

other parts of the northwestern coasts of North America, or of the islands adjacent, situate to the north of the parts of the adjacent coasts already occupied by Spain, wherever the subjects of either of the two Powers shall have made settlements since the month of April, 1789, or shall hereafter make any, the subjects of either shall have free access, and shall carry on their trade without any disturbance or molestation."

Mr. P. continued. The previous articles of the treaty provided for reparation for acts of violence committed by the subjects of Spain on those of Great Britain, or rather those who claimed to be the subjects of Great Britain, who were there on trading expeditions, not under the flag of Great Britain, but under the flag of Portugal. The article I have read, then, provides that no settlements shall be made by Great Britain, except to the north of those places already occupied by Spain. What part of the coast was then occupied by Spain? There was a settlement at Nootka Sound, in the latitude of 49½°, which was in the occupation of the Spanish Government. Great Britain, therefore, by the terms of that convention, claimed no rights south of Nootka Sound. But the question arises, were any rights obtained under that treaty? I say, that, by the declaration of war by Spain against Great Britain, in the year 1796, the treaty of Nootka Sound was abrogated and annulled. It is a general principle of the law of nations, that war annuls and abrogates all treaties between the belligerent Powers, although some distinguished diplomatists have contended that there are exceptions. Lord Bathurst, however, in the year 1815, thus expresses his own opinion on that point:

"It has been urged, indeed, on the part of the United States, that the treaty of 1783 was of a peculiar nature, and that, because it contained a recognition of American independence, it could not be abrogated by a subsequent war between the parties. To a position of this novel nature, Great Britain cannot accede. *She knows of no exception to the rule, that all treaties are put an end to by a subsequent war between the same parties*; she cannot, therefore, consent to give to her diplomatic relations with one State a different degree of permanency from that on which her connexion with all other States depends."

Mr. P. continued: If, then, no settlements were made by the British Government, or her subjects, on the northwest coast, prior to the declaration of war by Spain in 1796, Great Britain obtained no rights by virtue of the treaty. She had no settlements, and could therefore claim nothing by settlement or occupation, although the treaty provided that settlements might be made by her subjects northward of those parts of the coast already occupied by the subjects of Spain. Whatever rights she had under the Nootka Sound convention expired by the war of 1796, and have not been revived; and although certain commercial treaties were revived in 1815, yet they never extended to her colonies in North America.

But again: It becomes necessary to examine what are the claims of the respective parties to this territory. Whilst we, on the part of the United States, have constantly asserted our title, Great Britain has never claimed any exclusive privileges. Her commissioners, in 1826, Messrs. Huskisson and Addington, asserted that Great Britain claimed no exclusive rights over any portion of the territory. They said:

"Great Britain claims no exclusive sovereignty over any

portion of that territory. Her present claim, not in respect to any part, but to the whole, is limited to a right of joint occupancy in common with other States, leaving the right of exclusive dominion in abeyance."

Mr. P. continued: Thus it will be seen that, in 1826, no exclusive privileges were claimed by Great Britain. The country was free to the settlement and occupation of all nations; whilst, on the part of the United States, our title has been asserted by virtue of the discovery of the mouth of the Columbia, by Gray, in 1790; and, also, by the exploration of that country by Lewis and Clarke in 1805 and 1806; and by the settlement made at Astoria in 1810. By virtue of these several discoveries, explorations, and settlements, and by virtue of the treaty of 1819, by which Spain ceded to us all the country north of the 42d parallel, and extending to the Pacific, we claim this territory. Upon this basis our title to it stands. Great Britain is precluded, *is estopped*, by the Nootka Sound convention, if that is to be considered in force, from claiming any right to the territory south of Nootka Sound; if that convention was abrogated in 1796, she had made no settlement prior to the settlement of Astoria. That settlement, it is well known, was captured by her, and restored to us under the treaty of Ghent.

But the convention of 1818, between the United States and Great Britain, recognises the rights of other nations on that coast. The third article provides:

"It is agreed that any country that may be claimed by either party on the northwest coast of America, westward of the Snowy Mountains, shall, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open for the term of ten years from the date of the signature of the present convention to the vessels, citizens and subjects of the two Powers—it being well understood that this agreement is not to be construed to the prejudice of any claim which either of the two high contracting parties may have to any part of the said country, *nor shall it be taken to affect the claims of any other Power or State to any part of the said country*; the only object of the high contracting parties in that respect, being to prevent disputes and differences among themselves."

Now, (continued Mr. P.) why was this clause of the article inserted—"that the convention should not be taken to affect the claims of any other Power or State to any part of the said country"—unless there were other nations who had claims that were respected and regarded by the contracting parties? Therefore we say that the claims of Spain were recognised by the convention; and all those rights which Spain had at its date were ceded to us by the treaty of Florida. And the convention of 1827, which revives that of 1818, contains no stipulation by which the claims of other nations were recognised; thus clearly demonstrating that in 1827 the claims of all other nations to that coast were extinguished, and that it was held either by the United States or Great Britain.

It is said that this bill, taken in connexion with the resolution of notice for the termination of the convention, (and which, it is supposed, will finally receive the sanction of both Houses), will be regarded as a war measure; and it is argued in some quarters, that although there may be an attempt to dispute it, yet that such is the object, and such the feeling of those who advocate its passage. The President recommended that the laws of the United States should be extended over our citizens in the

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