

the right of property was recognized only as dating from the Treaty. Thus the effect of the Treaty upon the territory south of the 49th degree of north latitude, then occupied by the Hudson's Bay Company, was an appropriation of it to the United States from that date, involving a virtual denial to that Government of any previous exclusive right of property in it. It is important not to lose sight of this fact, as it aids materially a right understanding as well of the position and intention of the parties in relation to each other, and to the subject-matter of the Treaty, as of the nature and extent of the obligation assumed by the United States. It removes also the application of the rule which prevails in ordinary boundary treaties, by which all titles granted by or derived from the Government, whose rights are shewn by the settlement of the boundary to be unfounded, are rendered null, and makes applicable the converse rule, by which, in cases of rightful possession by a Government which afterwards cedes its rights, all its previous grants and titles in the ceded territory are binding upon the new sovereignty.

The expressions found in the 3rd Article of the Treaty, to which I now proceed, are, that "the possessory rights of the Hudson's Bay Company, and of all British subjects who may be already in the occupation of land or other property lawfully acquired within the said territory, shall be respected." With regard to that portion of the Article which relates to British subjects, it is to be remarked, that its only possible application, in view of the facts under which it was written, must have been to the persons in the employment of the claimants who might have been in the occupancy of lands with their consent. The testimony given by Mr. Lowe (pp. 17, 18) and several other witnesses for the claimants shews that under apprehensions for the future, and in order to protect their property a number of the servants of the Company were directed to enter land claims according to a law of the Provisional Government of Oregon; but the land continued without change to remain in the possession of the Company. These claims being held merely for the use and benefit of the Company were afterwards formally abandoned in its favor. This however was of no importance; for if it had not been done, there was no occupancy or improvement by the claimants to give them any title under the law. The numerous