

both John Reid and myself were members. In our various exploring expeditions, to make ourselves practically acquainted with the fur bearing properties of the country, it was my lot to take the route from the mouth of the Kooskooske, along the Snake or Camoenum River, to the west." "Mackenzie explored the region of the country north and west, lying between the Kooskooske and the northern branch of the Columbia, (called, as before said, sometimes Thompson's River, and laid down in the map referred to, as Clarke's River.) This region was called the Spokan country, and in it he found Mr. Clarke, also a partner of the Pacific Fur Company, already established." "John Reid went to the eastward, if I remember rightly, to look at the country in that direction."

"At the time of the transfer of Mr. Astor's property, the posts actually established were—

- "1. Astoria, near to the seacoast.
- "2. Okenagan, at the confluence of that river and the north branch of the Columbia.
- "3. Spokan House, on the river of the same name, and with the Spokan Indians. A branch of this establishment had also been pushed further west, in the Flathead country, and among the Couteñois Indians.
- "4. A post, as before mentioned, on the Kooskooske.
- "5. One on the Wallamette River."

These posts, established in all parts of the territory on the Columbia and its principal tributaries, at intervals of several hundred miles, and with water communication between them all, constitute all the possession which the Pacific Fur Company had in its power at that time to take, and all that was required by the laws and usages of European nations in acquiring territory on this continent. The inchoate title in the United States, by the discovery of Gray and the exploration of Lewis and Clarke, was perfected by the actual settlement and occupation by Mr. Astor and his associates. Although a title by discovery, without possession, may be lost by lapse of time, yet the title of the United States, perfected as this was by the actual possession and settlement of their people, could not be thus lost or divested, except by conquest or agreement. If the posts above enumerated were included in the capitulation of Astoria, then they are within the provisions of the treaty of Ghent, and were restored with it; and of course there was no conquest. If not included in the capitulation, although the American parties (cut off from their depot) were withdrawn, our title is not lost, for there is no pretence of an agreement for its surrender. The territory belonged to the United States; was not open to the colonization of any foreign country; nor has the Northwest Company any rights there, except such as were conceded by the conventions of 1818 and 1827—no right of domain in them, or dominion in their government.

The committee proceed to inquire, what are the consequences of this actual possession, coupled with the right? The restoration absolute, but for the single condition that it shall not be used as evidence in the discussion of the title, and the right of possession perfect in its character, limited only in its duration, constitute, during the continuance of the latter, a complete title.

We learn from Vattel that this right of possession comprehends two things: "1. The *domain*, in virtue of which the nation alone may use this country for the supply of its necessities, and may dispose of it in such manner and derive from it such advantages as it thinks proper. 2. The *empire*, or the right of sovereign command, by which the nation ordains or regulates at its pleasure everything that passes in the country."

The following paragraph is exactly applicable to our present case:

"When a nation takes possession of a country (our possession is admitted) that never yet belonged to another, it is considered as possessing there the *empire* or sovereignty, at the same time with the *domain*."

All the powers and authorities of government are comprised in the right of empire, which Vattel informs us accompanies the possession. But if the authority of Vattel be rejected, reason and argument lead directly to the same conclusion. It will scarcely be contended that the possession thus restored was a mere naked possession, conferring no rights upon the United States. The power which was competent to send Mr. Prevost to receive and acknowledge the act of restoration might certainly have sent a battalion of troops to have marched into the vacated post, and to have restored