

after noticed, will show how amply these observations are sustained by facts.

But notwithstanding all these disadvantages, it will be found that the depositions in favor of the claimants present a body of evidence which is compact and satisfactory beyond what could reasonably have been expected, and which, in its material points, the defence, with all its odds of great advantages used with the highest ability and the most energetic efforts, has been unable to overthrow.

I propose to take up the evidence relating to the various particulars of the claim in the order in which they are stated in the Memorial, first going over the material facts stated by the claimants' witnesses; and then giving a comparative exposition of the depositions for the defence, in so far as they have any bearing upon the questions submitted.

The possession by the Hudson's Bay Company necessary to sustain its claim, is, after the Treaty, the first essential fact to be shown. This has already been done in a great measure by the documentary evidence to which reference has been made in the preceding pages of this argument. The testimony which bears upon the subject remains to be presented. In entering upon the examination of the depositions, it is necessary to remember that the date of the possession relied upon is June, 1846. The possessory rights of the Hudson's Bay Company in which they were entitled under the Treaty to be protected by the United States, were those held by them at that time, and no decline of this possession, in its extent or in the energy of its assertion afterwards, can affect these rights as they then existed. Nothing but the unequivocal alienation of them voluntarily, and free from any form of pressure, direct or indirect, arising from change of sovereignty, can afford a justification for confining them within limits narrower than those which existed at the conventional point fixed by the terms of the Treaty.

Mr. Coxe, in his elaborate and very able opinion on the subject of the rights of the Hudson's Bay Company, to be found on page 5 of the Pamphlet of Opinions on that subject, says:—"It must, I apprehend, be conceded that the possessory rights of the Company are secured by the Treaty as they existed at its date. Under the authority of the British Government they appear, with the knowledge and at least the implied sanction of that Government, to have