

was stipulated that "all territory, places, and possessions whatsoever taken by either party from the other during the war, or which may be taken after the signing of this treaty, excepting only the islands hereinafter mentioned, shall be restored without delay."

In compliance with this stipulation, the establishment at Astoria was restored to the United States. The compliance was full, unconditional, and without reservation of any sort. No claim was set up by Great Britain in her written communications with the United States on this subject, at the time of the restoration, in respect to any right of sovereignty or domain in the territory thus restored. The British Minister at Washington had, it is true, a year before objected to the restoration, on the ground that the place had been purchased by the Northwest Company, and that it had "been taken possession of in his Majesty's name, and had been since considered as forming part of his Majesty's dominions." The objection was virtually abandoned by the restoration; and as the place was restored without a written protest or reservation, the ground of the objection may be regarded as having been considered wholly untenable by those who took it. In this transaction, as in all others relating to the territory of Oregon, the Government of the United States maintained, in clear and unequivocal terms, its right of sovereignty. In its instructions to Captain Biddle in 1817, it directed him to proceed to the mouth of the Columbia, and there "to assert the claim of the United States to the sovereignty of the adjacent country, in a friendly and peaceable manner, and without the employment of force." This order he executed on the 9th of August, 1818, by taking formal possession of the country on the river. The formal restoration of Astoria was made on the 6th of October, 1818; and in fourteen days afterwards (on the 20th October) a convention was agreed on by the United States and Great Britain, containing the following article:

"ART. 3. It is agreed that any country that may be claimed by either party on the northwest coast of America, westward of the Stony mountains, shall, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open for the term of ten years from the date of the signature of the present convention, to the vessels, citizens, and subjects of the two Powers: it being well understood that this agreement is not to be construed to the prejudice of any claim which either of the two high contracting parties may have to any part of the said country, nor shall it be taken to affect the claims of any other Power or State to any part of the said country; the only object of the high contracting parties in that respect being to prevent disputes and differences among themselves."

On the 6th of August, 1827, the main provisions of the foregoing article were renewed by the following convention:

"ART. 1. All the provisions of the third article of the convention concluded between the United States of America and his Majesty the King of the United Kingdom of Great Britain and Ireland, on the 20th of October, 1818, shall be, and they are hereby, further indefinitely extended and continued in force, in the same manner as if all

the provisions of the said article were herein specifically recited.

"ART. 2. It shall be competent, however, to either of the contracting parties, in case either should think fit, at any time after the 20th October, 1828, on giving due notice of twelve months to the other contracting party, to annul and abrogate this convention; and it shall, in such case, be accordingly entirely annulled and abrogated, after the expiration of the said term of service.

"ART. 3. Nothing contained in this convention, or in the third article of the convention of the 20th October, 1818, hereby continued in force, shall be construed to impair, or in any manner affect, the claims which either of the contracting parties may have to any part of the country westward of the Stony or Rocky mountains."

On the basis of these two treaties the relations of the two countries in respect to Oregon now rest; and in order to ascertain what are the rights of the contracting parties to the territory in dispute, we must revert to the year 1818, to the *statu quo* before they were entered into; for if, as has been seen, nothing contained in the treaties can prejudice in any manner their respective claims, no acts done since by settlement or otherwise can create, in respect to the territory in question, any rights which did not exist then.

This position was taken with characteristic vigor and brevity by the distinguished Senator from South Carolina, [Mr. CALHOUN,] sitting before me, in a note dated the 3d of September, 1844, and addressed to Mr. Pakenham, while the Senator was acting in the capacity of a negotiator.

Sir, I wish to be distinctly understood on this point, for the reason that the Hudson's Bay Company, in which the Northwest Company has been merged, has for several years been extending its establishments; and because, in the negotiations between the British Government and ours, it has been once, at least, if not more than once, intimated by the former that British subjects had interests there which it was bound to protect. These establishments have been made with full knowledge of the stipulations of the conventions entered into between the two countries; and on no ground, even the ground of equity, can any claim be set up on the basis of these newly-created interests. To agree to suspend the settlement of the controversy, and then to draw from acts done by one of the parties during the suspension new arguments in favor of its own side of the question, is not only repugnant to every rule of fairness, but it is a violation of the letter as well as the spirit of the agreement, and tends to the defeat of the very object in view in making it.

Let us see, then, what discoveries had been made, and what establishments formed, in 1818. Those of Spain were paramount to all others. She had visited and explored the whole coast from California, where she had permanent establishments, to the most northerly line of the territory in dispute. She had discovered the Strait of Juan de Fuca, and formed an establishment within it, I think, in 1792. She had discovered Nootka Sound, and established herself there. And she was strengthened in her claims to the absolute sovereignty of the country by its immediate contiguity to California, of which she had the undisputed and