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 that 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 northwest coast of America, bringing with them their sovereign jurisdiction, there would 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 laws 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 northwest coast of America.

Neither in its terms nor in its essence does the Nootka Sound Convention 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 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 recognises no such principles 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