

The facts are notorious, that the Hudson's Bay Company took possession of, and have long used, occupied and enjoyed, large tracts of country south of the forty-ninth parallel of north latitude, and established trading houses and posts, strongly fortified, on the most eligible places for trade and traffic; cultivated farms, erected dwellings and mills, and other improvements; opened mines of coal, and other fossils, and worked them; kept large flocks and herds ranging over numerous and undefined pasture grounds; cut timber in various places; sawed lumber for domestic supplies, and for exportation, and exercised various other acts of ownership and possession, within the territory called Oregon, of a character too strongly marked to be misunderstood as the evidences of claims of property and possession, made by those professing to be the true proprietors under their charter of incorporation. These acts of ownership had been done, exercised and made known, before the treaty between the United States and Great Britain, for adjusting the boundary between them, west of the Rocky mountains, concluded and signed at Washington on the 15th June, 1846.

In the preamble to that treaty, it appears that its object, purpose and end, was to put to rest the state of doubt and uncertainty which theretofore prevailed respecting the sovereignty and government of the territory on the northwest coast of America, lying westward of the Rocky mountains, by amicable compromise of the rights mutually asserted by the parties over that territory.

ARTICLE I. established for the future boundary the forty-ninth parallel of north latitude, continued westward from the formerly established boundary "to the middle of the channel which separates the continent from Vancouver's island, and thence southerly through the middle of the said channel, and of Fucas straits, to the Pacific ocean: provided, however, that the navigation of the whole of said channel and straits, south of the forty-ninth parallel of north latitude, remain free and open to both parties."

"ART. II From the point at which the forty-ninth parallel of north latitude shall be found to intersect the great northern branch of the Columbia river, the navigation of the said branch shall be free and open to the Hudson's Bay Company, and to all British subjects trading with the same, to the point where the said branch meets the main stream of the Columbia, and thence down the main stream to the ocean, with free access into and through the said river or rivers, it being understood that all the usual portages along the line thus described shall, in like manner, be free and open. In navigating said river or rivers, British subjects, with their goods and produce, shall be treated on the same footing as citizens of the United States; it being, however, always understood that nothing in this article shall be construed as preventing, or intended to prevent, the government of the United States from making any regulations respecting the navigation of the said river or rivers not inconsistent with the present treaty.

"ART. III. In the future appropriation of the territory south of the forty-ninth parallel of north latitude, as provided in the first article of this treaty, the possessory rights of the Hudson's Bay Company, and of all British subjects who may be already in the occupation of land, or other property lawfully acquired within the said territory, shall be respected."

Upon the proposal of the Hudson's Bay Company to release and assign to the United States their rights in the Oregon territory, alluded to in the second and third articles of the treaty, a question has been started whether the second article of the treaty secures to British subjects generally the right of navigating the Columbia river, or is confined to the Hudson's Bay Company, and to such particular British subjects as are trading with the company.

Before entering upon that question, I cannot forbear to express my opinion and firm con-