

made to reoccupy it by civilized men. Captain Belcher, a British naval officer, visited the place in 1837, while making a voyage round the world. In his narrative, page 113, vol. 1, he says:

"No vestige remains of the settlement noticed by Vancouver, nor could I discern on the site of the Spanish battery the slightest trace of stones employed for building. The chiefs pointed out where their houses stood, and where the potatoes grew, but not a trace remains of a European."

The third article, besides stipulating for an unmolested enjoyment of the right of navigating and fishing in the Pacific and South Seas and landing on the coast, conceded in express terms to the subjects of both nations the right to form settlements in places not already occupied; but this right was subject to the restrictions of the three following articles, one of which was to limit its exercise to the parts of the coast, or the island adjacent, north of the parts already occupied by Spain. It had, by the terms of the compact, no application whatever to parts of the coast of North America south of the places occupied by Spain at the time the treaty was made. The important question arises, what was the most northern point occupied by Spain in 1790? This became a matter of disagreement between the Spanish and British authorities at a very early day after the Nootka Sound convention was formed. Vancouver claimed not only the whole of Nootka Sound, but also Port Cox, south of it; and he insisted, to use his own phraseology, that "the northernmost spot on the Pacific coast of America, occupied by the Spaniards previous to the month of May, 1789, was the Presidio of San Francisco, in latitude 37° 48'." Now, it will be observed that an attempt was made to give to the Nootka Sound convention a construction wholly unwarranted by its terms. Vancouver endeavored to fix the month of April, 1789, as the time when the question of the most northern occupation of Spain was to be settled. The language of the convention, in respect to the right of forming settlements, is, "north of the parts of the said coast already occupied by Spain;" fixing the time, according to every just rule of construction, at the date of the treaty, the 28th of October, 1790. This construction is strengthened by the fact, that a subsequent article concedes the right of forming temporary establishments on the coast of South America, south of parts "already occupied" by Spain, and referring indisputably to the date of the treaty. The words "already occupied" are the same in both articles, and they must be considered as referring to the same period of time.

The question then recurs, what was the most northerly point occupied by Spain in October, 1790, at the conclusion of the treaty?

Martinez, as has been seen, took possession of Nootka Sound on the 6th of May, 1789; and immediately landed materials and cannon for building and arming a fort on a small island, at the entrance of Friendly Cove. In November he returned to St. Blas, and in the spring of 1790 Captain Elisa took his place. A permanent establishment was formed, vessels were sent out on exploring expeditions; and, during the negotiations between Vancouver and Quadra in 1792, the Spaniards were in possession of houses and cultivated lands. Vancouver again found them in possession in 1793, under Señor Fidalgo, and in 1794, under Señor

Saavedra, and the post was maintained without interruption until 1795.\* By turning to page 336, volume 2, of Vancouver's Journal, a view of the Spanish establishment at Friendly Cove, on Nootka Sound, will be seen, from a sketch taken on the spot by one of Vancouver's party, in September or October, 1792, and it exhibits ten roofed buildings, with several enclosures of cultivated land. It also exhibits, totally distinct from these lands and buildings, a cove adjoining, and a reference to it, stating that it includes "the territories which, in September, 1792, were offered by Spain to be ceded to Great Britain." This was the site of the hut occupied by Meores, and the Spanish commander refused to make a formal and absolute surrender to Great Britain of any other land.

Thus it is established, by proof not to be impeached, that the Spaniards were in the occupation of a post at Nootka Sound in 1790, when the convention was negotiated and concluded; and I submit, therefore, whether this must not be regarded as the southern limit of the region, within which the right of forming settlements, recognised or conceded by the convention, was to be exercised. This point was strenuously and perseveringly insisted on by Quadra in his negotiation with Vancouver, and with obvious justice. To use Vancouver's own language, page 342, 2d volume of his Journal, Quadra observed that "Nootka ought to be the last or most northwardly Spanish settlement; that there the dividing line should be fixed, and that from thence to the northward should be free for entrance, use, and commerce to both parties, conformably with the fifth article of the convention; that establishments should not be formed without permission of the respective Courts, and that the English should not pass to the south of Fuen." Such was Quadra's construction of the treaty; and he uniformly refused to make any formal surrender of territory or buildings, excepting the small cove referred to. Nootka Sound is midway between the 49th and 50th parallels of latitude; and south of this point, if Quadra's position was well taken, Great Britain could claim no right by virtue of the convention, though it were still in force.

That Great Britain would have had the right, under the convention, at any time during its continuance, to form a temporary establishment on any part of the northwest coast, north of the Spanish post at Nootka, will not be disputed; though it would have been subject to the right of free access

\* Vancouver arrived at Nootka Sound on the 20th May, 1793, and found the Spaniards in possession. He says: "An officer was immediately despatched on shore to acquaint Señor Fidalgo of our arrival, and that I would salute the fort if he would make an equal return; this was accordingly done with eleven guns."—*Vancouver's Journal*, vol. 3, page 422.

Vancouver arrived at Nootka Sound on the 5th of October, 1793, and, to use his own words, "the usual ceremonies of salutes, and other formalities, having passed, accompanied by Mr. Puget, I waited on Señor Saavedra, the commander of the post."—*Vol. 4*, page 289.

Vancouver arrived at Nootka Sound on the 2d September, 1794, and found Lieutenant General Alava in command. He left without resuming the negotiation which he had commenced with Quadra, in 1792. On the 12th November, 1794, he was informed by General Alava, at Monterey, where they met, that instructions had been sent to adjust the matter in an amicable way, and merely on the terms which he (Vancouver) had repeatedly offered to Señor Quadra in September, 1792. But of this, as has been seen, there is no satisfactory evidence.—*See 6th volume*, page 118.