

Statement.

of their Government in concluding the Treaty. Her Majesty's Government submit to the Arbitrator that it is of little, if any, weight. All that it amounts to is this, that some of the persons concerned on the part of the United States on the occasion of the Treaty anticipated that the Treaty, couched in the words proposed on one side and adopted on the other, would have a certain effect. These anticipations were not communicated at the time to Her Majesty's Government, or to any representative of that Government, and are, therefore, in no degree binding on them to their detriment.

25. But, before parting from this branch of the subject, Her Majesty's Government will advert to two other pieces of evidence which have been in the course of the controversy adduced as "personal testimony contemporaneous with the Treaty,"* and which it is possible may be brought up again as such in the present discussion.

(1.) It is stated* that, on 28th December, 1846, Mr. Bancroft (who was then the United States' Minister at London) having written to Mr. Buchanan on the subject from London, Mr. Buchanan inclosed, in a letter to Mr. Bancroft, a traced copy of Wilkes' chart of the Straits of Arro (that is, the Canal de Haro), and added :—

"It is not probable, however, that any claim of this character will be seriously preferred by Her Majesty's Government to any island lying to the eastward of the Canal de Arro, as marked in Captain Wilkes' map of the Oregon Territory."

The correspondence at this time between Mr. Bancroft and Mr. Buchanan, as far as the same is known to Her Majesty's Government, is set forth in the Appendix to this Statement.† Her Majesty's Government submit to the Arbitrator that if this correspondence is proposed to be used on the present occasion as evidence on behalf of the United States, it ought to be rejected. First, it was from its nature entirely unknown at its dates to Her Majesty's Government; secondly, any declarations it contains were made *post litem motam*. Even if admitted, it would be of little value, as it cannot carry the case further than it is carried by Mr. MacLane's letter, on which Mr. Buchanan's statements in this correspondence explicitly rest. Mr. Buchanan does not use a word that can fairly be considered as conveying his personal testimony as to the intention of himself or his Government at the time of the making of the Treaty. Finally, if this correspondence is admitted as evidence, then Her Majesty's Government would ask that there be taken into consideration along with it the report of Mr. Buchanan's views in 1848, made by Mr. Crampton, Her Majesty's Minister at Washington, and the subsequent communication thereon made to the United States' Government.‡

(2.) The other piece of evidence referred to by Her Majesty's Government as having been adduced on behalf of the United States is the following :—§

"Mr. Bancroft, who was a member of President Polk's Cabinet when the Treaty was concluded, wrote repeatedly to Lord Palmerston after receiving this chart [the traced copy of Wilkes' chart above mentioned], and uniformly described the Straits of Arro 'as the channel through the middle of which the boundary is to be continued.'"

The communications between Mr. Bancroft and Viscount Palmerston here referred to were in July and November 1848. The letters are set forth in the Appendix,|| together

* Mr. Cass to Mr. Dallas, 20th October, 1859; read, and copy given, to Her Majesty's Secretary of State for Foreign Affairs.

† Appendix, No. 2.

‡ Appendix, No. 3.

§ Mr. Cass to Mr. Dallas, 20th October, 1859; read, and copy given, to Her Majesty's Secretary of State for Foreign Affairs.

|| Appendix, No. 4.