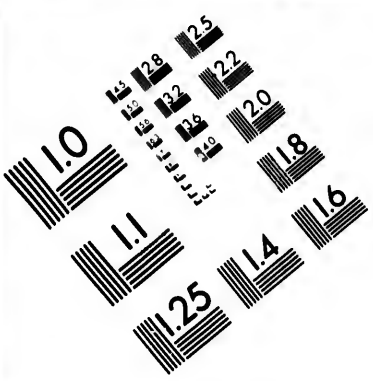

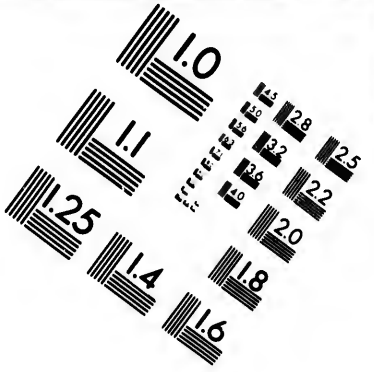

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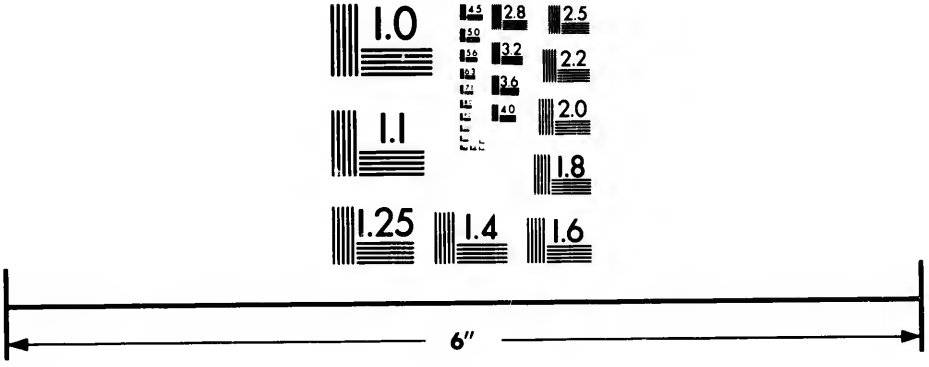

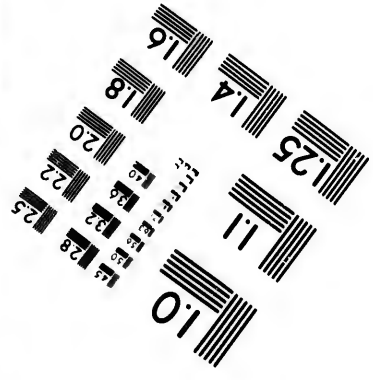

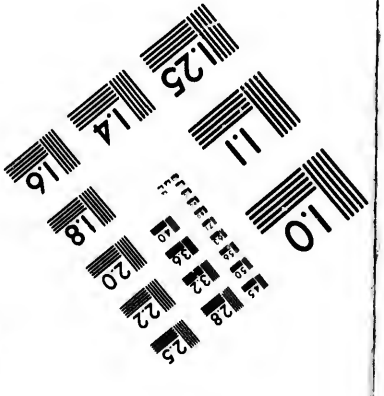

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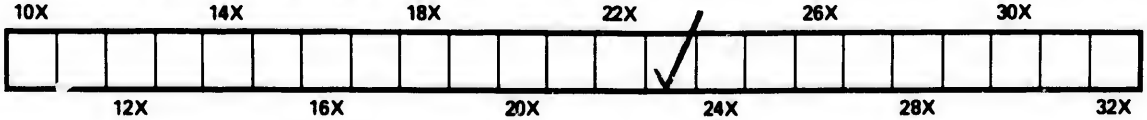

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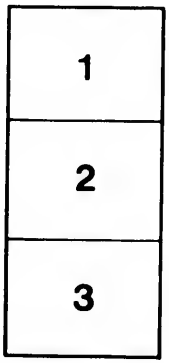

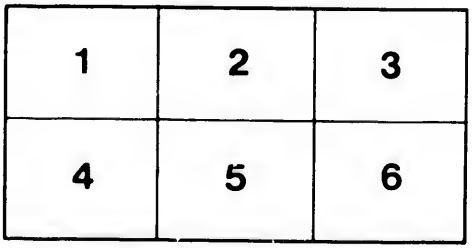

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TH

LAST LETTER

OF

MR. BUCHANAN

TO

MR. PAKENHAM,

ON

THE AMERICAN TITLE TO OREGON.

BALTIMORE.
PRINTED AT THE CONSTITUTION OFFICE.
1845.

For sale at one dollar per hundred copies.

MR. BUCHANAN'S LETTER.

DEPARTMENT OF STATE,

Washington, August 30, 1845.

The undersigned, Secretary of State of the United States, deems it his duty to make some observations in reply to the statement of her Britannic Majesty's envoy extraordinary and minister plenipotentiary, marked R. P. and dated 29th of July, 1845.

Preliminary to the discussion, it is necessary to fix our attention upon the precise question under consideration, in the present stage of the negotiation. This question simply is, were the titles of Spain and the United States, when united by the Florida treaty on the 22d of February, 1819, good as against Great Britain to the Oregon territory as far north as the Russian line, in the latitude of 54 degrees 40 minutes? If they were, it will be admitted that this whole territory now belongs to the United States.

The undersigned again remarks that it is not his purpose to repeat the argument by which his predecessor, Mr. Calhoun, has demonstrated the American title "to the entire region drained by the Columbia river and its branches." He will not thus impair its force.

It is contended on the part of Great Britain, that the United States acquired and hold the Spanish title subject to the terms and conditions of the Nootka Sound Convention, concluded between Great Britain and Spain, at the Escuria, on the 28th October, 1790.

In opposition to the argument of the undersigned, contained in his statement marked J. B. maintaining that this convention had been annulled by the war between Spain and Great Britain, in 1796, and has never since been revived by the parties, the British plenipotentiary, in his statement marked R. P. has taken the following positions:

1. "That when Spain concluded with the United States the treaty of 1819, commonly called the Florida treaty, the convention concluded between the former power and Great Britain, in 1790, was considered by the parties to it to be still in force.

And 2. "But that, even if no such treaty had ever existed, Great Britain would stand, with reference to a claim to the Oregon territory, in a position at least as favorable as the United States."

The undersigned will follow, step by step, the argument of the British plenipotentiary in support of these propositions.

The British plenipotentiary states "that the treaty of 1790 is not appealed to by the British government, as the American plenipotentiary seems to suppose, as their 'main reliance' in the present discussion;" but to show that, by the Florida treaty of 1819, the United States acquired no right to exclusive dominion over any part of the Oregon territory.

The undersigned had believed that ever since 1826, the Nootka Convention has been regarded by the British government as their main, if not their only, reliance. The very nature and peculiarity of their claim identified it with the construction which they have imposed upon this convention, and necessarily excludes every other basis of title. What but to accord with this construction could have caused Messrs. Huskisson and Addington, the British commissioners, in specifying their title, on the 16th December, 1826, to declare "that 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: "By that convention (of Nootka) it was agreed that all parts of the northwestern coast of America, not already occupied at that time by either of the contracting parties, should thenceforward be equally open to the subjects of both for all purposes of commerce and settlement—the sovereignty remaining in abeyance." But on this subject we are not left to mere inferences, however clear. The British commissioners, in their statement, from which the undersigned has just quoted, have virtually abandoned any other title which Great Britain may have previously asserted to the territory in dispute, and expressly declare "that whatever that title may have been, however, either on the part of Great Britain or on the part of Spain, prior to the convention of 1790, *it was thenceforward no longer to be traced in vague narratives of discoveries, several of them admitted to be apocryphal, but in the text and stipulations of that convention itself.*"

And again, in summing up their whole case, they say:

"Admitting that the United States have acquired all the rights which Spain possessed up to the treaty of Florida, either in virtue of discovery, or, as is pretended, in right of Louisiana, Great Britain maintains that the nature and extent of these rights, as well as the rights of Great Britain, are fixed and defined by the Convention of Nootka," &c. &c.

The undersigned, after a careful examination, can discover nothing in the note of the present British plenipotentiary to Mr. Calhoun, of the 12th September last, to impair the force of these declarations and admissions of his predecessors. On the contrary, its general tone is in perfect accordance with them.

Whatever may be the consequences, then, whether for good or for ever—whether to strengthen or to destroy the British claim—it is now too late for the British Government to vary their position. If the Nootka Convention confers upon them no such rights as they claim, they cannot at this late hour go behind its provisions, and set up claims which, in 1826, they admitted had been merged "in the text and stipulations of that convention itself."

The undersigned regrets that the British plenipotentiary has not noticed his exposition of the true construction of the Nootka Convention. He had endeavored, and he believes successfully, to prove that this treaty was transient in its very nature; that it conferred upon Great Britain no right but that of merely trading with the Indians whilst the country should remain unsettled, and making the necessary establishments for this purpose; and that it did not interfere with the ultimate sovereignty of Spain over the territory. The British plenipotentiary has not attempted to resist these conclusions. If they be fair and legitimate, then it would not avail Great Britain, even if she should prove the Nootka Convention to be still in force. On the contrary, this convention, if the construction placed upon it by the undersigned be correct, contains a clear virtual admission on the part of Great Britain that Spain held the eventual right of sovereignty over the whole disputed territory; and consequently that it now belongs to the United States.

The value of this admission, made in 1790, is the same whether or not the convention has continued to exist until the present day. But he is willing to leave this point on the uncontroverted argument contained in his former statement.

But is the Nootka Sound convention still in force? The British plenipotentiary does not contest the clear general principle of public law, "that war terminates all subsisting treaties between the belligerent powers." He contends, however, in the first place, that this convention is partly commercial; and that, so far as it partakes of this character, it was revived by the treaty concluded at Madrid on the 28th August, 1814, which declares "that all the treaties of commerce which subsisted between the two parties (Great Britain and Spain) in 1796, were thereby ratified and confirmed;" and, 2d, "that in other respects it must be considered as an acknowledgment of subsisting rights—an admission of certain principles of international law," not to be revoked by war.

In regard to the first proposition, the undersigned is satisfied to leave the question to rest upon his former argument, as the British plenipotentiary has contented himself with merely asserting the fact, that the commercial portion of the Nootka Sound Convention was revived by the treaty of 1814, without even specifying what he considers to be that portion of that convention. If the undersigned had desired to strengthen his former position, he might have repeated with great effect the argument contained in the note of Lord Aberdeen to the Duke of Sotomayor, dated 30th June, 1845, in which his lordship clearly established that all the treaties of commerce subsisting between Great Britain and Spain previous to 1796, were confined to the trade with Spain alone, and did not embrace her colonies and remote possessions.

The second proposition of the British plenipotentiary deserves greater attention. Does the Nootka Sound Convention belong to that class of treaties containing "an acknowledgment of subsisting rights—an admission of certain principles of international law" not to be abrogated by war? Had Spain, by this convention, acknowledged the right of all nations to make discoveries, plant settlements, and establish colonies, on the northwest coast of America, bringing with them their sovereign jurisdiction, there would have been much force in the argument. But such an admission never was made, and never was intended to be made, by Spain. The Nootka Convention is arbitrary and artificial in the highest degree, and is anything rather than the mere acknowledgment of simple and elementary principles consecrated by the laws of nations. In all its provisions it is expressly confined to Great Britain and Spain, and acknowledges no right whatever in any third power to interfere with the northwest coast of America.

Neither in its terms nor in its essence does the Nootka Sound Convention contain any acknowledgment of previously subsisting territorial rights in Great Britain, or any other nation. It is strictly confined to future engagements; and these are of a most peculiar character. Even under the construction of its provisions maintained by Great Britain, her claim does not extend to plant colonies; which she would have a right to do under the law of nations, had the country been unappropriated; but it is limited to a mere right of joint occupancy, not in respect to any part, but to the whole, the sovereignty remaining in abeyance. And to what kind of occupancy? Not separate and distinct colonies, but scattered settlements intermingled with each other, over the whole surface of the territory, for the single purpose of trading with the Indians, to all of which the subjects of each power should have free access, the right of exclusive dominion remaining suspended. Surely, it cannot be successfully contended that such a treaty is "an admission of certain principles of international law," so sacred and so perpetual in their nature as not to be annulled by war. On the contrary, from the character of its provisions, it cannot be supposed for a single moment that it was intended for any purpose but that of a mere temporary arrangement between Great Britain and Spain. The law of nations recognises no such principles in regard to unappropriated territory as those embraced in this treaty; and the British plenipotentiary must fail in the attempt to prove that it contains "an admission of certain principles of international law which will survive the shock of war.

But the British plenipotentiary contends, that, from the silence of Spain during the negotiations of 1818 between Great Britain and the United States respecting the Oregon territory, as well as "from her silence with respect to the continued occupation by the British of their settlements in the Columbia territory, subsequently to the convention of 1814," it may fairly "be inferred that Spain considered the stipulations of the Nootka Convention, and the principles therein laid down, to be still in force."

The undersigned cannot imagine a case where the obligations of a treaty, once

extinguished by war, can be revived without a positive agreement to this effect between the parties. Even if both parties, after the conclusion of peace, should perform positive and unequivocal acts in accordance with its provisions, these must be construed as merely voluntary, to be discontinued by either at pleasure. But in the present case it is not even pretended that Spain performed any act in accordance with the convention of Nootka Sound, after her treaty with Great Britain of 1814. Her mere silence is relied upon to revive that convention.

The undersigned asserts confidently, that neither by public nor private law will the mere silence of one party, whilst another is encroaching upon his rights, even if he had knowledge of this encroachment, deprive him of these rights. If this principle be correct, as applied to individuals, it holds with much greater force in regard to nations. The feeble may not be in a condition to complain against the powerful; and thus the encroachment of the strong would convert itself into a perfect title against the weak.

In the present case, it was scarcely possible for Spain even to have learned the pendency of negotiations between the United States and Great Britain, in relation to the northwest coast of America, before she had ceded all her rights on that coast to the former by the Florida treaty of 22d February, 1819. The convention of joint occupation between the United States and Great Britain was not signed in London till the 20th October, 1818, but four months previous to the date of the Florida treaty; and the ratifications were not exchanged, and the convention published, until the 30th of January, 1819.

Besides, the negotiations which terminated in the Florida treaty had been commenced as early as December, 1815, and were in full progress on the 20th October, 1818, when this convention was signed between Great Britain and the United States. It does not appear, therefore, that Spain had any knowledge of the existence of these negotiations; and even if this were otherwise, she would have had no motive to complain, as she was in the very act of transferring all her rights to the United States.

But, says the British plenipotentiary, Spain looked in silence on the continued occupation by the British of the settlements in the Columbia territory subsequently to the convention of 1814; and, therefore, she considered the Nootka Sound Convention to be still in force. The period of this silence, so far as it could affect Spain, commenced on the 28th day of August, 1814, the date of the additional articles to the treaty of Madrid, and terminated on the 22d February, 1819, the date of the Florida treaty. Is there the least reason from this silence to infer an admission by Spain of the continued existence of the Nootka Sound Convention? In the first place, this convention was entirely confined "to 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 country, or of making settlements there." It did not extend to the interior.

At the date of this convention, no person dreamed that British traders from Canada, or Hudson's Bay, would cross the Rocky Mountains and encroach on the rights of Spain from that quarter. Great Britain had never made any settlement on the northwestern coast of America, from the date of the Nootka Sound Convention until the 22d February, 1819; nor, so far as the undersigned is informed, has she done so down to the present moment. Spain could not, therefore, have complained of any such settlement. In regard to the encroachments which had been made from the interior by the Northwest Company, neither Spain nor the rest of the world had any specific knowledge of their existence. But even if the British plenipotentiary had brought such knowledge home to her—which he has not attempted—she had been exhausted by one long and bloody war, and was then engaged in another with her colonies; and was, besides, negotiating for a transfer of all her rights on the northwestern coast of America to the United States. Surely these were sufficient reasons for her silence, without inferring

from it that she acquiesced in the continued existence of the Nootka Convention. If Spain had entertained the least idea that the Nootka Convention was still in force, her good faith and her national honor would have caused her to communicate this fact to the United States before she had ceded this territory to them for an ample consideration. Not the least intimation of this kind was ever communicated.

Like Great Britain in 1818, Spain in 1819 had no idea that the Nootka Sound Convention was in force. It had then passed away, and was forgotten.

The British plenipotentiary alleges, that the reason why Great Britain did not assert the existence of the Nootka Convention during the negotiations between the two Governments in 1818, was, that no occasion had arisen for its interposition, the American Government not having then acquired the title of Spain. It is very true that the United States had not then acquired the Spanish title; but is it possible to imagine, that throughout the whole negotiation, the British commissioners, had they supposed this convention to have been in existence, would have remained entirely silent in regard to a treaty which, as Great Britain now alleges, gave her equal and co-ordinate rights with Spain to the whole northwest coast of America? At that period, Great Britain confined her claims to those arising from discovery and purchase from the Indians. How vastly she could have strengthened these claims, had she then supposed the Nootka Convention to be in force, with her present construction of its provisions. Even in 1824 it was first introduced into the negotiation, not by her commissioners, but by Mr. Rush, the American plenipotentiary.

But the British plenipotentiary argues that "the United States can found no claim on discovery, exploration, and settlement effected previously to the Florida treaty, without admitting the principles of the Nootka Convention;" "nor can they appeal to any exclusive right as acquired by the Florida treaty, without upsetting all claims adduced in their own proper right, by reason of discovery, exploration, and settlement antecedent to that arrangement."

This is a most ingenious method of making two distinct and independent titles held by the same nation worse than one—of arraying them against each other, and thus destroying the validity of both. Does he forget that the United States own both these titles, and can wield them either separately or conjointly against the claim of Great Britain at their pleasure? From the course of his remarks, it might be supposed that Great Britain, and not the United States, had acquired the Spanish title under the Florida treaty. But Great Britain is a third party—an entire stranger to both these titles—and has no right whatever to marshal the one against the other.

By what authority can Great Britain interpose in this manner? Was it ever imagined in any court of justice that the acquisition of a new title destroyed the old one; and *vice versa*, that the purchase of the old title destroyed the new one? In a question of mere private right, it would be considered absurd, if a stranger to both titles should say to the party who had made a settlement: You shall not avail yourself of your possession, because this was taken in violation of another outstanding title; and although I must admit that you have also acquired this outstanding title, yet even this shall avail you nothing, because having taken possession previously to your purchase, you thereby evinced that you did not regard such title as valid. And yet such is the mode by which the British plenipotentiary has attempted to destroy both the American and Spanish titles. On the contrary, in the case mentioned, the possession and the outstanding title being united in the same individual, these conjointed would be as perfect as if both had been vested in him from the beginning.

The undersigned, whilst strongly asserting both these titles, and believing each of them separately to be good as against Great Britain, as studiously avoided instituting any comparison between them. But admitting, for the sake of the ar-

gument merely, that the discovery by Captain Gray of the mouth of the Columbia, its exploration by Lewis and Clarke, and the settlement upon its banks at Astoria, were encroachments on Spain, she, and she alone, had a right to complain. Great Britain was a third party; and, as such, had no right to interfere in the question between Spain and the United States. But Spain, instead of complaining of these acts as encroachments, on the 22d February, 1819, by the Florida treaty, transferred the whole title to the United States. From that moment all possible conflict between the two titles was ended, both being united in the same party. Two titles which might have conflicted, therefore, were thus blended together. The title now vested in the United States is just as strong as though every act of discovery, exploration, and settlement on the part of both powers had been performed by Spain alone, before she had tranferred all her rights to the United States. The two powers are one in this respect; the two titles are one; and, as the undersigned will show hereafter, they serve to confirm and strengthen each other. If Great Britain, instead of the United States, had acquired the title of Spain, she might have contended that those acts of the United States were encroachments; but, standing in the attitude of a stranger to both titles, she has no right to interfere in the matter.

The undersigned deems it unnecessary to pursue this branch of the subject further than to state, that the United States, before they had acquired the title of Spain, always treated that title with respect. In the negotiation of 1818, the American plenipotentiaries "did not assert that the United States had a perfect right to that country; but insisted that their claim was at least good against Great Britain;" and the convention of October 20, 1818, unlike that of Nootka Sound, reserved the claims of any other power or State to any part of the said country. This reservation could have been intended for Spain alone. But, ever since the United States acquired the Spanish title, they have always asserted and maintained their right in the strongest terms up to the Russian line, even whilst offering, for the sake of harmony and peace, to divide the territory in dispute by the 49th parallel of latitude.

The British plenipotentiary, then, has entirely failed to sustain his position, that the United States can found no claim on discovery, exploration, and settlement, without admitting the principles of the Nootka Convention. That convention died on the commencement of the war between Spain and England, in 1796, and has never since been revived.

The British plenipotentiary next "endeavors to prove that, even if the Nootka Sound Convention had never existed, the position of Great Britain in regard to her claim, whether to the whole or to any particular portion of the Oregon territory, is at least as good as that of the United States." In order to establish this position, he must show that the British claim is equal in validity to the titles both of Spain and the United States. These can never now be separated. They are one and the same. Different and diverging as they may have been before the Florida treaty, they are now blended together and identified. The separate discoveries, explorations, and settlements of the two powers previous to that date must now be considered as if they had all been made by the United States alone. Under this palpable view of the subject, the undersigned was surprised to find that in the comparison and contrast instituted by the British plenipotentiary between the claim of Great Britain and that of the United States, he had entirely omitted to refer to the discoveries, explorations, and settlements made by Spain. The undersigned will endeavor to supply the omission.

But, before he proceeds to the main argument on this point, he feels himself constrained to express his surprise that the British plenipotentiary should again have invoked in support of the British title the inconsistency between the Spanish and American branches of the title of the United States. The undersigned cannot forbear to congratulate himself upon the fact, that a gentleman of Mr. Pakenham's

acknowledged ability has been reduced to the necessity of relying chiefly upon such a support for sustaining the British pretensions. Stated in brief, the argument is this: the American title is not good against Great Britain, because inconsistent with that of Spain; and the Spanish title is not good against Great Britain, because inconsistent with that of the United States. The undersigned had expected something far different from such an argument in a circle. He had anticipated that the British plenipotentiary would have attempted to prove that Spain had no right to the northwestern coast of America; that it was vacant and unappropriated; and hence, under the law of nations, was open to discovery, exploration, and settlement, by all nations. But no such thing.

On this vital point of his case, he rests his argument solely on the declaration made by the undersigned, that the title of the United States to the valley of the Columbia was perfect and complete before the treaties of joint occupation of October, 1818, and August, 1827, and before the date of the Florida treaty in 1819. But the British plenipotentiary ought to recollect that this title was asserted to be complete not against Spain, but against Great Britain; that the argument was conducted not against a Spanish, but a British plenipotentiary; and that the United States, and not Great Britain, represent the Spanish title. And further, that the statement from which he extracts these declarations was almost exclusively devoted to prove, in the language quoted by the British plenipotentiary himself, that "Spain had a good title, as against Britain, to the whole of the Oregon territory." The undersigned has never, as he before observed, instituted any comparison between the American and the Spanish titles. Holding both—having a perfect right to rely upon both, whether jointly or separately—he has strongly asserted each of them in their turn, fully persuaded that either the one or the other is good against Great Britain; and that no human ingenuity can make the Spanish title, now vested in the United States, worse than it would have been had it remained in the hands of Spain.

Briefly to illustrate and enforce this title, shall be the remaining task of the undersigned.

And, in the first place, he cannot but commend the frankness and candor of the British plenipotentiary in departing from the course of his predecessors, and rejecting all discoveries previous to those of Captain Cook, in the year 1778, as foundations of British title. Commencing with discovery at a period so late, the Spanish title, on the score of antiquity, presents a strong contrast to that of Great Britain. The undersigned had stated as a historical and "striking fact, which must have an important bearing against the claim of Great Britain, that this convention, (the Nootka) which was dictated by her to Spain, contains no provision impairing the ultimate sovereignty which that power had asserted for nearly three centuries over the whole western side of North America as far north as the 61st degree of latitude, and which had never been seriously questioned by any European nation. This right had been maintained by Spain with the most vigilant jealousy, ever since the discovery of the American continent, and had been acquiesced in by all European governments. It had been admitted even beyond the latitude of 54 degrees 40 minutes north by Russia, then the only power having claims which could come in collision with Spain; and that, too, under a sovereign peculiarly tenacious of the territorial rights of her empire." These historical facts had not been, as they could not be, controverted by the British plenipotentiary, although they were brought under his particular observation, and were even quoted by him with approbation, for the purpose of showing the inconsistency of the several titles held by the United States. In the language of Count Fernan de Nunez, the Spanish ambassador at Paris, to M. de Montmorin, the Secretary of the Foreign Department of France, under date of Paris, June 16, 1790: "By the treaties, demarcations, takings of possession, and the most decided acts of sovereignty exercised by the Spaniards in those stations from the reign of Charles II, and authorized by that

monarch in 1692, the original vouchers for which shall be brought forward in the course of the negotiation, all the coast to the north of the western America, on the side of the South sea as far as beyond what is called Prince William's sound, which is in the 61st degree, is acknowledged to belong exclusively to Spain."

Compared with this ancient claim of Spain, acquiesced in by all European nations for centuries, the claim of Great Britain, founded on discoveries commenced at so late a period as the year 1778, must make an unfavorable first impression.

Spain considered the northwest coast of America as exclusively her own. She did not send out expeditions to explore that coast, for the purpose of rendering her title more valid. When it suited her own convenience, or promoted her own interest, she fitted out such expeditions of discovery to ascertain the character and extent of her own territory; and yet her discoveries along that coast are far earlier than those of the British.

That Juan de Fuca, a Greek in the service of Spain, in 1592, discovered and sailed through the strait now bearing his name, from its southern to its northern extremity, and thence returned by the same passage, no longer admits of reasonable doubt. An account of this voyage was published in London in 1625, in a work called the Pilgrims, by Samuel Purchas. This account was received from the lips of Fuca himself, at Venice, in April, 1596, by Michael Lock, a highly respectable English merchant.

During a long period, this voyage was deemed fabulous, because subsequent navigators had in vain attempted to find these straits. Finally, after they had been found, it was discovered that the descriptions of de Fuca corresponded so accurately with their geography, and the facts presented by nature upon the ground, that it was no longer possible to consider his narration as fabulous. It is true that the opening of the straits from the south lies between the 48th and 49th parallels of latitude, and not between the 47th and 48th parallels, as he had supposed; but this mistake may be easily explained by the inaccuracy so common throughout the sixteenth century in ascertaining the latitude of places in newly discovered countries.

It is also true that de Fuca, after passing through these straits, supposed he had reached the Atlantic, and had discovered the passage so long and so anxiously sought after between the two oceans, but from the total ignorance and misapprehension which prevailed at that early day of the geography of this portion of North America, it was natural for him to believe that he had made this important discovery.

Justice has at length been done to his memory, and these straits, which he discovered, will, in all future time, bear his name. Thus, the merit of the discovery of the straits of Fuca, belongs to Spain; and this nearly two centuries before they had been entered by Captain Berkeley, under the Austrian flag.

It is unnecessary to detail the discoveries of the Spaniards, as they regularly advanced to the north from their settlements on the western coasts of North America, until we reach the voyage of Capt. Juan Perez, in 1774. That navigator was commissioned by the viceroy of Mexico to proceed, in the corvette Santiago, to the 60th degree of north latitude, and from that point to examine the coast down to Mexico. He sailed from San Blas on the 25th January, 1774. In the performance of this commission he landed first on the northwest coast of Queen Charlotte's island, near the 54th degree of north latitude; and thence proceeded south, along the shore of that island and of the great islands of Quadra and Vancouver; and then along the coast of the continent, until he reached Monterey. He went on shore and held intercourse with the natives at several places; and especially at the entrance of a bay in latitude 49½ degrees, which he called Port San Lorenzo—the same now known by the name of Nootka Sound. In addition to the journals of this voyage, which render the fact incontestible, we have the high authority of Baron Humboldt in its favor. That distinguished traveller, who had

access to the manuscript documents in the city of Mexico, states that "Perez, and his pilot Estevan Martinez, left the port of San Blas on the 24th January, 1774. On the 9th of August they anchored (the first of all European navigators) in Nootka road, which they called the port of San Lorenzo, and which the illustrious Cook, *four years afterwards*, called King George's sound."

In the next year, (1775,) the viceroy of Mexico again fitted out the Santiago, under the command of Bruno Heceta, with Perez, her former commander, as ensign, and also a schooner, called the Sonora, commanded by Juan Francisco de la Bodega y Quadra. These vessels were commissioned to examine the northwestern coast of America as far as the 65th degree of latitude, and sailed in company from San Blas on the 15th March, 1775.

It is unnecessary to enumerate the different places on the coast examined by these navigators, either in company or separately. Suffice it to say, that they landed at many places on the coast from the 41st to the 57th degree of latitude, on all of which occasions they took possession of the country in the name of their sovereign, according to a prescribed regulation; celebrating mass, reading declarations asserting the right of Spain to the territory, and erecting crosses with inscriptions, to commemorate the event. Some of these crosses were afterwards found standing by British navigators. In relation to these voyages, Baron Humboldt says: "In the following year, (1775, after that of Perez,) a second expedition set out from San Blas, under the command of Heceta, Ayala, and Quadra. Heceta discovered the mouth of the Rio Columbia, called it the Entraca de Heceta, the peak of the San Jacinto, (Mount Edgecomb,) near Norfolk Bay, and the fine port of Bucareli. I possess two very curious small maps, engraved in 1788, in the city of Mexico, which give the bearings of the coast from the 27th to the 58th degree of latitude, as they were discovered in the expedition of Quadra."

In the face of these incontestible facts, the British plenipotentiary says, "that Capt. Cook must also be considered the discoverer of Nootka Sound, in consequence of the want of authenticity in the alleged previous discovery of that port by Perez." And yet Cook did not even sail from England until the 12th July, 1776—nearly two years after Perez had made this discovery. The chief object of Cook's voyage was the discovery of a northwest passage; and he never landed at any point of the continent south of Nootka Sound. It is true, that in coasting along the continent, before he reached this place, he had observed Cape Flattery; but he was entirely ignorant that this was the southern entrance of the Straits of Fuca. In his journal he admits that he had heard some account of the Spanish voyages of 1774 and 1775, before he left England; and it is beyond question that, before his departure, accounts of the voyage of Quadra had been published, both in Madrid and London. From Nootka Sound, Cook did not again see land until he reached the 57th degree of north latitude.

In 1787, it is alleged by the British plenipotentiary that Captain Berkeley, a British subject, discovered the Straits of Fuca; but these Straits had been discovered by Juan de Fuca nearly two centuries before. Besides, if there had been any merit in this discovery of Capt. Berkeley, it would have belonged to Austria, in whose service he was, and under whose colors he sailed, and cannot be appropriated by Great Britain.

And here it is worthy of remark, that these discoveries of Cook and Berkeley, in 1778 and 1787, are all those on which the British plenipotentiary relies, previous to the date of the Nootka Sound Convention, in October, 1790, to defeat the ancient Spanish title to the northwest coast of America.

The undersigned will now take a position which cannot, in his opinion, be successfully assailed; and this is, that no discovery, exploration, or settlement made by Great Britain on the northwest coast of America, after the date of the Nootka Sound Convention, and before it was terminated by the war of 1796, can be invoked by that power in favor of her own title, or against the title of Spain.

Even according to the British construction of that convention, the sovereignty over the territory was to remain in abeyance during its continuance, as well in regard to Great Britain as to Spain. It would, therefore, have been an open violation of faith on the part of Great Britain, after having secured the privileges conferred upon her by the convention to turn round against her partner and perform any acts calculated to divest Spain of her ultimate sovereignty over any portion of the country. The palpable meaning of the convention was, that, during its continuance, the rights of the respective parties, whatever they may have been, should remain just as they had existed at its commencement.

The Government of Great Britain is not justly chargeable with any such breach of faith. Captain Vancouver acted without instructions in attempting to take possession of the whole northwestern coast of America in the name of his sovereign. This officer, sent out from England to execute the convention, did not carry with him any authority to violate it in this outrageous manner.

Without this treaty, he would have been a mere intruder; under it, Great Britain had a right to make discoveries and surveys, not thereby to acquire title, but merely to enable her subjects to select spots the most advantageous, to use the language of the convention, "for the purpose of carrying on their commerce with the natives of the country, or of making settlements there."

If this construction of the Nootka Sound Convention be correct—and the undersigned does not perceive how it can be questioned—then Vancouver's passage through the Straits of Fuca, in 1792, and Alexander Mackenzie's journey across the continent, in 1793, can never be transformed into elements of title in favor of Great Britain.

But even if the undersigned could be mistaken in these positions, it would be easy to prove that Capt. John Kendrick, in the American sloop Washington, passed through the Straits of Fuca in 1789, three years before Capt. Vancouver performed the same voyage. The very instructions to the latter, before he left England, in January, 1791, refer to this fact, which had been communicated to the British Government by Lieut. Meares, who has rendered his name so notorious by its connection with the transactions preceding the Nootka Sound Convention. It is, moreover, well known that the whole southern division of the straits had been explored by the Spanish navigators, Elisa and Quimper—the first in 1790, and the latter in 1791.

After what has been said, it will be perceived how little reason the British plenipotentiary has for stating that his government has, "as far as relates to Vancouver's Island, as complete a case of discovery, exploration, and settlement, as can well be presented—giving to Great Britain, in any arrangement that may be made with regard to the territory in dispute, the strongest possible claim to the exclusive possession of that island."

The discovery thus relied upon is that of Nootka Sound, by Cook, in 1778; when it has been demonstrated that this port was first discovered by Perez, in 1774. The exploration is that by Vancouver, in passing through the Straits of Fuca, in 1792, and examining the coasts of the territory in dispute, when de Fuca himself had passed through these straits in 1592, and Kendrick again in 1789; and a complete examination of the western coast had been made in 1774 and 1775, both by Perez and Quadra. As to possession, if Meares was ever actually restored to his possessions at Nootka Sound, whatever these may have been, the undersigned has never seen any evidence of the fact. It is not to be found in the journal of Vancouver, although this officer was sent from England for the avowed purpose of witnessing such a restoration. The undersigned knows not whether any new understanding took place between the British and Spanish governments on this subject; but one fact is placed beyond all doubt, that the Spaniards continued in the undisturbed possession of Nootka Sound until the year 1795, when they voluntarily abandoned the place. Great Britain has never at any time since

occupied this or any other position on Vancouver's island. Thus, on the score of either discovery, exploration, or possession, this island seems to be the very last portion of the territory in dispute to which she can assert a just claim.

In the meantime, the United States were proceeding with the discoveries which served to complete and confirm the Spanish American title to the whole of the disputed territory.

Captain Robert Gray, in June, 1789, in the sloop Washington, first explored the whole eastern coast of Queen Charlotte's island.

In the autumn of the same year, Captain John Kendrick—having in the mean time surrendered the command of the Columbia to Captain Gray—sailed, as has been already stated, in the sloop Washington, entirely through the straits of Fuca.

In 1791, Captain Gray returned to the North Pacific in the Columbia; and in the summer of that year, examined many of the inlets and passages between the 54th and 66th degrees of latitude, which the undersigned considers it unnecessary to specify.

On the 7th of May, 1792, he discovered and entered Bulfinch's harbor, where he remained at anchor three days, trading with the Indians.

On the 11th May, 1792, Captain Gray entered the mouth of the Columbia, and completed the discovery of that great river. This river had been long sought in vain by former navigators. Both Meares and Vancouver, after examination, had denied its existence. Thus is the world indebted to the enterprise, perseverance, and intelligence of an American captain of a trading vessel for their first knowledge of this, the greatest river on the western coast of America—a river whose head springs flow from the gorges of the Rocky Mountains, and whose branches extend from the 42d to the 53d parallels of latitude. This was the last and most important discovery on the coast, and has perpetuated the name of Robert Gray. In all future time this great river will bear the name of his vessel.

It is true that Bruno Heceta, in the year 1775, had been opposite the Bay of the Columbia; and the currents and eddies of the water caused him, as he remarks, to believe that this was "the mouth of some great river, or of some passage to another sea;" and his opinion seems decidedly to have been that this was the opening of the strait discovered by Juan de Fuca, in 1592. To use his own language: "Notwithstanding the great difference between the position of this bay and the passage mentioned by de Fuca, I have little difficulty in conceiving that they may be the same, having observed equal or greater differences in the latitudes of other capes and ports on this coast, as I shall show at its proper time; and in all cases the latitudes thus assigned are higher than the real ones."

Hecta, from his own declaration, had never entered the Columbia; and he was in doubt whether the opening was the mouth of a river or an arm of the sea; and subsequent examinations of the coast by other navigators had rendered the opinion universal that no such river existed, when Gray first bore the American flag across its bar, sailed up its channel for twenty-five miles, and remained in the river nine days, trading with the Indians.

The British plenipotentiary attempts to depreciate the value to the United States of Gray's discovery, because his ship (the Columbia) was a trading, and not a national, vessel. As he furnishes no reason for this distinction, the undersigned will confine, himself to the remark that a merchant vessel bears the flag of her country at her mast-head, and continues under its jurisdiction and protection, in the same manner as though she had been commissioned for the express purpose of making discoveries. Besides, beyond all doubt, this discovery was made by Gray; and to what nation could the benefit of it belong, unless it be to the United States? Certainly not to Great Britain. And if to Spain, the United States is now her representative.

Nor does the undersigned perceive in what manner the value of this great discovery can be lessened by the fact that it was first published to the world through

the journal of Captain Vancouver, a British authority. On the contrary, its authenticity being thus acknowledged by the party having an adverse interest, is more firmly established than if it had been first published in the United States.

From a careful examination and review of the subject, the undersigned ventures the assertion, that to Spain and the United States belong all the merit of the discovery of the northwest coast of America south of the Russian line, not a spot of which, unless it may have been the shores of some of the interior bays and inlets, after the entrance to them had been known, was ever beheld by British subjects, until after it had been seen or touched by a Spaniard or an American.

Spain proceeded in this work of discovery, not as a means of acquiring title, but for the purpose of examining and surveying territory to which she believed she had an incontestible right. This title had been sanctioned for centuries by the acknowledgment or acquiescence of all the European powers. The United States alone could have disputed this title, and that only to the extent of the region watered by the Columbia. The Spanish and American titles, now united by the Florida treaty, cannot be justly resisted by Great Britain. Considered together, they constitute a perfect title to the territory in dispute, ever since the 11th May, 1792, when Capt. Gray passed the bar at the mouth of the Columbia, which he had observed in August, 1788.

The undersigned will now proceed to show that this title of the United States, at least to the possession of the territory at the mouth of the Columbia, has been acknowledged by the most solemn and unequivocal acts of the British Government.

After the purchase of Louisiana from France, the Government of the United States fitted out an expedition under Messrs. Lewis and Clarke; who, in 1805, first explored the Columbia, from its source to its mouth, preparatory to the occupation of the territory by the United States.

In 1811, the settlement of Astoria was made by the Americans near the mouth of the river, and several other posts were established in the interior along its banks. The war of 1812 between Great Britain and the United States thus found the latter in peaceful possession of that region. Astoria was captured by Great Britain during this war. The treaty of peace concluded at Ghent in December, 1814, provided that "all territory, places, and possessions whatsoever, taken by either party from the other, during the war, &c. "shall be restored without delay." In obedience to the provisions of this treaty, Great Britain restored Astoria to the United States; and thus admitted in the most solemn manner, not only that it had been an American territory or possession at the commencement of the war, but that it had been captured by British arms during its continuance. It is now too late to gainsay or explain away these facts. Both the treaty of Ghent, and the acts of the British Government under it, disprove the allegations of the British plenipotentiary, that Astoria passed "into British hands by the voluntary act of the persons in charge of it," and "that it was restored to the United States in 1818 with certain well-authenticated reservations."

In reply to the first of these allegations, it is true that the agents of the (American) Pacific Fur Company, before the capture of Astoria on the 16th October, 1813, had transferred all that they could transfer—the private property of the company—to the (British) Northwest Company; but it will scarcely be contended that such an arrangement could impair the sovereign rights of the United States to the territory. Accordingly, the American flag was still kept flying over the fort until the 1st December, 1813, when it was captured by his Majesty's sloop of war Raccoon, and the British flag was then substituted.

That it was not restored to the United States "with certain well-authenticated reservations," fully appears from the act of restoration itself, bearing date 6th October, 1818. This is as absolute and unconditional as the English language can make it. That this was according to the intention of Lord Castlereagh, clearly

appears from his previous admission to Mr. Rush of the right of the Americans to be reinstated, and to be the party in possession while treating on the title. If British ministers afterwards, in despatches to their own agents, the contents of which were not communicated to the Government of the United States, thought proper to protest against our title, these were, in effect, but mere mental reservations, which could not affect the validity of their own solemn and unconditional act of restoration.

But the British plenipotentiary, notwithstanding the American discovery of the Columbia by Captain Gray, and the exploration by Lewis and Clark of several of its branches, from their sources in the Rocky Mountains, as well as its main channel to the ocean, contends that because Thompson, a British subject in the employment of the Northwest Company, was the first who navigated the northern branch of that river, the British government thereby acquired certain rights against the United States, the extent of which he does not undertake to specify. In other words, that after one nation had discovered and explored a great river, and several tributaries, and made settlements on its banks, another nation, if it could find a single branch of its head waters which had not been actually explored, might appropriate to itself this branch, together with the adjacent territory. If this could have been done, it would have produced perpetual strife and collision among the nations after the discovery of America. It would have violated the wise principle consecrated by the practice of nations, which gives the valley drained by a river and its branches to the nation which had first discovered and appropriated its mouth.

But, for another reason, this alleged discovery of Thompson has no merits whatever. His journey was undertaken on behalf of the Northwest Company for the mere purpose of anticipating the United States in the occupation of the mouth of the Columbia—a territory to which no nation, unless it may have been Spain, could with any show of justice dispute their right. They had acquired it by discovery and by exploration, and were now in the act of taking possession. It was in an enterprise undertaken for such a purpose, that Thompson, in hastening from Canada to the mouth of the Columbia, descended the north, arbitrarily assumed by Great Britain to be the main branch of this river. The period was far too late to impair the title of either Spain or the United States by any such proceeding.

Mr. Thompson, on his return, was accompanied by a party from Astoria, under Mr. David Stuart, who established a post at the confluence of the Okinagan with the north branch of the Columbia, about six hundred miles above the mouth of the latter.

In the next year (1812) a second trading post was established by a party from Astoria, on the Spokan, about six hundred and fifty miles from the ocean.

It thus appears that, previous to the capture of Astoria by the British, the Americans had extended their possessions up the Columbia six hundred and fifty miles. The mere intrusion of the Northwest Company into this territory, and the establishment of two or three trading posts, in 1811 and 1812, on the head waters of the river, can surely not interfere with or impair the Spanish American title. What this company may have done in the intermediate period until the 20th October, 1818—the date of the first treaty of joint occupation—is unknown to the undersigned, from the impenetrable mystery in which they have veiled their proceedings. After the date of this treaty, neither Great Britain nor the United States could have performed any act affecting their claims to the disputed territory.

To sum up the whole, then, Great Britain cannot rest her claims to the northwest coast of America upon discovery. As little will her single claim by settlement at Nootka Sound avail her. Even Belsham, her own historian, forty years ago, declared it to be certain, from the most authentic information, "that the Spanish flag flying at Nootka was never struck, and that the territory had been virtually relinquished by Great Britain."

The agents of the Northwest Company, penetrating the continent from Canada, in 1806, established their first trading post west of the Rocky Mountains, at Frazer's lake, in the 54th degree of latitude; and this, with the trading posts established by Thompson—to which the undersigned has just adverted—and possibly some others afterwards, previous to October, 1818, constitute the claim of Great Britain by actual settlement.

Upon the whole: From the most careful and ample examination which the undersigned has been able to bestow upon the subject, he is satisfied that the Spanish American title now held by the United States, embracing the whole territory between the parallels of 42 degrees and 54 degrees 40 minutes, is the best title in existence to this entire region; and that the claim of Great Britain to any portion of it has no sufficient foundation. Even British geographers have not doubted our title to the territory in dispute. There is a large and splendid globe now in the Department of State, recently received from London, and published by Malby and Company, "manufacturers and publishers to the Society for the Diffusion of Useful knowledge," which assigns this territory to the United States."

Notwithstanding such was and still is the opinion of the President, yet, in the spirit of compromise and concession, and in deference to the action of his predecessors, the undersigned, in obedience to his instructions, proposed to the British plenipotentiary to settle the controversy by dividing the territory in dispute by the 49th parallel of latitude, offering at the same time to make free to Great Britain any port or ports on Vancouver's island, south of this latitude, which the British government might desire. The British plenipotentiary has correctly suggested that the free navigation of the Columbia river was not embraced in this proposal to Great Britain; but, on the other hand, the use of free ports on the southern extremity of this island had not been included in former offers.

Such a proposition as that which has been made, never would have been authorized by the President, had this been a new question.

Upon his accession to office, he found the present negotiation pending. It had been instituted in the spirit and upon the principle of compromise. Its object, as avowed by the negotiators, was not to demand the whole territory in dispute for either country; but in the language of the first protocol, "to treat of the respective claims of the two countries to the Oregon territory with the view to establish a permanent boundary between them westward of the Rocky Mountains to the Pacific ocean."

Placed in this position, and considering that Presidents Monroe and Adams had on former occasions offered to divide the territory in dispute by the forty-ninth parallel of latitude, he felt it to be his duty not abruptly to arrest the negotiation; but so far to yield his own opinion as once more to make a similar offer.

Not only respect for the conduct of his predecessors, but a sincere and anxious desire to promote peace and harmony between the two countries, influenced him to pursue this course. The Oregon question presents the only intervening cloud which intercepts the prospect of a long career of mutual friendship and beneficial commerce between the two nations, and this cloud he desired to remove.

These are the reasons which actuated the President to offer a proposition so liberal to Great Britain.

And how has this proposition been received by the British plenipotentiary? It has been rejected without even a reference to his own government. Nay, more; the British plenipotentiary, to use his own language, "trusts that the American plenipotentiary will be prepared to offer some further proposal for the settlement of the Oregon question *more consistent with fairness and equity, and with the reasonable expectations of the British government*?"

Under these circumstances, the undersigned is instructed by the President to say that he owes it to his own country, and a just appreciation of her title to the Oregon territory, to withdraw the proposition to the British government which had been made under his direction; and it is hereby accordingly withdrawn.

In taking this necessary step, the President still cherishes the hope that this long pending controversy may yet be finally adjusted in such a manner as not to disturb the peace or interrupt the harmony now so happily subsisting between the two nations.

The undersigned avails himself, &c.

JAMES BUCHANAN.

The Right Hon. R. PAKENHAM, &c.