

stipulations of this article, and was restored to the United States, through their agent, J. B. Prevost, Esq., in the following manner:

"In obedience to the commands of his Royal Highness the Prince Regent, signified in a dispatch from the right honorable the Earl of Bathurst, addressed to the partners or agents of the Northwest Company, bearing date the 27th of January, 1818, and in obedience to a subsequent order, dated 26th of July, from W. H. Sheriff, Esq., captain of his Majesty's ship *Andromache*, we, the undersigned, do, in conformity to the first article of the treaty of Ghent, restore to the Government of the United States, through its agent, J. B. Prevost, Esq., the settlement of Fort George, on the Columbia River. Given under our hand, in triplicate, at Fort George, on the Columbia River, this 6th day of October, 1818.

" F. HICKEY,

Captain of his Majesty's ship Blossom.

" J. KEITH,

of the Northwest Company"

I do hereby acknowledge to have this day received, in behalf of the Government of the United States, the possession of the settlement designated above, in conformity to the first article of the treaty of Ghent. Given under my hand, in triplicate, at Fort George, Columbia River, this 6th day of October, 1818.

" J. B. PREVOST.

Agent for the United States."

It is true that, in the dispatch of Earl Bathurst, and in Lord Castlereagh's instructions to the British minister at Washington, a reservation is made, that the surrender of possession should not be deemed an admission of the absolute and exclusive right of dominion claimed by the United States; but at the same time, in explanation to Mr. Rush, as stated in a public dispatch, "Lord Castlereagh admitted, in the most ample extent, our right to be reinstated, and to be the party in possession while treating of the title."*

Notwithstanding this protest against any inference favorable to our title from the restoration of the territory, that restoration, and the admission of Lord Castlereagh of our right to the possession during the controversy, are conclusive of some facts very important to an equitable settlement of the rights in dispute. In the first place, it proves the Americans to have been in possession in June, 1812, at the declaration of the war; for such places only were to be restored as were taken during the war. And, in the second place, the act of restoration, and the admission of Lord Castlereagh, establish the important fact that we are actually in possession now; for they recognize our right to the possession while treating of the title, which treating, unfortunately, has not yet been brought to a close.

The effect of the surrender of Fort George was to restore the United States to their position before the capture, reinstating them in all their territorial rights, etc. To determine what was restored, we must first ascertain what was surrendered. The act of surrender designates it as "the settlement of Fort George, on the Columbia River." The question recurs, what was embraced in the settlement of Fort George? Certainly something besides the fort itself. The terms of the act imply that the restoration extended beyond the site of the fort. The extent of the settlement of Astoria (Fort George) depends upon actual occupation, intention clearly manifested to extend that occupation, and principles of law by which the limits of settlements in new countries are defined. The discovery of the Columbia by Gray; the public mission of Lewis and Clarke, who twice traversed the whole breadth of the territory, spent the winter in a temporary fort, which they built on the bank of the river, and took formal possession, by the authority, in the name, and at the expense of the United States, constitute a title to territory beyond the mere line of march and the ground occupied by the fort. The right of our citizens to form settlements was coextensive with the territory covered by this title.

We have already seen that the discovery of a river and actual possession within a reasonable time give the right to form settlements on every part of the territory watered by the river and its tributaries. This right may be surrendered, or it may be

* Cushing's Report.