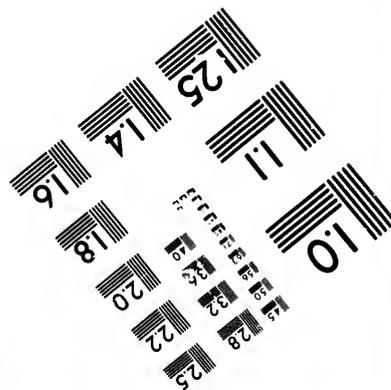
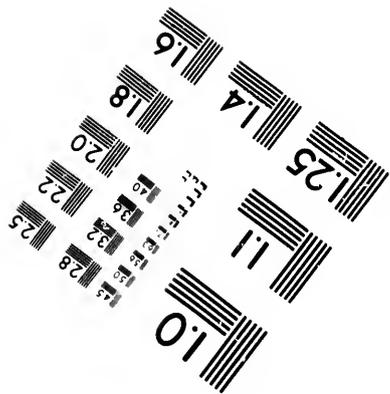
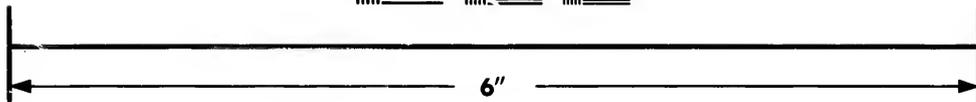
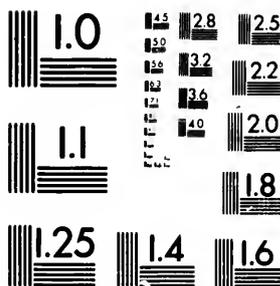


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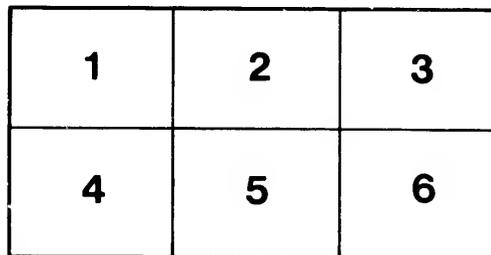
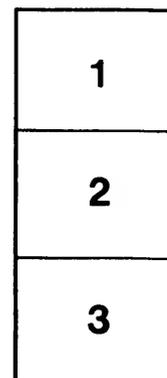
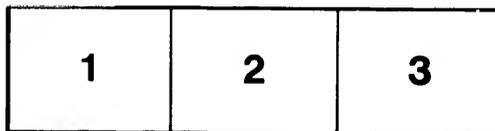
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MR. FALCONER'S REPLY TO MR. GREENHOW'S ANSWER:

WITH

MR. GREENHOW'S REJOINDER.

POSTSCRIPT

TO THE SECOND EDITION OF A PAMPHLET,
ENTITLED "THE OREGON QUESTION," &C.,
BY THOMAS FALCONER, ESQ.

Mr. Greenhow, the author of the "History of Oregon and California," has published a pamphlet, dated Washington, April, 1845, entitled "An Answer to the Strictures of Mr. Thomas Falconer, of Lincoln's Inn, on the History of Oregon and California." In noticing this answer, it is convenient, for the sake of brevity, to take each of the complaints of Mr. Greenhow separately.

1st. Mr. Falconer preferring, in every instance in which it was practicable, to use American authorities, has, in his argument on the Oregon question, cited from the "History of the Federal Government," written by Alden Bradford, LL.D., editor of the Massachusetts State Papers, the following passage respecting the extent of the purchase of Louisiana from France by the government of the United States:

"The purchase included all lands 'on the east side of the Mississippi river (so as to include New Orleans) not then belonging to the United States, as far as the great chain of mountains which divide the waters running into the Pacific and those falling into the Atlantic ocean; and from the said chain of mountains to the Pacific ocean, between the territory claimed by Great Britain on the one side, and by Spain on the other.'"

The words in italics are placed between inverted commas, as a citation, by Dr. Bradford himself; they are not the words of Mr. Falconer. Mr. Falconer, adopting Dr. Bradford as his authority, cites the passage as expressing the terms of an agreement, to which the treaty of 1803, for the purchase of Louisiana, gave validity; and so far a conveyance of Louisiana, in these terms, under the treaty. Whether he is correct, or not, depends upon the value of Dr. Bradford's authority. Mr. Greenhow does not say that the quotation is incorrect, nor does he deny the statement of Dr. Bradford. There appears to be no reason to doubt that the passage was part of the official terms of the sale of Louisiana.

Mr. Greenhow states, however, that "his surprise was great, on finding that Mr. Falconer had presented this passage as a stipulation in the treaty of October, 1803." The fact is, that Mr. Falconer, in his work "on the Discovery of the Mississippi," &c., referred to the passage as part of the terms of the treaty; but in his first edition, (p. 10,) and in the second edition, (p. 11,) thinking he might be misunderstood, he speaks of it as part of the terms "of the agreement" for the sale of Louisiana. The terms are not in the treaty itself—for the reason, perhaps, which induced Mr. Jefferson, in 1807, three years after the purchase of Louisiana, to fear that any allusion to any claim extending to the coast of the Pacific would be offensive to Spain, (Greenhow on the Oregon, p. 282.) But though the citation is not in the treaty itself, it does not follow that it is not part of the agreement on which the treaty is founded. It is thus represented by Dr. Bradford, and Mr. Greenhow does not say that the passage is in any respect inaccurate.

3dly. Mr. Falconer has shown, that prior to the exercise of authority in the Oregon territory, under the orders of the government of the United States, the government of Great Britain had "taken possession" of it, and "that the 'taking possession' of a new country by persons officially authorized—and no private person could assume the authority—was the exercise of a sovereign power, a distinct act of legislation, by which the territory became annexed to the dominions of the Crown." To this Mr. Greenhow replies,

"that Mr. Falconer forgot or concealed the fact, that Spanish officers had landed on all those coasts, and on each occasion had most formally taken possession in the name of their monarch, and had made a settlement by the special orders of their government, before any attempt for the same purpose had been made there by the people of any other nation." But Mr. Falconer has not acted thus; he has shown that two things are required to complete a title to vacant wastes—the one, the official assertion of sovereignty; and the other, occupation. The first, alone, is of no avail without occupation. But it is well known that the Spaniards never occupied the country. If they had done so, the government of the United States could have made no claim to any part of it in 1814. The country was open to any government to possess and occupy it, notwithstanding any mere formal act of possession unaccompanied by occupation, which any government might previously have made. Such possession of Oregon, accompanied by occupation, was first made under the authority of the British government; and its right to do this was recognised in the convention of the Escorial, in 1792. [1790?]

3dly. "No authority," says Mr. Greenhow, "on the part of the British government, was alleged by the claimants of Nootka Sound, whose cause was supported by the British government in 1790, at a risk of a war with Spain." This statement Mr. Falconer does not controvert. The Nootka dispute might not have arisen if the Spanish officers had not unjustifiably seized the vessels of British subjects. But whatever defect in a title to settle at Nootka might have existed through Nootka's proceedings, the British government had a perfect right to settle the Oregon territory, as a waste and abandoned territory; to instruct Vancouver to take possession of it; and to authorize the Hudson's Bay Company to form establishments in it, independently of the treaty of the Escorial, which also sanctions the establishment of British settlements in the country.

4thly. Mr. Greenhow complains that a passage in his

* The following passages are only to be reconciled by proving that Martinez made a permanent settlement in the Oregon Territory. This Mr. Greenhow would be unable to prove. The Spaniards did not visit the country after the Nootka affair was settled:

"It should be observed, with regard to the right of the Spanish government thus to take possession of Nootka, that, before the 6th of May, 1790, when Martinez entered the sound with that object, no settlement, factory, or other establishment whatever, had been founded or attempted, nor had any jurisdiction been exercised by the authorities or subjects of a civilized nation in any part of America bordering upon the Pacific, between Fort San Francisco, near the 38th degree of north latitude, and Prince William's Sound, near the 60th."—"Greenhow's History of Oregon," &c., p. 187.

In the declaration of the government of Spain, dated Aranjuez, June 4, 1790, the Conde de Florida Blanca admitted that Spain had no establishments or colonies planted on the coasts or ports in dispute.

"—Forgetting or concealing the facts, that Spanish officers had landed on all those coasts, and, on each occasion, had most formally taken possession in the name of their monarch, and had made a settlement by direct and special orders of their government, before any attempt for the same purpose had been made there by the people of any other nation."—"Mr. Greenhow's Strictures," pp. 3 and 4.

work respecting the northern boundary of Louisiana is "entirely misquoted." The whole passage is as follows:

"—referring to the state of things at the commencement of this century"—"the territories of the United States were, at that time, all included between the Atlantic on the east, and the Mississippi on the west. In the north were the British provinces; in the west lay Florida, belonging to Spain; and beyond the Mississippi the Spaniards claimed the east region called Louisiana, stretching from the Gulf of Mexico northward and northward to an undefined extent."

Mr. Falconer has cited the last lines only, in order to controvert the statement that Louisiana ever extended indefinitely to the north. The other portions of the passage do not qualify or affect the assertion of the extent of Louisiana, and were therefore omitted. The reasons to prove that Louisiana did not extend indefinitely to the north are,—that no authority is cited by Mr. Greenhow in support of his assertion; that Louisiana was a subordinate to, and partly formed out of, the province of Canada; that according to the representation of Vaudreuil, who surrendered Canada to Great Britain, Louisiana did not reach further to the north than the Illinois; that its extent was a distinct subject of negotiation when the treaty of cession in 1762 was made; and that in 1762, all to the north of the Illinois, and south of the Hudson's Bay territory, formed a part of Canada. When, therefore, the treaty of 1762 fixed the source of the Mississippi as the highest point of the dividing line between the territories of Great Britain and France, east and west of it, all the territory north and northwest of the source remained a portion of Canada. M. de Mofras states that the official map of the French government, engraved in 1757, supports this statement; but Mr. Greenhow appears to assert that this map relates to the negotiations of 1748. The dates do not confirm this view of the case; but, setting the map aside, it is still evident that, as Louisiana, at the time Canada was ceded, did not reach further north than the Illinois, it could not reach further north than the source of the Mississippi after this point was fixed on as the most northern point of Louisiana by the treaty of 1762.

5thly, Mr. Falconer remarks that it is not honorable for the government of the United States to urge measures to populate the Oregon territory, in order to enforce its claims at a future time. To this Mr. Greenhow replies that the Hudson's Bay Company, in 1837, "claimed and received the aid and consideration of the British government for their energy and success in expelling the Americans from the Columbia regions, and forming settlements there, by means of which they were rapidly converting Oregon into a British colony." But this is no reply. Mr. Greenhow must be perfectly satisfied that the British government has not entertained the wish to settle the dispute by the agency of any forcible or hostile operations on the part of the British population in Oregon. Whatever reasons the Hudson's Bay Company may have advanced for official favor—and, if improper, they are surely not to be adopted by the government of the United States—they have not interfered with that regard for public rights which the British government has exhibited, but which Mr. Greenhow avers ought not to form a portion of the policy of the American government, whose true policy, he asserts, ought to be, "by all lawful means, to resist the extension of European dominion in America, and to confine its limits and abridge its duration, wherever it may actually exist."—(Greenhow on the Oregon, p. 335, n.) Can that be lawfully abridged, which lawfully belongs to a foreign government?

The above are all the facts in Mr. Falconer's argument, which Mr. Greenhow comments on. He says there are in it "mistakes, misquotations, and misrepresentations of all kinds;" but he certainly would not have been backward in pointing them out, if they were to be found. The argument, he admits, would be "irrefragable," if the facts were correct,—but the facts are, in nearly every instance, carefully sustained by a reference to Mr. Greenhow's own work.

Mr. Falconer himself did not think his argument was irrefragable. He thought it possible that he had overlooked something, and that there might have been a fair reply made to it. The answer, however, of Mr. Greenhow has strengthened his belief that he is right; for Mr. Greenhow would not have printed so feeble a denial, if the really immaterial matters which he has noticed were not all that he could find fault with, or attempt to answer.

The very discourteous and intemperate spirit in which Mr. Greenhow has written his reply, can only be injurious to his own reputation.

There are some other remarks which the writer reluctantly alludes to, on account of their personal character. Mr. Greenhow states that the more valuable portion of the documents published by Mr. Falconer on the discovery and

settlement of Louisiana "were already well known in the United States, (see Sparks' Life of M. La Salle, and White's 'New Recopilacion,') and that a number still greater of more interesting papers on the same subject lie in manuscript before him." Whatever had been previously published, Mr. Falconer has noticed, and his estimation of the literary services of Mr. Sparks, as well as a sense of justice, led him to acknowledge with care what he had already done. Whether what Mr. F. has first published is more or less valuable than what had previously been published, he will not contest; but he most sincerely hopes that Mr. Greenhow, whose industry will enable him to perform the labor creditably,—who will find no willing critic to condemn him in its performance,—will publish the interesting documents to which he alludes, and give to the world a complete and consecutive collection of the memoirs and papers of the adventurous and distinguished men who first explored the western territory of North America. PUNBY, May 28, 1845.

Observations on the above, by Robert Greenhow.

Having presented Mr. Falconer's reply to my answer, in full, I shall proceed, without further preface, to offer some remarks upon it, agreeably to the order in which he has examined the several points:

1. Mr. Falconer, in his book on the Discovery of the Mississippi, to which my answer applies, and of which his pamphlet on the Oregon question is in part an abridgment, produced a quotation from the History of the Federal Government, by Alden Bradford, of Boston, as a stipulation in the treaty of 1803, whereby France ceded Louisiana to the United States; and he occupied many pages of his book with assertions and arguments to prove the premeditated bad faith and treachery of the American government, upon the strength of this passage. In my answer, I showed—what every one who pretends to write on this subject should have known—that no such passage, nor any like it, existed in the treaty; and I ended by saying that it was "most charitable to suppose that he never saw the treaty, as he must otherwise stand amenable to the charge of having falsely brought forward the passage forming the subject of these remarks, as one of its stipulations, with the object of defaming the American government."

Mr. Falconer, in his "postscript," does not seem willing to admit that he never saw the treaty. He did, indeed, (as he says,) refer "to the passage as part of the terms of the treaty," in his first work; but, in his pamphlet, he had altered the word *treaty* into *agreement*, in order not to be misunderstood; and, "though the citation is not in the treaty itself, it does not follow that it is not part of the agreement on which the treaty is founded." This is mere quibbling.

The only "agreement" known, or believed by any one, to have been made between the United States and France, relative to the extent of Louisiana, is contained in the first article of the *treaty*, as quoted by Mr. Falconer in his book; and he is fully as much authorized to consider Gulliver's voyage to Lilliput as part of that agreement, as the passage which he has been pleased to represent as such. "It

is thus represented," he says, "by Dr. Bradford." This is not the fact: Bradford, whose work is now before me, says nothing whatever calculated to induce that supposition; and if he had, a man professing, like Mr. Falconer, to enlighten the world on questions so momentous, should have consulted the treaty and documents relating to it himself, and not have depended on others, as others again may depend on him for its contents. Mr. Falconer ends his paragraph by declaring that "Mr. Greenhow does not say that the passage is, in any respect, inaccurate." This is a most strange assertion; for, in my answer, which must have been before him at the time, I pronounce it to be "merely a gratuitous, and certainly unfounded, opinion as to the limits of Louisiana."

2. On the rights of nations to occupy vacant territories, I cannot here enter into an argument. Many pages of my History of Oregon are devoted to this subject—parts of which are copied by Mr. Falconer in his book, with judicious alterations; and other parts are omitted, to suit his convenience. I leave him to reconcile as he can the opinions expressed in the first sentence of this paragraph, (No. 2), on the subject of "taking possession," with those on the same subject, in the last sentence but one of the same paragraph. His concluding assertion, that "such (or any other) possession of Oregon, accompanied by occupation, was first made under the authority of the British government," I deny *in toto*. The coasts of Oregon were first explored by the Spaniards, who, in 1774 and 1775, landed there in many places, and "took possession" for their sovereign, before they had been seen by the people of any other civilized nation; and the first settlement made in any part of the regions now known as Oregon, was that of the Spaniards at Nootka, in May, 1789. The next in point of time were those of the Americans, on the Columbia, in 1809, and the subsequent years to 1814. The earliest British settlements west of the Rocky mountains, were made in 1806, in the region north of Oregon. The "taking possession" by the Spaniards, and afterwards by the British, was, as I have termed it in my history, "an empty pageant, securing no real rights to those by whom, or in whose names, it was performed;" but the priority in this point belongs to the Spaniards. The settlements at Nootka and Astoria were meant to be permanent; they did not prove so, any more than those made in old times, at Babylon, Palmyra, or Thebes.

3. Here I have only to leave Mr. Falconer to reconcile, as he can, his assertion, that the British government had a right "to instruct Vancouver to take possession" of Oregon, (which the British government, however, did not do,) with the terms of the convention of the Escurial—which was binding at that time on both Great Britain and Spain.

4. I did complain that Mr. Falconer had entirely misquoted the passage in my history relative to the northern boundary of Louisiana; and I do now complain that he has, in his postscript, left it to be inferred that he did not misquote "the last lines," of which he now speaks. Those last lines he presented between quotation marks, in words totally different from mine; and, although they referred specially to the condition and limits of Louisiana in 1800, he made them the object of an argument relative to the condition of things in 1763. Under these circumstances, I am fully authorized to suppose that the variation was not accidental, and that the omission was made with an object. In his postscript he has, however, acted directly and evidently without candor. I never said that "Louisiana extended indefinitely northward," at any time. On the contrary, I have proved in my history that it was bounded, in that direction, by the Hudson's Bay territories. I showed that its boundaries on the east were defined by the treaty of 1763; and that, on the north and northwest, they were *undefined*—that is, they had not been defined by any agreement between the parties interested.

Mr. Falconer could not possibly be mistaken as to the difference between what I said, and what he represents me as having said. That Louisiana did not extend indefinitely to the north, no reasons were required from Mr. Falconer to prove; and those adduced by him are, unfortunately, all either irrelevant or unfounded. Louisiana was not partly formed out of the province of Canada; it was made subordinate to the government of Canada in 1712; but in 1717 it became an independent government, and continued so as long as France held possession of it. No one ever doubted that Louisiana did not extend further north than the Illinois, or that all north of the Illinois, and south of the Hudson's Bay territory, formed part of Canada. But the Illinois lies east of the Mississippi; while the question was exclusively confined by me to the regions north and northwest of that river; and in 1763, when the Mississippi was made the dividing line between the British and French possessions, "all the territory north and northwest of its source remained a portion of the Hudson's Bay territories," as it had been ever since 1669, agreeably to many treaties between France and Great Britain. Mr. Falconer would scarcely succeed in convincing Sir Henry Pelly, or Sir George Simpson, or any other member of the Hudson's Bay Company, that the territories of the Red river, the Assinaboin, the Saskatchewan, and the Athabasca had ever formed part of Canada.

With regard to the map cited by Mr. Falconer, on the authority of M. de Mofras, as proving incontrovertibly that Canada, in 1757, extended to the Pacific, and as containing the course of a river in all

respects identical with the Columbia, and which Mr. Falconer was pleased to regard as the official map employed by the plenipotentiaries of France and Great Britain in 1762,—I showed that it was drawn and presented by the French commissaries appointed under the treaty of 1748, with the object of exposing the extravagant pretensions of the British in America; and that it contained no river entering the Pacific from the interior of America near the 46th degree of latitude, (as expressly asserted by M. de Mofras,) nor any allusion to Canada, or New France, nor any sign whatever of French dominion in America; while, on the contrary, the whole division of the continent, from sea to sea, between the 40th and the 48th parallels of latitude—including, of course, nearly all Canada—appears on it as New England. My assertions were specific, and were either true or false. Mr. Falconer should have plainly admitted them or denied them; but, instead of this, he quibbles again. "Mr. Greenhow," he says, "appears to assert that this map relates to the negotiations of 1748. The dates do not confirm this view of the case," &c. Does he mean that the map specially mentioned by M. de Mofras was not presented by the French commissaries appointed under the treaty of 1748? that it was the map used by the plenipotentiaries in 1762 that it does contain a river which corresponds in any respect with the Columbia? and that it tends to prove that Canada extended to the Pacific?

5. Mr. Falconer declared in his book, that "it is not honorable, while the title to the territory is undetermined between the respective governments, to urge measures to *populate* it with American citizens, in order to give facilities for its occupation at a future period." On this point, I showed, by reference to the published correspondence between the Hudson's Bay Company and the British government, that the company, in 1838, "claimed and received the aid and consideration of government for their energy and success in expelling the Americans from the Columbia regions, and forming settlements there, by means of which they were rapidly converting Oregon into a British colony." This, says Mr. Falconer, is no reply; and he then shifts this question to one about the settlement of the dispute by the agency of forcible and hostile operations. Whether such operations have been authorized by the British government, we know not; they may be ordered and carried into effect in virtue of a single despatch from the Colonial Office. In the United States, none such could be executed, or even ordered, until they had been discussed and approved in Congress.

Mr. Falconer has, however, most positively and

improperly misrepresented my views, and imputed to me dishonorable motives, in the latter part of the same paragraph. I assert that "the true policy of the American government should be, by all lawful means, to resist the extension of European dominion in America, and to confine its limits and abridge its duration wherever it may actually exist." This, Mr. Falconer is pleased to interpret as an assertion that "regard for public rights ought not to form a portion of the policy of the American government;" and he asks, in conclusion: "Can that be lawfully abridged, which lawfully belongs to a foreign government?" Has Mr. Falconer not heard of treaties, of purchases or cessions of territories in exchange for other advantages? Are these not lawful means of abridging the limits and the duration of a dominion? Finally, may not a nation lawfully resort to war for such purposes, when it considers its own safety threatened by its neighbors?

Mr. Falconer may, with perfect safety, represent my answer as *feeble*, as relating to *immaterial matters*, and as displaying a *discourteous and intemperate spirit*; whilst he well knows that it will be seen by very few of those who read his reply to it in England. The terms of that reply have doubtless been based on this consideration, or he would not have ventured to misrepresent my statements, as he has here done, in every particular. If he is, as he professes to be, strengthened in the belief of the correctness of his views by my answer, he will probably not have made any alterations in the edition of his pamphlet, to which this postscript is annexed; but will have sent it forth to the world with the quotation from Bradford's history as a stipulation in the Louisiana treaty; with the charges of treachery and bad faith against the United States, based on that pretended stipulation; and with the assertion that the map produced by the French commissaries in 1757, shows the course of the Columbia, and proves that Canada extended to the Pacific: in return for which, he will doubtless receive the approval of the members of his government, and the newspapers of London will compliment him on his triumphant vindication of his first positions.

While such liberties are taken by British historians, with regard to subjects on which accurate information may be so easily obtained, and errors so easily detected, what reliance can be placed in their accounts of expeditions to Afghanistan, and embassies to Ethiopia, where they may represent the circumstances as they please, without fear of contradiction?

ROBERT GREENHOW.

WASHINGTON, June 24, 1845.

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