No. II.

It has, it is believed, been conclusively proved that the claim of the United States to absolute sovereignty over the whole Oregon territory, in virtue of the ancient exclusive Spanish claim, is wholly unfounded. The next question is, whether the other facts and arguments adduced by either party establish a complete and absolute title of either to the whole: for the United States claim it explicitly; and, although the British proposal of compromise did yield a part, yet her qualified claim extends to the whole. It has been stated by herself in the following words: "Great Britain claims no exclusive sovereignty over any portion of that territory. Her present claim, not in respect to any part, but to the whole, is limited to a right of joint occupancy, in common with other States, leaving the right of exclusive dominion in abeyance." And, again: "The qualified rights which Great Britain now possesses over the whole of the territory in question, embrace the right to navigate the waters of those countries, the right to settle in and over any part of them, and the right freely to trade with the inhabitants and occupiers of the same. * * * * It is fully admitted that the United States possess the same rights; but beyond they possess none."

In the nature of things, it seems almost impossible that a complete and absolute right to any portion of America can exist, unless it be by prescriptive and undisputed *actual* possession and settlements, or by virtue of a treaty.

At the time when America was discovered, the law of nations was altogether unsettled. More than a century elapsed before Grotius attempted to lay its foundation on Natural Law and the moral precepts of Christianity; and, when sustaining it by precedents, he was compelled to recur to Rome and Greece. It was in reality a new case, to which no ancient precedents could apply,* for which some new rules must be adopted. Gradually, some general principles were admitted, never universally, in their nature vague and often conflicting. For instance, discovery varies, from the simple ascertaining of the continuity of land, to a minute exploration of its various harbors, rivers, &c.; and the rights derived from it may vary accordingly, and may occasionally be claimed to the same district by different nations. There is no precise rule for regulating the time after which the neglect to occupy would nullify the right of prior discovery; nor for defining the extent of coast beyond the spot discovered to which the discoverer may be entitled, or how far inland his claim extends. The principle most generally admitted was, that, in case of a river, the right extended to the whole country drained by that river and its tributaries. Even this was not universally conceded. This right might be affected by a simultaneous or prior discovery and occupancy of some of the sources of such river by another party; or it might conflict with a general claim of contiguity. This last claim, when extending beyond the sources of rivers discovered and occupied, is vague and undefined; though it would seem that it cannot exceed in breadth that of the territory on the coast originally discovered and occupied. A few examples will show the uncertainty resulting from those various claims, when they conflicted with each other.

The old British charters extending from sea to sea have already been mentioned. They were founded, beyond the sources of the rivers emptying into

* Grotius, however, sustains the right of occupation by a maxim of the Civil Roman Code.