

with the published extract of a letter from Mr. Bancroft to Mr. Buchanan, describing a conversation which he (Mr. Bancroft) had had with Lord Palmerston. No statement of Mr. Bancroft made more than two years after the exchange of ratifications can be reasonably regarded as "personal testimony contemporaneous with the Treaty," in which category it is placed in the paper of Mr. Cass adducing it. The only use to which these documents could now be fairly applied would be to shew that Lord Palmerston had then made to Mr. Bancroft admissions now binding on Her Majesty's Government. But the documents afford no ground for such a suggestion.* The course taken by Lord Palmerston on Mr. Bancroft's second letter (in which he for the second time intimated his view that the boundary was to pass through the Canal de Haro) is conclusive as to Lord Palmerston's view of the position. It is plain, on the face of Lord Palmerston's answer to that letter, that the answer was deliberately framed so as not to amount to an admission of the claim put forward by Mr. Bancroft. If there could be any doubt of this, on the words of the letter, the doubt would be put an end to by a reference to the minutes on Mr. Bancroft's letter which preceded the preparation of the draft of Lord Palmerston's answer. On Mr. Bancroft's letter the Under-Secretary of State made the following minute for Lord Palmerston:—

"Shall this letter be acknowledged and Mr. Bancroft be thanked for it ?

"And if so, shall the underlined assumption of Mr. Bancroft be passed over without observation ?"

The underlined words were:—"through the middle of which our boundary line passes." Lord Palmerston's minute in answer was as follows:—

"Thank him, and say that the information contained in these charts as to soundings will no doubt be of great service to the Commissioners to be appointed, by assisting them in determining where the line of boundary described by the Treaty ought to run."†

IV.

26. The next class of Mr. Bancroft's arguments is to be found in those passages in which he contends, in effect, that Her Majesty's Government are precluded from disputing the interpretation put on the Treaty by the United States, on the ground that the framing of the Treaty was (as he represents) the work of Her Majesty's Government.

27. He says (page 22):—

"The draft of the Treaty was made entirely, even to the minutest word, by the British Ministry, and was signed by both parties without change. The British Government cannot, therefore, take advantage of an ambiguity of their own, otherwise the draft of the Treaty would have been a snare. Such is the principle of natural right, such the established law of nations. Hugo Grotius lays down the rule that the interpretation must be made against the party which drafted the conditions: 'ut contra eum fiat interpretatio, qui conditiones elocutus est.' But no one has expressed this more clearly than Vattel, who writes"

* "If I notice General Cass' allusion to the letters which he says Mr. Bancroft repeatedly wrote to Lord Palmerston in 1848 it is only for the purpose of placing on record what, no doubt, Mr. Bancroft duly reported to his Government at the time, namely, that Lord Palmerston gave Mr. Bancroft distinctly to understand that the British Government did not acquiesce in the pretensions of the United States that the boundary line should be run down the Haro Channel."—Lord John Russell to Lord Lyons, 16th December, 1859; read, and copy given, to United States' Secretary of State.

† These observations may not be thought too minute when it is stated that Lord Palmerston's letter has been treated by Mr. Archibald Campbell as a virtual admission of the Canal de Haro as the Treaty channel.