

Statement.

will advert to two other pieces of evidence which have been in the course of the controversy adduced as "personal testimony contemporaneous with the Treaty,"* and which it is possible may be brought up again as such in the present discussion.

(1.) It is stated* that, on 28th December, 1846, Mr. Bancroft (who was then the United States' Minister at London) having written to Mr. Buchanan on the subject from London, Mr. Buchanan inclosed, in a letter to Mr. Bancroft, a traced copy of Wilkes' chart of the Straits of Arro (that is, the Canal de Haro), and added :—

"It is not probable, however, that any claim of this character will be seriously preferred by Her Majesty's Government to any island lying to the eastward of the Canal de Arro, as marked in Captain Wilkes' map of the Oregon Territory."

The correspondence at this time between Mr. Bancroft and Mr. Buchanan, as far as the same is known to Her Majesty's Government, is set forth in the Appendix to this Statement.† Her Majesty's Government submit to the Arbitrator that if this correspondence is proposed to be used on the present occasion as evidence on behalf of the United States, it ought to be rejected. First, it was from its nature entirely unknown at its dates to Her Majesty's Government; secondly, any declarations it contains were made *post litem motam*. Even if admitted, it would be of little value, as it cannot carry the case further than it is carried by Mr. MacLane's letter, on which Mr. Buchanan's statements in this correspondence explicitly rest. Mr. Buchanan does not use a word that can fairly be considered as conveying his personal testimony as to the intention of himself or his Government at the time of the making of the Treaty. Finally, if this correspondence is admitted as evidence, then Her Majesty's Government would ask that there be taken into consideration along with it the report of Mr. Buchanan's views in 1848, made by Mr. Crampton, Her Majesty's Minister at Washington, and the subsequent communication thereon made to the United States' Government.‡

(2.) The other piece of evidence referred to by Her Majesty's Government as having been adduced on behalf of the United States is the following :—§

"Mr. Bancroft, who was a member of President Polk's Cabinet when the Treaty was concluded, wrote repeatedly to Lord Palmerston after receiving this chart [the traced copy of Wilkes' chart above mentioned], and uniformly described the Straits of Arro 'as the channel through the middle of which the boundary is to be continued.'"

The communications between Mr. Bancroft and Viscount Palmerston here referred to were in July and November 1848. The letters are set forth in the Appendix,|| together with the published extract of a letter from Mr. Bancroft to Mr. Buchanan, describing a conversation which he (Mr. Bancroft) had had with Lord Palmerston. No statement of Mr. Bancroft made more than two years after the exchange of ratifications can be reasonably regarded as "personal testimony contemporaneous with the Treaty," in which category it is placed in the paper of Mr. Cass adducing it. The only use to which these documents could now be fairly applied would be to shew that Lord Palmerston had then made to Mr. Bancroft admissions now binding on Her Majesty's Government. But the documents afford no ground for such a suggestion.¶ The course taken by Lord Palmerston on Mr. Bancroft's second letter (in which he for the second time intimated his view that the boundary was to pass through the Canal de Haro) is conclusive as to Lord Palmerston's view of the position. It is plain, on the face of Lord Palmerston's answer to that letter, that the answer was deliberately framed so as not to amount to an admission of the claim put forward by Mr. Bancroft. If there could be any doubt of this, on the words of the letter, the doubt would be put an end to by a reference to the minutes on Mr. Bancroft's letter which preceded the preparation of the draft of Lord Palmerston's answer. On Mr. Bancroft's letter the Under-Secretary of State made the following minute for Lord Palmerston :—

* Mr. Cass to Mr. Dallas, 20th October, 1859; read, and copy given, to Her Majesty's Secretary of State for Foreign Affairs.

† Appendix, No. 2.

‡ Appendix, No. 3.

§ Mr. Cass to Mr. Dallas, 20th October, 1859; read, and copy given, to Her Majesty's Secretary of State for Foreign Affairs.

|| Appendix, No. 4.

¶ "If I notice General Cass' allusion to the letters which he says Mr. Bancroft repeatedly wrote to Lord Palmerston in 1848 it is only for the purpose of placing on record what, no doubt, Mr. Bancroft duly reported to his Government at the time, namely, that Lord Palmerston gave Mr. Bancroft distinctly to understand that the British Government did not acquiesce in the pretensions of the United States that the boundary line should be run down the Haro Channel."—Lord John Russell to Lord Lyons, 16th December, 1859; read, and copy given, to United States' Secretary of State.