

OPINION OF JOHN VAN BUREN, Esq.

SIR:—I have received your favor asking my opinion as to the rights of the Hudson's Bay Company and Puget Sound Company, which are secured to them by the treaty between the United States and Great Britain, of the 15th June, 1846. These are of three descriptions.

First.—The right of the former company to the free navigation of the Columbia river. This right, it seems clear, is reserved to that company exclusive of all other British subjects, and if released by them, is extinguished.

Second.—"The farms, lands, and other property of every description, belonging to the Puget's Sound Agricultural Company, on the north side of the Columbia river." This property is confirmed by the 4th article of the treaty to the said company, and provision is made for the purchase of such portions of it as the United States may deem of public or political importance and desire to acquire.

Third.—It appears from a statement made by Sir George Simpson, under date of January 14, 1849, which has been submitted to me, that the Hudson's Bay Company have, south of the 49th parallel of north latitude, thirteen trading establishments or villages, situated on the most eligible sites as regards commerce, water power, agriculture, and dealing with the natives; that their flocks and herds pasture over large districts of country; that their outlay for building, fencing, bringing land into cultivation, and importing stock, amounts to nearly a million of dollars, and that each of these trading villages or posts is protected by strong picketing and corner bastions, rendering them defensible against Indians, or irregular forces, if not formidable for offensive operations.

Assuming this to have been substantially the state of things when the treaty was concluded, I am asked what was intended by the third article, which provides that "In the future appropriation of the territory south of the 49th parallel of north latitude, is provided by the first article of this treaty, the possessory rights of the Hudson's Bay Company, and of all British subjects who may already be in the occupation of land, or other property lawfully acquired within the said territory, shall be respected." It seems to me the obvious construction of this language, used and applied in this connection, that the parties to the treaty regarded the occupation of the Hudson's Bay Company as a lawful one, which gave such a property in the soil as forbade any "future appropriation" of it inconsistent with such occupation.

J. VAN BUREN.

NEW YORK, January 8, 1849.