

sage of the British King to Parliament, and in the earnest discussions between the two countries in respect to the seizure of the British ships, I find no mention of such dispossession. When Vancouver was sent out, in 1792, to receive possession of the buildings, &c., to be restored, none could be found excepting those erected by the Spaniards. No building occupied by British subjects remained at Nootka in 1789, when Martinez arrived there; and it was denied by the Indians that any tracts of land had been ceded to British subjects. In fact, there were no traces of the occupancy which the article supposed. The only pretence of a cession of territory of which there was any evidence, was the right acquired by Meares, while acting in the name of a Portuguese citizen, and sailing under the flag of Portugal, to occupy temporarily a very small lot, which he himself admits he had agreed to restore when he should leave the coast.

After a long controversy on this subject between Vancouver and Quadra, the Spanish commander at Nootka, the former departed without receiving any restitution of buildings or lands, and the subject was referred to their respective Governments. In 1796, Captain Broughton arrived at Nootka, and found the place unoccupied. (See his Voyage of Discovery to the North Pacific Ocean, page 50.) He nowhere states that he was sent out with instructions to adjust the difficulty. But he says he was informed, by letters left with Maquina, the Indian King, that "the Spaniards had delivered up the port of Nootka, &c., to Lieutenant Pierce, of the marines, agreeably to the mode of restitution settled between the two Courts." But there is no proof of such restitution. The only authority relied on to show such a restitution, is one recently produced by the London Times. I allude to De Koch, vol. I, page 126. He says:

"The execution of the convention of the 28th October, 1790, [the Nootka convention] experienced some difficulties which delayed it till 1795. They were terminated the 23d of March of that year, on the spot itself, by the Spanish Brigadier Alava and the English Lieutenant Poara, who exchanged declarations in the bay of Nootka; after which the Spanish fort was destroyed; the Spaniards embarked, and the English flag was planted there in sign of possession."

De Koch has the reputation of being accurate; but there is certainly one error in his statement. There was no such name as Poara in the British Registers of that year. He doubtless meant Pierce.

In opposition to this testimony of a foreign writer, we have the assertion, twice repeated, of the British historian, Belsham, that the Spanish flag at Nootka was never struck, and that the place was virtually relinquished by Great Britain.† If

* See *Histoire Abrégée des Traités de Paix*, &c. par M. de Koch, continué, &c. par F. Schoell.

† "L'exécution de la convention du 28 Octobre, 1790, éprouva, au reste, des difficultés qui la retardèrent jusqu'en 1795. Elles furent terminées le 23 Mars de cette année, sur les lieux mêmes, par le Brigadier Espagnol Alava, et le Lieutenant Anglois Poara, qui échangèrent des déclarations dans le golfe de Nootka même; après que le fort Espagnol fut rasé, les Espagnols s'embarquèrent, et le pavillon Anglois y fut planté en signe de possession."

† "It is certain, nevertheless, from the most authentic subsequent information, that the Spanish flag flying at the port and settlement of Nootka was never struck, and that

any restitution was ever made, the evidence must be in the possession of Great Britain. Señor Quadra, in 1792, offered to give Vancouver possession, reserving the rights of sovereignty which Spain possessed. There may have been a restitution with such reservation; but if there is any evidence of a restitution, why has it not been produced by the British negotiators, or at least referred to? Where are the declarations mentioned by De Koch as having been exchanged? Why, I repeat, has the evidence not been produced? Probably because, if there is any such evidence, it must prove a conditional and not an absolute surrender—such a surrender as she is unwilling to show—a surrender reserving to Spain her rights of sovereignty. If there was a restitution, and she possesses the evidence of it, she probably secretes it, as she secreted the map of the northeastern territory with the red line, because it would have been a witness against her. When Vancouver went out in 1792, he carried an order from the Spanish Government to the commander at the port of St. Lawrence (Nootka) to restore the buildings and districts or parcels of land which were "occupied" by the subjects of Great Britain at Nootka and Port Cox, and of "which the English subjects were dispossessed." Quadra refused to execute it. No occupation—no dispossession was proved. The treaty did not name Nootka or Port Cox. Quadra considered, doubtless, the occupation and dispossession as facts to be proved. Though the treaty was absolute in its terms, its execution depended on a contingency assumed to have happened—a contingency to be shown. In the absence of any such proof, we have a right to insist on the evidence of a restitution, full, formal, unconditional, absolute. Broughton, in 1796, says the restitution was made agreeably to the mode "settled between the two Courts." This was a mode settled on the reference of the subject to the two Governments after the refusal of Quadra to surrender Nootka to Vancouver. Vancouver, in his Journal, vol. 6, page 118, says that on the 12th September, 1794, Señor Alava told him at Monterey that the matter had been adjusted by their respective Courts "nearly on the terms" which he (Vancouver) had repeatedly offered to Quadra. Even this statement, coming from Vancouver, shows that there was a new agreement between the Courts. What was the agreement? We have a right to call for its production.

Such was the practical execution of the first article of the Nootka Sound convention. One fact is undeniable. Great Britain never occupied Nootka. From 1796 to the present day no attempt has been

the whole territory has been virtually relinquished by Great Britain—a measure, however politically expedient, which involves in it a severe reflection upon the Minister who could permit so insidious an encroachment upon the ancient and acknowledged rights of the Crown of Spain."—Belsham's *History of Great Britain*, vol. 8, page 337-338.

"But though England, at the expense of three millions, extorted from the Spaniards a promise of restoration and reparation, it is well ascertained, first, that the settlement in question never was restored by Spain, nor the Spanish flag at Nootka ever struck; and secondly, that no settlement has even been subsequently attempted by England on the Californian coast. The claim of right set up by the Court of London, it is therefore plain, has been virtually abandoned, notwithstanding the menacing tone in which the negotiation was conducted by the British administration, who cannot escape some censure for encouraging those vexatious encroachments on the territorial rights of Spain."—Belsham's *History of Great Britain*, vol. 8, Appendix, page 40, 41.