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and trade in the open sea, but not to settle on the coast south of the 51st degree. This proposition was rejected by the British Minister, who then proposed to divide the territory upon the parallel of 31°. This being rejected by Spain, a proposition was then made to divide by the 40th parallel, which was also promptly refused by Spain. Negotiations had now been continued about eight months, and at this point appeared to have come to an unfavorable close. All Europe had been anxiously watching the progress of this attempt at amicable settlement. France had equipped a fleet of forty-five sail. Belgium and Russia were also armed. British statesmen seeing the fearful progress of revolutionary principles on the continent, and all Europe armed, they clearly foresaw the bloody conflict which would ensue, and in which she must necessarily act her part. In this state of things, she concluded it was better to make an ally than an enemy of Spain, and that she would put off the settlement of title to the Oregon territory to some more convenient season. Accordingly the British Minister withdrew the proposition, which he had made fixing lines and boundaries of territorial divisions. Negotiations were renewed with Spain, and in a short time the Nootka convention was concluded upon, and, on the 28th October, 1790, was signed by the Plenipotentiaries of the two countries, at the Escurial, and Spain became the ally of England. This, sir, is briefly the history of the Nootka convention. The next inquiry is to determine the true intent and meaning of this treaty by the ordinary rules of construction. Of what nature is this convention? Is it commercial or territorial? What effect has it upon the ultimate territorial rights of the parties? I shall only notice so much of it as tends to form the issue I made, that our title to Oregon, south of Nootka, is absolute and clear. Our title north of that has been too often and ably argued to require any aid of mine. The first and second articles of this convention provides "that the buildings and tracts of land of which British subjects were possessed in April, 1789, shall be restored, compensation made for ships or merchandise of British subjects, which may have been seized or taken from them in 1789." The fifth article, and most material one, is as follows:

"ART. 5. It is agreed, that, as well in the places which are to be restored to the British subjects, by virtue of the first article, as in all other parts of the northwestern coasts of North America, or of the islands adjacent, situated to the north of the coast already occupied by Spain, wherever the subjects of the two Powers shall have made settlements since the month of April, 1789, or shall hereafter make any, the subjects of the other shall have free access, and shall carry on their trade, without any disturbance or molestation."

(The sixth article refers to South America.)

To execute this convention, Britain appointed Vancouver and Spain Quadra, two distinguished navigators. They met at Nootka in August, 1792, each under instructions from his Government, but neither had any description of the "lands or houses" to be restored, or any evidence that British subjects had ever been possessed or dispos-

ed of any houses or lands at that place. Quadra inquired of the Indians if any lands had been sold to John Meares, and they replied there never had been. He next procured the testimony of the American captains, Gray and Ingraham, who testified that they were at Nootka in 1788, and also during all the difficulties between Martinez and the British traders in 1789; that they could converse perfectly well with the Indians, and never heard of any purchase of land having been made by Meares. Their testimony as to buildings was taken in writing, is yet extant, and is as follows:

"On the arrival of the Columbia, in the year 1788, there was a house, or rather a hut, consisting of rough posts, covered with boards, made by the Indians; but this, Captain Douglass pulled to pieces, prior to his sailing for the Sandwich Islands, the same year. The boards he took on board the Iphigenia, and the roof he gave to Captain Kendrick, which was cut up and used as firewood on board the Columbia; so that, on the arrival of Don Martinez, there was no vestige of any house remaining."—*Proofs and Illustrations to Greenhow's Oregon*, p. 415.

Vancouver procured testimony of Mr. Duffin, a British seaman, who said he was with Meares in 1788, and that, on the 17th May, 1788, he (Meares) purchased of Maquilla and Callicum, two Indians, the whole of Friendly Cove, for which he gave them some sheets of copper, and other trifling articles. Meares's own journal, pages 113-14, has the following entry:

"A present, consisting of copper, iron, and other gratifying articles, was made to the chiefs Maquilla and Callicum, who, on receiving it, took off their sea-otter garments, threw them, in the most graceful manner, at our feet, and remained, in the unadorned garb of nature, on the deck."—*Voyage*, p. 113-14.

Not a word about land. And also, on page 114, the following:

"Maquilla had not only most readily consented to grant us a spot of ground in his territory, whereon a house might be built for the accommodation of the people we intended to leave there; but had promised us also his assistance in forwarding our works, and his protection of the party, who were destined to remain at Nootka during our absence. In return for this kindness, the chief was presented with a pair of pistols, which he had regarded with an eye of solicitude ever since our arrival."—*Voyage*, p. 114.

What, then, becomes of Mr. Duffin's evidence? Is it probable that Meares, in 1788, sailing as a free trader under Portuguese colors, would buy lands in the name of England? Meares's own journal contradicts Duffin, and shows that he never bought any land, but that he merely had the privilege of building a vessel on a small lot of ground. In this state of the case, Quadra very justly maintained that Meares never possessed any houses or lands at Nootka. He admitted, that by the convention, England had a joint right with Spain to make settlements and trade north of Nootka, but not south. After long negotiations, these commissioners could not agree. The case was referred back to their respective Governments, with the evidence they had taken, for further instructions; having agreed