

August 5, 1846, to the Hudson's Bay Company and the Puget's Sound Agricultural Company.

Without intending to question at all your right to protest against these views as frittering away the very ample rights secured to said company by the treaty of 1846, I have to state that a course based upon these views, as indicated by my letter of December 20, will be strictly and firmly pursued.

You especially protest against that view of the case which would go to deprive the Hudson's Bay Company of the right of trading with the Indians; and you state further, (to quote your own words:) "I conceive it in the utmost degree improbable that the high contracting parties, the framers of the treaty, ever contemplated denying the company one of the most important rights it possessed."

I conceive it to be very clear that the high contracting parties intended that no such right should continue in the Hudson's Bay Company, from the simple fact that they have not guaranteed it in the treaty, but are totally silent upon the subject. This is more apparent, since you state it to be one of the most important rights it possessed. The plenipotentiaries on the part of Great Britain certainly were not entirely regardless of the interests or ignorant of the nature of the Hudson's Bay Company.

The treaty declares that in future *appropriations of the territory, &c.*, the *possessory rights* of the Hudson's Bay Company, and of all British subjects who may be in the *occupation of land or other property*, lawfully acquired within the said territory, shall be respected. The Hudson's Bay Company, prior to the treaty, may have had a right to trade with the Indians. But it is not the *rights* of the Hudson's Bay Company, but the *possessory rights* of the Hudson's Bay Company, and of all British subjects who may be in the *occupation of land*, that are to be respected in the future appropriations of the territory. The Hudson's Bay Company stand upon the same footing as all British subjects in the occupation of land. The rights and privileges secured to each are the same. It surely will not be claimed that the right to trade is a possessory right. These are terms of plain and technical signification. Mr. Rose, queen's counsel, of Montreal, defines this right to be "*such a fixed right in the soil as would in law prevent its alienation to others.*" To attempt to embrace the right to trade, as implied in the expression, "possessory rights," would be to negative the plain terms of the treaty, to admit all the other rights of the Hudson's Bay Company under its charter, the right to make laws and to have civil and criminal jurisdiction; and the effect of the treaty would be to vest the sovereignty of the soil in the Hudson's Bay Company, and not in the United States.

Furthermore, it would have shown on the part of the United States a very great interest in the welfare of the Hudson's Bay Company to have guaranteed to a foreign corporation a right which they do not grant to their own citizens, except by special license.

You state further, that ever since the terms of the treaty became known, you have *claimed*, on behalf of the Puget's Sound Agricultural Company, the tract of country of which as farms, lands, or otherwise as property, the said company, by its agents, was in the sole and exclusive use and occupancy at the date of the treaty, and for a long