld by British subjects, until after it had been seen or touched by a Spaniard or an American. Spain proceeded on this work of discovery not as a means of acquiring title, but for the purpose of examining and surveying territory to which she believed she had an incontestable right. Her title had been sanctioned for centuries by the acknowledgment or acquiescence of all the European Powers. The United States alone could have disputed this title, and that only to the extent of the region watered by the Columbia. The Spanish and American titles, now united by the Florida Treaty, cannot be justly resisted by Great Britain. Considered together, they constituted a perfect title to the whole territory in dispute ever since the 11th May 1792, when Captain Gray passed the bar at the mouth of the Columbia, which he had observed in August 1788.

The Undersigned will now proceed to show that this title of the United States, at least to the possession of the territory at the mouth of the Columbia, has been acknowledged by the most solemn and unequivocal acts of the British Government.

After the purchase of Louisiana from France, the Government of the United States fitted out an expedition under Messrs. Lewis and Clarke, who in 1805 first explored the Columbia from its sources to its mouth, preparatory to the occupation of the territory by the United States.

In 1811 the settlement at Astoria was made by the Americans near the mouth of the river, and several other posts were established in the interior along its banks. The war of 1812 between Great Britain and the United States, thus found the latter in peaceable possession of that region. Astoria was captured by Great Britain during the war. The Treaty of Peace concluded at Ghent in December 1814, provided that

"all territory, places, and possessions whatsoever, taken by either party from the other during the war," &c., "shall be restored without delay." In obedience to the provisions of this Treaty, Great Britain restored Astoria to the United States, and thus admitted, in the most solemn manner, not only that it had been an American territory or possession at the commencement of the war, but that it had been captured by British arms during its continuance. It is now too late to gainsay or explain away these facts. Both the Treaty of Ghent and the Acts of the British Government under it, disprove the allegations of the British Plenipotentiary, that Astoria passed "into British hands by the voluntary act of the persons in charge of it;" and "that it was restored to the United States in 1818, with certain well-authenticated reservations."

In reply to the first of these allegations, it is true that the Agents of the (American) Pacific Fur Company, before the capture of Astoria, on the 16th of October 1813, had transferred all that they could transfer, the private property of the company, to the (British) North-West Company; but it will scarcely be contended that such an arrangement could impair the sovereign rights of the United States to the territory. Accordingly, the American flag was still kept flying over the fort until the 1st December 1813, when it was captured by His Majesty's sloop of war "Racoon," and the British flag was then substituted.

That it was not restored to the United States, "with certain well-authenticated reservations," fully appears from the act of restoration itself, bearing date 6th October 1818. This is as absolute and unconditional as the English language can make it. That this was according to the intention of Lord Castlereagh, clearly appears from his previous admission to Mr. Rush of the right of the Americans to be reinstated, and to be the party in possession while treating on the title. If British Ministers, afterwards, in despatches to their own agents, the contents of which were not communicated to the Government of the United States, thought proper to protest against our title, these were in effect but mere mental reservations, which could not affect the validity of their own solemn and unconditional act of restoration.

But the British Plenipotentiary, notwithstanding the American discovery of the Columbia by Captain Gray, and the exploration of Lewis and Clarke of several of its branches from their sources in the Rocky Mountains, as well as its main channel to the Ocean, contends, that because Thompson, a British subject in the employment of the North-West Company, was the first who navigated the northern branch of that river, the British Government thereby acquired certain rights against the United States, the extent of which he does not undertake to specify. In other words, that after one nation has discovered and explored a great river and several of its tributaries, and made settlements on its banks, another nation, if it could find a single branch on its head waters which had not been actually explored, might appropriate to itself this branch together with the adjacent territory. If this could have been done, it would have produced perpetual strife and collision among the nations after the discovery of America. It would have violated the wise principle consecrated by the practice of nations, which gave the valley drained by a river and its branches to the nation which had first discovered and appropriated its mouth.

But, for another reason, this alleged discovery of Thompson has no merits whatever. This journey was undertaken on behalf of the North West Company, for the mere purpose of anticipating the United States in the occupation of the mouth of the Columbia; a territory to which no nation, unless it may have been Spain, could, with any show of justice, dispute their right. They had acquired it by discovery and by exploration, and were now in the act of taking possession. It was in an enterprise undertaken for such a purpose, that Thompson, in hastening from Canada to the mouth of the Columbia, descended the north, arbitrarily assumed by Great Britain to be the main, branch of this river. The period was far too late to impair the title of either Spain or the United States by any such proceeding.

Mr. Thompson, on his return, was accompanied by a party from

Astoria, under Mr. David Stuart, who established a post at the confluence of the Okinagan with the north branch of the Columbia, about 600 miles above the mouth of the latter.

In the next year, 1812, a second trading post was established by a party from Astoria, on the Spokan, about 650 miles from the Ocean.

It thus appears, that previous to the capture of Astoria by the British, the Americans had extended their possessions up the Columbia 650 miles. The mere intrusion of the North-Western Company into this territory, and the establishment of two or three trading posts in 1811 and 1812, on the head waters of the river, can surely not interfere with or impair the Spanish-American title. What this Company may have done in the intermediate period until the 20th October 1818, the date of the first treaty of joint occupation, is unknown to the Undersigned, from the impenetrable mystery in which they have veiled their proceedings. After the date of this Treaty, neither Great Britain nor the United States could have performed any act affecting their claims to the disputed territory.

To sum up the whole, then, Great Britain cannot rest her claims to the North-West Coast of America upon discovery. As little will her single claim by settlement at Nootka Sound avail her. Even Belsham, her own historian, forty years ago declared it to be certain, from the most authentic information, "that the Spanish flag flying at Nootka was never struck, and that the territory had been virtually relinquished by Great Britain."

The agents of the North-West Company penetrating the continent from Canada in 1806, established their first trading post west of the Rocky Mountains, at Fraser's Lake in the 54th degree of latitude, and this with the trading post established by Thompson, to which the Undersigned has just adverted, and possibly some others afterwards, previous to October 1818, constitutes the claim of Great Britain by actual settlement.

Even British geographers have not doubted our title to the territory in dispute. There is a large and splendid globe now in the Department of State, recently received from London and published by Malby and Company, manufacturers and publishers to the Society for the Diffusion of Useful Knowledge, which assigns this territory to the United States.

Upon the whole, from the most careful and ample examination which the Undersigned has been able to bestow upon the subject, he is satisfied that the Spanish-American title now held by the United States, embracing the whole territory between the parallels of 42° and 54° 40′, is the best in existence to this entire region, and that the claim of Great Britain to any portion of it has no sufficient foundation.

Notwithstanding such was, and still is, the opinion of the President, yet, in the spirit of compromise and concession, and in deference to the action of his predecessors, the Undersigned, in obedience to his instructions, proposed to the British Plenipotentiary to settle the controversy by dividing the teritory in dispute by the 49th parallel of latitude, offering at the same time to make free to Great Britain, any port or ports on Vancouver's Island south of this latitude which the British Government might desire. The British Plenipotentiary has correctly suggested that the free navigation of the Columbia River was not embraced in this proposal to Great Britain; but, on the other hand, the use of free ports on the southern extremity of this island had not been included in former offers.

Such a proposition as that which has been made, never would have been authorized by the President had this been a new question.

Upon his accession to office he found the present negotiation pending. It had been instituted in the spirit and upon the principle of compromise. Its object was, as avowed by the negotiators, not to demand the whole territory in dispute for either country; but, in the language of the first protocol, "to treat of the respective claims of the two countries to the Oregon Territory, with the view to establish a permanent boundary between them westward of the Rocky Mountains to the Pacific Ocean."

Placed in this position, and considering that Presidents Monroe and

Adams had, on former occasions, offered to divide the territory in dispute by extending the 49th parallel of latitude to the Pacific Ocean, he felt it to be his duty not abruptly to arrest the negotiation, but so far to yield his own opinion as once more to make a similar offer.

Not only respect for the conduct of his predecessors, but a sincere and anxious desire to promote peace and harmony between the two countries, influenced him to pursue this course. The Oregon Question presents the only cloud which intercepts the prospect of a long career of mutual friendship and beneficial commerce between the two nations, and this cloud he desired to remove.

These are the reasons which actuated the President to offer a proposition so liberal to Great Britain.

And how has the proposition been received by the British Plenipotentiary? It has been rejected, without even a reference to his own Government. Nay more, the British Plenipotentiary, to use his own language, "trusts that the American Plenipotentiary will be prepared to offer some further proposal for the settlement of the Oregon Question, more consistent with fairness and equity, and with the reasonable expectations of the British Government."

Under such circumstances, the Undersigned is instructed by the President to say, that he owes it to his own country, and a just appreciation of her title to the Oregon Territory, to withdraw this proposition to the British Government, which had been made under his direction, and it is hereby accordingly withdrawn.

In taking this necessary step, the President still cherishes the hope that this long-pending controversy may yet be finally adjusted in such a manner as not to disturb the peace or interrupt the harmony now so happily subsisting between the countries.

The Undersigned, &c.,

(Signed) JAMES BUCHANAN.

No. 30.

The Earl of Aberdeen to Mr. Pakenham.

(Extract.) *Foreign Office, November* 28, 1845.

UNLESS Mr. Buchanan should be disposed to renew his late proposition, which is greatly to be desired, there remains for us but one course to pursue, and that is, to urge again in pressing terms the expediency of a reference of the whole case to the arbitration of some friendly Sovereign or State.

In the present temper of the public mind in the United States, it appears to Her Majesty's Government, that a resort to arbitration is the most prudent, and perhaps the only feasible, step which both Governments could take, and the best calculated to allay the existing effervescence of popular feelings which might otherwise expose both nations to the hazard of a rupture upon a point which, however its importance may be magnified by national pride or popular passion on both sides, is in reality but of comparatively small public value or interest to either party; and certainly not one upon which wise and patriotic Governments would wish to stake the peace and happiness of their people.

It is probable that you may have already taken this step; but if you should not yet have done so, I have to desire that you will present without delay to the United States' Government an official note proposing a reference of the whole question of an equitable division of the territory to the arbitration of some friendly Sovereign or State. In that note you will not fail to express the deep regret which is felt by Her Majesty's Government at the failure of all their efforts to effect a friendly settlement of the conflicting claims by direct negotiation between the two Governments. Her Majesty's Government are still persuaded that great advantages

would have resulted to both parties from such a mode of settlement, had it been practicable; and they rejoice that they cannot charge themselves with having caused its failure. The proposal which you are now instructed to make, is a proof of our confidence in the justice of our own claims; but it is a proof also of our readiness to incur the risk of a great sacrifice, for the preservation of peace and of our friendly relations with the United States. It is made in a spirit of moderation and fairness of which the world will judge. Should the Government of the United States reject this proposal, and at the same time virtually refuse to settle our differences by means of direct negotiation, in a matter which cannot be said to affect the honour or the essential interests of either party, they will render themselves deeply responsible. Be the consequences what they may, Her Majesty's Government will have no choice but to maintain unimpaired those rights which they believe Great Britain to possess, and which they had in vain sought to make the subject of equitable compromise.

No. 31.

Mr. Pakenham to the Earl of Aberdeen.—(Received December 29.)

My Lord, *Washington, December* 2, 1845.

I HAVE the honour herewith to transmit copies of the President's message to Congress communicated this day.

I have, &c.,
(Signed) PAKENHAM.

Inclosure in No. 31.

Extract from the President's Message of December 2, 1845.

MY attention was early directed to the negotiation which, on the 4th of March last, I found pending at Washington between the United States and Great Britain, on the subject of the Oregon Territory. Three several attempts had been previously made to settle the questions in dispute between the two countries by negotiation upon the principle of compromise; but each had proved unsuccessful.

These negotiations took place at London, in the years 1818, 1824, and 1826; the two first under the administration of Mr. Monroe, and the last under that of Mr. Adams. The negotiation of 1818 having failed to accomplish its object, resulted in the Convention of the 20th of October of that year. By the Third Article of that Convention, it was agreed, "that any country that may be claimed by either party on the north-west coast of America, westward of the Stony Mountains, shall, together with its harbours, bays, and creeks, and the navigation of all rivers within the same, be free and open for the term of ten years from the date of the signature of the present Convention, to the vessels, citizens, and subjects of the two Powers; it being well understood that this agreement is not to be construed to the prejudice of any claim which either of the two High Contracting Parties may have to any part of the said country; nor shall it be taken to affect the claims of any other Power or State to any part of the said country; the only object of the High Contracting Parties in that respect being, to prevent disputes and differences among themselves."

The negotiation of 1824 was productive of no result, and the Convention of 1818 was left unchanged.

The negotiation of 1826 having also failed to effect an adjustment by

compromise, resulted in the Convention of August the 6th 1827, by which it was agreed to continue in force, for an indefinite period, the provisions of the Third Article of the Convention of the 20th of October 1818; and it was further provided, that "it shall be competent, however, to either of the Contracting Parties, in case either should think fit, at any time after the 20th day of October 1828, on giving due notice of twelve months to the other Contracting Party, to annul and abrogate this Convention; and it shall, in such case, be accordingly entirely annulled and abrogated, after the expiration of the said term of notice." In these attempts to adjust the controversy, the parallel of the 49th degree of north latitude had been offered by the United States to Great Britain, and in those of 1818 and 1826, with a further concession of the free navigation of the Columbia River south of that latitude. The parallel of the 49th degree, from the Rocky Mountains to its intersection with the north-easternmost branch of the Columbia, and thence down the channel of that river to the sea, had been offered by Great Britain, with an addition of a small detached territory north of the Columbia. Each of these propositions had been rejected by the parties respectively.

In October 1843, the Envoy Extraordinary and Minister Plenipotentiary of the United States in London was authorized to make a similar offer to those made in 1818 and 1826. Thus stood the question, when the negotiation was shortly afterwards transferred to Washington; and on the 23rd of August 1844, was formally opened, under the direction of my immediate predecessor. Like all the previous negotiations, it was based upon principles of "compromise;" and the avowed purpose of the parties was, "to treat of the respective claims of the two countries to the Oregon Territory, with the view to establish a permanent boundary between them westward of the Rocky Mountains to the Pacific Ocean." Accordingly, on the 26th of August 1844, the British Plenipotentiary offered to divide the Oregon Territory by the forty-ninth parallel of north latitude, from the Rocky Mountains to the point of its intersection with the north-easternmost branch of the Columbia River, and thence down that river to the sea; leaving the free navigation of the river to be enjoyed in common by both parties; the country south of this line to belong to the United States, and that north of it to Great Britain. At the same time, he proposed, in addition, to yield to the United States a detached territory north of the Columbia, extending along the Pacific and the Straits of Fuca, from Bulfinch's Harbour inclusive, to Wood's Canal; and to make free to the United States any port or ports south of latitude forty-nine degrees which they might desire, either on the main land, or on Quadra and Vancouver's Island. With the exception of the free ports, this was the same offer which had been made by the British, and rejected by the American, Government in the negotiation of 1826. This proposition was properly rejected by the American Plenipotentiary on the day it was submitted. This was the only proposition of compromise offered by the British Plenipotentiary. The proposition on the part of Great Britain having been rejected, the British Plenipotentiary requested that a proposal should be made by the United States for "an equitable adjustment of the question."

When I came into office, I found this to be the state of the negotiation. Though entertaining the settled conviction that the British pretensions of title could not be maintained to any portion of the Oregon Territory upon any principle of public law recognised by nations, yet, in deference to what had been done by my predecessors, and especially in consideration that propositions of compromise had been thrice made by two preceding Administrations to adjust the question on the parallel of forty-nine degrees, and in two of them yielding to Great Britain the free navigation of the Columbia, and that the pending negotiation had been commenced on the basis of compromise, I deemed it to be my duty not abruptly to break it off. In consideration, too, that under the Conventions of 1818 and 1827, the citizens and subjects of the two Powers held a joint occupancy of the country, I was induced to make another effort to settle this long-pending controversy in the spirit of moderation which

had given birth to the renewed discussion. A proposition was accordingly made, which was rejected by the British Plenipotentiary, who, without submitting any other proposition, suffered the negotiation on his part to drop, expressing his trust that the United States would offer what he saw fit to call "some further proposal for the settlement of the Oregon Question, more consistent with fairness and equity, and with the reasonable expectations of the British Government." The proposition thus offered and rejected, repeated the offer of the parallel of forty-nine degrees of north latitude, which had been made by two preceding Administrations, but without proposing to surrender to Great Britain, as they had done, the free navigation of the Columbia River. The right of any foreign Power to the free navigation of any of our rivers through the heart of our country, was one which I was unwilling to concede. It also embraced a provision to make free to Great Britain any port or ports on the cap of Quadra and Vancouver's Island south of this parallel. Had this been a new question, coming under discussion for the first time, this proposition would not have been made. The extraordinary and wholly inadmissible demands of the British Government, and the rejection of the proposition made in deference alone to what had been done by my predecessors, and the implied obligation which their acts seemed to impose, afford satisfactory evidence that no compromise which the United States ought to accept can be effected. With this conviction, the proposition of compromise which had been made and rejected, was, by my direction, subsequently withdrawn, and our title to the whole Oregon Territory asserted, and, as is believed, maintained by irrefragable facts and arguments.

The civilized world will see in these proceedings a spirit of liberal concession on the part of the United States; and this Government will be relieved from all responsibility which may follow the failure to settle the controversy.

All attempts at compromise having failed, it becomes the duty of Congress to consider what measures it may be proper to adopt for the security and protection of our citizens now inhabiting, or who may hereafter inhabit, Oregon, and for the maintenance of our just title to that territory. In adopting measures for this purpose, care should be taken that nothing be done to violate the stipulations of the Convention of 1827 which is still in force. The faith of treaties in their letter and spirit, has ever been, and I trust will ever be, scrupuously observed by the United States. Under that Convention, a year's notice is required to be given by either party to the other, before the joint occupancy shall terminate, and before either can rightfully assert or exercise exclusive jurisdiction over any portion of the territory. This notice it would, in my judgment, be proper to give; and I recommend that provision be made by law for giving it accordingly, and terminating, in this manner, the Convention of the 6th of August 1827.

It will become proper for Congress to determine what legislation they can in the mean time adopt, without violating this Convention. Beyond all question, the protection of our laws and our jurisdiction, civil and criminal, ought to be immediately extended over our citizens in Oregon. They have had just cause to complain of our long neglect in this particular, and have, in consequence, been compelled, for their own security and protection, to establish a provisional Government for themselves. Strong in their allegiance, and ardent in their attachment to the United States, they have been thus cast upon their own resources. They are anxious that our laws should be extended over them, and I recommend that this be done by Congress with as little delay as possible, in the full extent to which the British Parliament have proceeded in regard to British subjects in that territory, by their Act of July the 2nd, 1821, "for regulating the fur trade, and establishing a criminal and civil jurisdiction within certain parts of North America." By this Act Great Britain extended her laws and jurisdiction, civil and criminal, over her subjects engaged in the fur trade in that territory. By it, the courts of the Province of Upper Canada were empowered to take cognizance of causes civil and criminal, justices of the peace and other judicial officers were authorized to

be appointed in Oregon, with power to execute all process issuing from the courts of that province, and to "sit and hold Courts of Record for the trial of criminal offences and misdemeanours not made the subject of capital punishment; and also of civil cases, where the cause of action shall not "exceed in value the amount or sum of two hundred pounds."

Subsequent to the date of this Act of Parliament, a grant was made from the "British Crown" to the Hudson's Bay Company of the exclusive trade with the Indian tribes in the Oregon Territory, subject to a reservation that it shall not operate to the exclusion "of the subjects of any foreign States who, under or by force of any convention for the time being, between us and such foreign States respectively, may be entitled to, and shall be engaged in, the said trade."

It is much to be regretted, that, while under this Act British subjects have enjoyed the protection of British laws and British judicial tribunals throughout the whole of Oregon, American citizens in the same territory have enjoyed no such protection from their Government. At the same time, the result illustrates the character of our people and their institutions. In spite of this neglect, they have multiplied, and their number is rapidly increasing in that territory. They have made no appeal to arms, but have peacefully fortified themselves in their new homes by the adoption of republican institutions for themselves; furnishing another example of the truth that self-government is inherent in the American breast, and must prevail. It is due to them that they should be embraced and protected by our laws.

It is deemed important that our laws regulating trade and intercourse with the Indian tribes east of the Rocky Mountains, should be extended to such tribes as dwell beyond it.

The increasing emigration to Oregon, and the care and protection which is due from the Government to its citizens in that distant region, make it our duty, as it is our interest, to cultivate amicable relations with the Indian tribes of that territory. For this purpose, I recommend that provision be made for establishing an Indian agency and such sub-agencies as may be deemed necessary, beyond the Rocky Mountains.

For the protection of emigrants whilst on their way to Oregon, against the attacks of the Indian tribes occupying the country through which they pass, I recommend that a suitable number of stockades and block-house forts be erected along the usual route between our frontier settlements on the Missouri and the Rocky Mountains; and that an adequate force of mounted riflemen be raised to guard and protect them on their journey. The immediate adoption of these recommendations by Congress will not violate the provisions of the existing treaty. It will be doing nothing more for American citizens than British laws have long since done for British subjects in the same territory.

It requires several months to perform the voyage by sea from the Atlantic States to Oregon; and although we have a large number of whale-ships in the Pacific, but few of them afford an opportunity of interchanging intelligence, without great delay, between our settlements in that distant region and the United States. An overland mail is believed to be entirely practicable; and the importance of establishing such a mail at least once a-month, is submitted to the favourable consideration of Congress.

It is submitted to the wisdom of Congress to determine whether, at their present session, and until after the expiration of the year's notice, any other measure may be adopted, consistently with the Convention of 1827, for the security of our rights, and the government and protection of our citizens in Oregon. That it will ultimately be wise and proper to make liberal grants of land to the patriotic pioneers, who, amidst privations and dangers, lead the way through savage tribes inhabiting the vast wilderness intervening between our frontier settlements and Oregon, and who cultivate, and are ever ready to defend the soil, I am fully satisfied. To doubt whether they will obtain such grants as soon as the Convention between the United States and Great Britain shall have ceased to exist, would be to doubt the justice of Congress; but, pending the year's

notice, it is worthy of consideration whether a stipulation to this effect may be made, consistently with the spirit of that Convention.

The recommendations which I have made as to the best manner of securing our rights in Oregon, are submitted to Congress with great deference. Should they, in their wisdom, devise any other mode better calculated to accomplish the same object, it shall meet with my hearty concurrence.

At the end of the year's notice, should Congress think it proper to make provision for giving that notice, we shall have reached a period when the national rights in Oregon must either be abandoned or firmly maintained. That they cannot be abandoned without a sacrifice of both national honour and interest, is too clear to admit of doubt.

Oregon is a part of the North American continent to which it is confidently affirmed the title of the United States is the best now in existence. For the grounds on which that title rests, I refer you to the correspondence of the late and present Secretary of State with the British Plenipotentiary during the negotiation. The British proposition of compromise, which would make the Columbia the line south of forty-nine degrees, with a trifling addition of detached territory to the United States north of that river, and would leave on the British side two-thirds of the whole Oregon Territory, including the free navigation of the Columbia and all the valuable harbours on the Pacific, can never, for a moment, be entertained by the United States without an abandonment of their just and clear territorial rights, their own self-respect, and the national honour. For the information of Congress, I communicate herewith the correspondence which took place between the two Governments during the late negotiation.

No. 32.

Mr. Pakenham to the Earl of Aberdeen.—(*Received January* 16, 1846.)

(Extract.) *Washington, December* 29, 1845.

I HAVE the honour herewith to inclose a copy of an official note, which, in obedience to the instructions contained in your Lordship's despatch of 28th November, I presented, two days ago, to Mr. Buchanan, proposing a reference of the whole question of an equitable division of the Oregon Territory to the arbitration of some friendly Sovereign or State.

I did not put this note into Mr. Buchanan's hands, until I had, as likewise contemplated by your Lordship's instructions, ascertained from him that there was no disposition on the part of the United States' Government to renew their late proposal.

He read the note over in my presence, and then proceeded to say, that in point of form and language there was nothing in it to object to; but that his impression was, that the President would not accept the proposal, and furthermore, that if the President did accept it, it would not receive the sanction of the Senate.

Nevertheless, he went on to say that the matter was too grave to be lightly dealt with; that it required and would receive the most serious attention of the Cabinet, and consequently that it would be some days before he should be prepared to give me an answer.

Inclosure in No. 32.

Mr. Pakenham to Mr. Buchanan.

Washington, December 27, 1845.

AN attentive consideration of the present state of affairs with reference to the Oregon Question, has determined the British Government to instruct the Undersigned, &c., again to represent, in pressing terms, to the Government of the United States, the expediency of referring the whole question of an equitable division of that territory to the arbitration of some friendly Sovereign or State.

Her Majesty's Government deeply regret the failure of all their efforts to effect a friendly settlement of the conflicting claims by direct negotiation between the two Governments. They are still persuaded that great advantages would have resulted to both parties from such a mode of settlement, had it been practicable; but there are difficulties now in the way of that course of proceeding, which it might be tedious to remove, while the importance of an early settlement seems to become at each moment more urgent.

Under these circumstances, Her Majesty's Government think that a resort to arbitration is the most prudent, and perhaps the only feasible, step which could be taken, and the best calculated to allay the existing effervescence of popular feeling, which might otherwise greatly embarrass the efforts of both Governments to preserve a friendly understanding between the two countries.

The Government of the United States will see in the proposal which the Undersigned is thus instructed to make, a proof of the confidence of the British Government in the justice of their own claim. They will also see in it a proof of the readiness of the British Government to incur the risk of a great sacrifice for the preservation of peace and of their friendly relations with the United States. It is made in a spirit of moderation and fairness of which the world will judge.

The British Government confidently hope that the Government of the United States will not reject a proposal made with such a friendly intention and for a purpose so holy.

There is nothing in it, they are convinced, not perfectly compatible with the strictest regard for the honour and just interests of both parties, particularly when it is considered of what small value to either is the portion of territory which in reality forms the subject of controversy, compared with the importance of preserving a state of peace and good-will between two such nations.

The Undersigned, &c.,

(Signed) R. PAKENHAM.

No. 33.

Mr. Pakenham to the Earl of Aberdeen.—(Received January 28.)

(Extract.) *Washington, January* 5, 1846.

I HASTEN to transmit to your Lordship the inclosed copy of a note which I received this morning from Mr. Buchanan, containing the answer of the United States' Government to the proposal which I was lately instructed by your Lordship to make, for referring the whole question of an equitable partition of the Oregon Territory to the arbitration of some friendly Sovereign or State.

Inclosure in No. 33.

Mr. Buchanan to Mr. Pakenham.

Department of State,
Washington, January 3, 1846.

THE Undersigned, Secretary of State of the United States, has the honour to acknowledge the receipt of the note of Mr. Pakenham Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, dated the 27th ultimo, by which, under instructions from his Government, he proposes to the Government of the United States the expediency of referring the whole question of an equitable division of that (the Oregon) territory to the arbitration of some friendly Sovereign or State.

The Undersigned has submitted this note to the President, who, after having bestowed upon it that respectful consideration so eminently due to any proposition emanating from the British Government, has instructed him to give it the following answer.

The British Government do not propose to refer to arbitration the question of the title to the Oregon Territory, claimed by the two Powers respectively. It is a proposition to refer to a friendly Sovereign or State merely the partition or equitable division of that territory between the parties. It assumes the fact that the title of Great Britain to a portion of the territory is valid, and thus takes for granted the very question in dispute. Under this proposition, the very terms of the submission would contain an express acknowledgment of the right of Great Britain to a portion of the territory, and would necessarily preclude the United States from claiming the whole before the arbitrator. This, too, in the face of the note of the Undersigned to Mr. Pakenham, of the 30th August last, by which the President had asserted in the most solemn form the title of the United States to the whole territory. Even if there were not other conclusive reasons for declining the proposition, this alone would be deemed sufficient by the President.

The President heartily concurs with the British Government in their regret that all attempts to settle the Oregon Question by negotiation have hitherto failed. He cannot, however, concur with that Government in the opinion that a resort to arbitration on the terms proposed would be followed by happier consequences. On the contrary, he believes that any attempt to refer this question to a third Power, would only involve it in new difficulties.

In declining this proposition, the President refers to the sentiment expressed in the note of the Undersigned of the 30th August last, to which allusion has already been made, that "he cherishes the hope that this long-pending controversy may yet be finally adjusted, in such a manner as not to disturb the peace, or interrupt the harmony now so happily subsisting between the two nations."

The Undersigned, &c.,

(Signed) JAMES BUCHANAN.

No. 34.

Mr. Pakenham to the Earl of Aberdeen.—(Received February 15.)

(Extract.) *Washington, January* 29, 1846.

WITH my despatch of the 5th instant, I had the honour to transmit a copy of the answer which I had received from Mr. Buchanan to the note which, in obedience to the instructions contained in your Lordship's despatch of 28th November, I addressed to him on 29th of last month,

proposing that the whole question of an equitable division of the Oregon Territory should be referred to the arbitration of some friendly Sovereign or State.

The objection of the United States' Government to that proposal seemed to rest principally, although not exclusively, on the fact that according to the terms of the proposed reference, the United States would be denied the power to claim the whole territory before the arbitrator.

My reply to Mr. Buchanan's note was a simple acknowledgment of its receipt, adding that I should take an early opportunity to transmit it to Her Majesty's Government.

On further reflection, however, it occurred to me that, in the present state of affairs, it might be advantageous to give further proof of a desire, if possible, to effect an amicable settlement of the question, by inquiring of Mr. Buchanan whether, supposing Her Majesty's Government to entertain no objection to such a course of proceeding, it would suit the views of the United States' Government to refer, not the question of an equitable division of the territory, but the question of title to the whole, to arbitration; and even to go so far as to suggest that, if the Government of the United States objected to the arbitration of a friendly Sovereign or State, some other mode of adjustment on the principle of arbitration might be adopted for the accomplishment of the object desired.

For this purpose I delivered to Mr. Buchanan, on the 16th instant, the note of which I have the honour to inclose a copy. I humbly hope that, in the step I have thus taken, I shall not have acted contrary to the wishes of Her Majesty's Government.

Inclosure in No. 34.

Mr. Pakenham to Mr. Buchanan.

Washington, January 16, 1846.

WITH an anxious desire to contribute, by every means in his power, to a satisfactory conclusion of the question pending between the two Governments respecting Oregon, the Undersigned Her Britannic Majesty's Envoy Extraordinary, &c., has reflected on the contents of the note addressed to him on the 3rd instant by the Secretary of State of the United States, in answer to that which the Undersigned had the honour to address to him on the 27th of last month.

The note of the Undersigned proposed to the Government of the United States, that the whole question of an equitable partition of the Oregon Territory should be referred to the arbitration of some friendly Sovereign or State.

In his answer, the Secretary of State informed the Undersigned that this proposition could not be accepted. That it did not propose to refer to arbitration the question of the title to the Oregon Territory, claimed by the two Powers respectively. That in proposing to refer to a friendly Sovereign or State merely the partition or equitable division of the territory between the parties, it assumes the fact that the title of Great Britain to a portion of the territory is valid, and thus takes for granted the very question in dispute. That under this proposition, the very terms of the submission would contain an acknowledgment of the right of Great Britain to a portion of the territory, and would necessarily preclude the United States from claiming the whole territory before the arbitrator; and this, too, the Secretary of State goes on to observe, in the face of his note to the Undersigned of 30th August, by which the President had asserted in the most solemn form the title of the United States to the whole territory.

It is not the purpose of the Undersigned, in the present note, to renew the discussion as to the title of either party, Great Britain or the United States, to the whole or to any part of the Oregon Territory. He

must, however, beg leave, with reference to the observation which he has just quoted, to remind the United States' Secretary of State that if the Government of the United States have formally advanced a claim to the whole of the Oregon Territory, it is no less certain that Great Britain has in a manner equally formal declared that she too has rights in the Oregon Territory incompatible with the exclusive claim advanced by the United States.

This declaration arising from a conviction equally sincere will, the Undersigned is persuaded, be viewed with the same consideration by the Government of the United States as they expect that their own declaration should receive at the hands of Great Britain.

This premised, the object of the Undersigned in addressing to Mr. Buchanan the present communication, is to ascertain from him whether, supposing the British Government to entertain no objection to such a course, it would suit the views of the United States' Government to refer to arbitration, not as has already been proposed, the question of an equitable partition of the territory, but the question of title in either of the two Powers to the whole territory, subject of course to the condition that if neither should be found, in the opinion of the arbitrator, to possess a complete title to the whole territory, there should in that case be assigned to each that portion of territory which would in the opinion of the arbitrating Power be called for by a just appreciation of their respective claims.

The Undersigned has suggested a reference on the above principle, to some friendly Sovereign or State. This the Undersigned believes to be the course usually followed in such cases, it is that which has already been resorted to by the two Governments, and more than once. But there may be other forms of arbitration perhaps more agreeable to the Government of the United States.

There might be, for instance, a Mixed Commission, with an umpire appointed by common consent, or there might be a Board composed of the most distinguished civilians and jurists of the time appointed in such a manner as should bring all pending questions to the decision of the most enlightened, impartial, and independent minds.

In the present position of affairs, and feeling how much the interest of both countries requires an early as well as an amicable and satisfactory adjustment of existing difficulties, the Undersigned earnestly invites the Secretary of State to take the subject of this note into consideration, with a view to such an arrangement on the principle of arbitration, as may seem to the Government of the United States to be most just, wise, and expedient.

The Undersigned, &c.,

(Signed) R. PAKENHAM.

No. 35.

The Earl of Aberdeen to Mr. Pakenham.

Sir, *Foreign Office, March* 3, 1846.

I HAVE much satisfaction in conveying to you the entire approval by Her Majesty's Government of the steps which, as reported in your despatch of the 29th January, you took, and of the letter which you addressed to the American Secretary of State, for the purpose of ascertaining clearly and authoritatively whether the United States' Government would be disposed to admit the application of the principle of an arbitration in the Oregon Question on any other terms than those which they had already rejected.

In thus acting, you have in the most judicious and satisfactory manner anticipated the instructions which I was preparing to forward to you on this subject.

We have now nothing to do but to await Mr. Buchanan's reply to your appeal to him, although I collect from your despatch that your proposal will certainly be refused. Should that reply however be of such a nature as to give any ground of hope that the matter in dispute may yet be brought to an amicable issue by means of direct negotiation, I shall gladly avail myself of such an opening. If not, it will then be for Her Majesty's Government to consider what measures it may be expedient to adopt, in order to meet any emergency which may arise.

I am, &c.,
(Signed) ABERDEEN.

No. 36.

Mr. Pakenham to the Earl of Aberdeen.—(Received March 3.)

My Lord, *Washington, February* 5, 1846.

I HAVE the honour herewith to inclose a copy of a note which I received yesterday from Mr. Buchanan, in answer to that which I addressed to him on the 16th of January, of which I had the honour to transmit a copy with my despatch of the 29th ultimo.

I have, &c.,
(Signed) R. PAKENHAM.

Inclosure in No. 36.

Mr. Buchanan to Mr. Pakenham.

Department of State,
Washington, February 4, 1846.

THE Undersigned, Secretary of State of the United States, has the honour to acknowledge the receipt of the note of Mr. Pakenham, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, dated on the 16th ultimo, by which he again proposes a reference of the Oregon Question to arbitration. Under his present proposition, the powers of the arbitrator would not as in his last, be limited in terms to the division of the territory between the parties, but would extend to the question of their conflicting titles. There is, however, a condition annexed to this offer which exposes it to the same objection in point of fact, if not in form, which was prominently presented in the answer of the Undersigned to Mr. Pakenham's last proposal. This condition is, " that if neither (party) should be found in the opinion of the arbitrator to possess a complete title to the whole territory, there should, in that case, be assigned to each that portion of territory which would, in the opinion of the arbitrating power, be called for by a just appreciation of the respective claims of each." If the Government of the United States should consent to an arbitration upon such a condition, this might and probably would be construed into an intimation, if not a direct invitation, to the arbitrator to divide the territory between the parties. Were it possible for the President, under any circumstances, to consent to refer the subject to arbitration, the title, and the title alone, detached from every other consideration, is the only question which could be submitted. If not confined to a single point, so strong is the natural disposition of arbitrators to please both parties, that in almost every instance, whether of national or individual controversies, they make a compromising award. We have a memorable example of this in our last arbitration with Great Britain.

Notwithstanding that the arbitrator, under the terms of the submission, was clearly and explicitly confined to the decision of which was the line of highlands described in the Treaty of Peace of 1783; yet, instead of pursuing any range of highlands whatever, he advised that the line should run along the bed of a river; and actually divided the territory in dispute between the parties by "the middle of the deepest channel of the St. John's."

The Undersigned might content himself, in answer to the present proposition, with a reference to the observations contained in his last note to Mr. Pakenham of the 3rd ultimo. In that it was plainly intimated not only that there are "other conclusive reasons for declining the proposition," independently of the one which had been prominently stated, but it was expressly asserted, as the belief of the President, "that any attempt to refer this question to a third Power would only involve it in new difficulties."

The Undersigned will however proceed to state a simple reason, which, apart from the intrinsic difficulty of selecting a suitable arbitrator, as well as other considerations that might be adduced, is conclusive on the mind of the President against a reference of this question to arbitration in any form which can be devised, no matter what may be the character of the arbitrator—whether sovereign, citizen, or subject. This reason is, that he does not believe the territorial rights of this nation to be a proper subject for arbitration. It may be true that, under peculiar circumstances, if the interest at stake were comparatively small, and if both parties stood upon an equal footing, there might be no insuperable objection to such a course. But what is the extent of territory in dispute on the present occasion? It embraces nearly thirteen degrees of latitude along the north-west coast of the Pacific, and stretches eastward to the summit of the Rocky Mountains. Within its limits several powerful and prosperous States of the Union may be embraced. It lies contiguous, on this continent, to the acknowledged territory of the United States, and is destined, at no distant day, to be peopled by our citizens. This territory presents the avenue through which the commerce of our Western States can be profitably conducted with Asia and the western coasts of this continent, and its ports, the only harbours belonging to the United States to which our numerous whalers and other vessels in that region can resort. And yet, vast as are its dimensions, it contains not a single safe and commodious harbour from its southern extremity until we approach the 49th parallel of latitude.

It is far from the intention of the Undersigned again to open the discussion of the conflicting claims of the two Powers to the Oregon Territory. It is sufficient for him to state the continued conviction of the President, that the United States hold the best title in existence to the whole of this territory. Under this conviction he cannot consent to jeopard for his country all the great interests involved, and by any possibility, however remote, to deprive the Republic of all the good harbours on the coast, by referring the question to arbitration.

Neither is the territory in dispute of equal, or nearly equal, value to the two Powers. Whilst it is invaluable to the United States, it is of comparatively small importance to Great Britain. To her Oregon would be but a distant colonial possession of doubtful value, and which, from the natural progress of human events, she would not probably long enough enjoy to derive from it essential benefits; whilst to the United States it would become an integral and essential portion to the Republic. The gain to Great Britain, she would never sensibly feel, whilst the loss to the United States would be irreparable.

The Undersigned is perfectly aware that such considerations can have no bearing upon the question of the title of either party. They are presented solely for the purpose of explaining the views of the President in his refusal to adopt any measure which should withdraw our title from the control of the Government and the people of the United States, and place it within the discretion of any arbitrator, no matter how intelligent and respectable.

The President cordially concurs with the Government of Great Britain in desiring that the present controversy may be amicably adjusted. Of this he has given the strongest proof before the whole world. He believes that as there are no two nations on the earth more closely bound together by the ties of commerce, so there are none who ought to be more able or willing to do each other justice, without the interposition of any arbitrator.

The Undersigned, &c.,

(Signed) JAMES BUCHANAN.

No. 37.

The Earl of Aberdeen to Mr. Pakenham.

Sir, *Foreign Office, March* 3, 6 P. M., 1846.

SINCE my preceding despatch of this day's date, was written, I have received your despatch of 5th February with its inclosure, by which you put me in possession of the final rejection by the United States' Government, of our proposal of a reference of the Oregon Question to arbitration.

There is of course no time before the departure of the mail of this evening, for the consideration of so serious a question as that which is involved in the President's decision as now announced.

I am, &c.,

(Signed) ABERDEEN.

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