

Statement.

Lord Aberdeen was at liberty to inform Mr. MacLane of his views and intentions; he was at liberty to refrain from doing so. Anything that passed between Lord Aberdeen and Mr. MacLane was not negotiation in a proper sense; and no binding compact can be extracted from it, taken alone.

(vi.) Mr. MacLane perfectly understood this position. Lord Aberdeen's project of Treaty was so far from being the result of a bargain made between him and Mr. MacLane, that Mr. MacLane in reporting it to his Government disapproved of it, and (it would appear) tried to induce his Government to reject it * He says (among other things):—†

"It is scarcely necessary for me to state that the proposition as now submitted has not received my countenance. Although it has been no easy task, under all the circumstances, to lead to a reopening of the negotiations by any proposition from this Government, and to induce it to adopt the parallel of 49 as the basis of a boundary, nevertheless I hoped it would have been in my power to give the present proposition a less objectionable shape, and I most deeply lament my inability to accomplish it. I have, therefore, felt it my duty to discourage any expectation that it would be accepted by the President; or, if submitted to that body, approved by the Senate."

(vii.) If Mr. MacLane had been in a position to enter into a contract with Lord Aberdeen it is plain he never would have used the qualification "most probably." Mr. Bancroft, seeing the force of this consideration, endeavours to get over the difficulty by alleging that the phrase "most probably" applies, not to the boundary, but to the other parts of Lord Aberdeen's proposal: for, he says, those other parts "were not precisely ascertained." Mr. MacLane's letter (as far as it relates to the Oregon question) is printed in the Historical Note, and is open to the judgment of the Arbitrator. It appears to Her Majesty's Government to afford no ground to justify this limited application of the phrase "most probably." This phrase is in immediate connection, grammatically, and in the arrangement of the matter, with the passage relating to the boundary. The three subjects—(1), boundary: (2), possessory rights of British subjects: (3), navigation of the Columbia,—are discussed throughout the letter on the same footing. The proposal on any one subject is treated in the letter as being quite as much settled and definitive as the proposal on any other. Moreover, in point of fact, the exact proposal was as much ascertained on any one point as on any other, and this must have been so in Mr. MacLane's apprehension, as Lord Aberdeen had shewn him the project of the Treaty.

(viii.) The boundary, however, it is argued by Mr. Bancroft, was precisely ascertained, because Mr. MacLane states that the line as proposed by Lord Aberdeen had been suggested by Mr. Everett, and what the proposal of Mr. Everett was (he says) is known from the citations in the Memorial from his (Mr. Everett's) despatches. The passage in Mr. Bancroft's Memorial, relating to Mr. Everett's suggestion, is as follows (page 11):—

"On the 29th of November, 1843, soon after Mr. Everett's full powers had arrived, he and Lord Aberdeen had a very long and important conversation on the Oregon question; and the concessions of Lord Aberdeen appearing to invite an expression of the extremest modification which the United States could admit to their former proposal, Mr. Everett reports that he said: 'I thought the President might be induced so far to depart from the 49th parallel as to leave the whole of Quadra and Vancouver's Island to England, whereas that line of latitude would give us the southern extremity of that island, and consequently the command of the Straits of Fuca on both sides. I then pointed out on a map the extent of this concession; and Lord Aberdeen said he would take it into consideration.'

"The next day Mr. Everett more formally referred to the subject in a note to the British Secretary:—

* The character of the letter in this respect is brought out by Mr. Pakenham's comments in his despatch of the 29th July, 1846, Historical Note, p. xx.

† Historical Note, p. xiv.