If our title is good to only a part of the territory, it is even more important that an adjustment should be had than if it were known to be good to all; for if our people go beyond the true line to which our title extends and make settlements, we will never give them up, title or no title.—In such a case, the people would not listen to special pleading. The time has passed when this government, under any administration, will venture to surrender up or transfer its citizens to any other nation.

Although it is not my intention to discuss the title, I will, however, make a brief allusion to an argument of my colleague [Mr. DARGAN] upon the Nootka Sound convention between Great Britain of 1790, and the effect of the war of 1796 between those nations upon the provisions of that treaty. He contended that, by the treaty of 1790 at Nootka, Great Britain obtained the right of settlement, which gave her an interest in the soil, and therefore could not be abrogated or annulled, unless with her consent. He referred, in illustration and support of his position, to the treaties by which this government acquired Louisiana and Florida, and demanded to know whether a war between the United States and France or Spain would abrogate the treaties of 1803 and 1819, and retransfer to those nations the territory which the United States obtained from them. No one could hesitate to answer his question in the negative. I do not, however, consider the cases as at all analogous. Treaties are contracts between nations; and yet it does not follow that they are all of the same precise character. They are widely different—some executed, giving a permanent, a vested right, as in the purchase of Louisiana and Florida; and others executory; others, again, in the process of being performed, but never completed, and from their very nature cannot be, because they are *continuing*—such as all reciprocal commercial treaties, where the consideration is a *permission* on the part of each nation that the other may do particular things, the permission of the one being the consideration for the permission of the other. In the cases of the purchase of Louisiana and Florida, the contract is executed; the consideration has passed entire into the hands of the vendor, and it is beyond our reach. We have possession of the territory, and have organized our federal and State governments in it. War cannot, therefore, abrogate or rescind them so as to affect our rights under them. We now have commercial treaties with Great Britain—treaties of trade. The vessels of each nation enter the ports of the other in pursuance of treaty stipulations. But if we should declare war against her, all of these stipulations would be abrogated, and the vessels of neither could enter the ports of the other.

I come now to the treaty of Nootka Sound, under which these rights are claimed; and in order to obtain a proper understanding of its provisions as far as they bear upon this point, so as to enable us to determine to which class of t[reaties] ties it belongs, it will be necessary for me to [read] its third article:

"ART. 3. In order to strengthen the bond[s] friendship, and to preserve in future a perfect [harmony] mony and good understanding between the [parties]," contracting parties, it is agreed that their res[pective] tive subjects shall not be disturbed or mole[sted] either in navigating or carrying on their fish[eries] in the Pacific ocean or in the South seas, o[r] landing on the coasts of those seas in places [not] already occupied, for the purpose of carrying [on] their commerce with the natives of the coun[try] or of making settlements there—the whole [subject] ject, nevertheless, to the restrictions specifie[d in] the three following articles."

There can arise but one point of diffi[culty] about this article. We will doubtless all a[gree] that the rights of navigating, fishing, and l[anding] ing on the coast, for the purpose of carrying [on] commerce with the natives of the country [are] commercial privileges, or falling within that [term] and as such would be abrogated and annulled [not] a war between England and Spain. But [only] nected with the right of landing on the coa[st] also the right of making settlements, about w[hich] so much has been said. And my purpose [desired] show, if I can, that the right of settlement [there] given in that treaty, is of a character iden[tical] with those which precede it in the same art[icle], [cu]

Under the third article, as read, British s[ubjects] jects have the privilege of navigation, fishi[ng] landing on the coast not already occupied, for [the] purpose of carrying on their commerce with [the] natives, or of making settlements there. [It] contended that the right of settlement ca[rried] with it the right of soil; and that, therefore [the] Great Britain under it had a right even to p[lant] a colony there if she chose to do so.

I beg to differ with those who hold that [opi]nion. I consider that the entire grants of [the] article of the treaty relate to the one grand [and] leading object which Great Britain had in v[iew] at that time—*fishing and carrying on comm[erce] with the natives of the country.* She did [not] want to make settlements for any other purp[ose] we wanted no colony there. And if you [will] look to the history of that transaction, you [will] find that the difficulties which led to, and w[ere] settled by, the Nootka Sound convention, or[igi]nated entirely from an effort on the part of [the] tish subjects to exercise the very privileges [not] terwards secured to them by that treaty. T[hey] wanted the right to fish and trade; but to ex[er]cise those rights usefully they must also h[ave] the right to navigate. How could they fish s[uc]cessfully without the right to navigate the [wa]ters? Indeed, the article itself says, "*navig[at]ing or carrying on their fisheries in the Pac[ific] ocean.*" The rights to land on the coast [and] make settlements were indispensable to *fish[ing] and trading with the natives.* For if they w[ere] not permitted to land, how could they carry [on] *commerce* with the natives? And if they h[ad] no right of settlement, no right to erect [any]