

the Spaniards, whose conduct throughout these transactions (without touching the question of right one way or the other) is universally admitted to have been base and treacherous. We need not detain the reader by entering upon the details, but will reduce the case at once to the simple point in which this outrage was finally narrowed, in the subsequent negotiations between the two countries.

Mears having brought the affair under the consideration of the British government, reattribution and satisfaction were instantly demanded of the Court of Spain, to which demand an answer was given, that the Viceroy of Mexico had already restored the captured vessels and liberated the crews, on the supposition, however, that their owners were ignorant of the exclusive rights of Spain. This answer, accompanied by a direct claim to the sovereignty of the country, was held to be so unwarrantable, that it was at once met by a message to parliament, asking for supplies to enable his majesty to vindicate the rights of his subjects to "a free and uninterrupted navigation, commerce, and fishery, and to the possession of such establishments as they should form" on the coast. The supplies were granted with enthusiasm, and preparations for war were immediately set on foot; so clearly did the British government comprehend their rights, and so determined were they to enforce them. On the same day a note was addressed to the Spanish ambassador in London, in which his majesty declared that "he would take the most effectual pacific measures to prevent his subjects from trespassing on the just and acknowledged rights of Spain; but that he could not accede to the *pretensions* of absolute sovereignty, commerce, and navigation, which appeared to be the principal objects of the last note from the Spanish ambassador." Nothing could be more explicit on both sides. The Spanish government claimed the right of exclusive sovereignty over the country; the English government denied that they possessed any such right, showing at the same time that they regarded their own title to be so clear, that they actually expended 3,000,000*l.* sterling in active preparations to maintain and establish its validity. The English government would certainly never have incurred so enormous an expenditure, if they had not fully recognized the proceedings of Mears in taking possession of the country.

Spain, however, did not see fit to push her claim to extremities. She argued the case with a downward sophistry, abandoning her high position step by step, and gradually begging the question by observing, that "although Spain may not have establishments or colonies planted on the coasts or in the ports in dispute, it does not follow that such coast or port does not belong to her." To which the British government contented itself by simply reasserting the "indisputable right" of British subjects to free navigation, commerce and fishery, and to the possession of any establishments they might form with the consent of the natives of the country, not previously occupied by any European nation. Spain herself admitted in these negotiations that she had never *occupied* the country, so that, according to every received principle of law and justice, her claim fell to the ground.

The attitude taken by England was not to be misunderstood; and the demands of Spain at last

shrunk into a treaty. This was the Convention of the Escurial, which in America goes rather significantly by the name of the Nootka Treaty, seeing that it restored and recognized in full the rights of the English in that quarter. By this convention it was stipulated that all the buildings and tracts of land on the North-west coast, of which British subjects were dispossessed, should be restored; that just reparation should be made for all acts of hostility; that both parties should have free right to navigate in the Pacific Ocean or the South Seas, or to carry on commerce or establish settlements in places not already occupied, and that the subjects of both powers should have access to any settlements subsequently formed by either. This arrangement distinctly reinstated the British settlers in the places they had previously occupied, and threw open to both powers the right of settling in all places then unoccupied. After this convention, Spain had undoubtedly as good a right to form settlements in Oregon as we had. The effect of the convention was distinctly and unequivocally to annul or forego all previous claims to sovereignty over the country on both sides, and to treat the territory as an open waste, upon which either party was at liberty to form any settlements it might think proper, provided they did not interfere with any settlements already formed, there being at the time but two in existence, those of the English at Nootka Sound, and at Port Cox, about sixteen leagues to the southward, which this very treaty expressly recognized.

What followed upon this convention! The English government immediately proceeded to carry out their intentions, in conformity with that official interpretation of the treaty which was accepted by both governments, and sent out Vancouver, in 1792, to take possession of the restored settlements, and to ascertain what parts of the coast were unoccupied. At Nootka he was formally put in possession of the buildings and lands belonging to the English, and having surveyed the coast from 39° 20' south latitude to the Strait of Juan de Fuca, and finding it all unoccupied, he took possession of it in the name of his Britannic Majesty, under the right accorded and guaranteed by the express stipulations of the convention. By this legal and official act, the country was annexed to the British crown forever. The act was notified to the whole world; it was published under the sanction of government in Vancouver's narrative; everybody knew it; nobody disputed it. If Spain regarded this act or declaration of sovereignty as an infringement of her rights, she would have remonstrated or protested. But she did neither the one nor the other. On the contrary, from that hour she abandoned the shores of the north-western region; and has never appeared upon them since. It seems rather unreasonable, then, that if Spain never afterwards asserted any right of territory in Oregon, America should claim such right as emanating from Spain by virtue of a subsequent transaction.

Under the Nootka treaty, Spain, had she been in time, and had she thought proper to do so, might have taken possession of all the unoccupied land; and if she had, we must have allowed the legality of her title. But she not only did not avail herself of the opportunity, but does not appear to have contemplated such a measure. In fact, she never at any period formed a settlement in Oregon, as was frankly admitted in the diplomatic