

to the said Henry Smith, containing three hundred acres, more or less: Also, all other the Real Estate of the said Henry Smith, situate within my bailiwick: the same having been seized and taken by me to satisfy an Execution issued out of the Supreme Court of this Province, at the suit of John Pollok and others against the said Henry Smith.

HENRY W. BALDWIN, SHERIFF.

Bathurst, 3d May, 1845.

The Sale of the above property is postponed until Monday the second day of March next, (1846,) then to take place at the Court House in Bathurst, between the hours of twelve and five o'clock in the afternoon.

HENRY W. BALDWIN, SHERIFF.

Bathurst, 29th October, 1845.

OREGON.

Documents accompanying the President's Message.

CORRESPONDENCE WITH THE DEPARTMENT OF STATE.

(Concluded.)

Mr. Pakenham to Mr. Calhoun.

WASHINGTON, Jan. 15, 1845.

SIR,—I did not fail to communicate to Her Majesty's Government all that had passed between us, with reference to the question of the Oregon Boundary, up to the end of last September, as detailed in the written statements interchanged by us, and in the protocols of our conferences.

Those papers remain under the consideration of Her Majesty's Government; and I have reasons to believe that, at no distant period, I shall be put in possession of the views of Her Majesty's Government on the several points which became most prominent in the course of the discussion.

But considering, on the one hand, the impatience which is manifested in the United States for a settlement of this question, and on the other, the length of time which would probably be still required to effect a satisfactory adjustment of it between the two Governments, it has occurred to Her Majesty's Government that, under such circumstances, no more fair or honorable mode of settling the question could be adopted than that of arbitration.

This proposition I am accordingly authorized to offer for the consideration of the Government of the United States; and, under the supposition that it may be found acceptable, further to suggest that the consent of both parties to such a course of proceeding being recorded by an interchange of notes, the choice of an arbiter, and the mode in which their respective cases shall be laid before him, may hereafter be made the subject of a more formal agreement between the two governments.

I have the honor to be, with high consideration, sir, your obedient servant,

R. PAKENHAM.

The Hon. JOHN C. CALHOUN, &c.

Mr. Calhoun to Mr. Pakenham.

Department of State, Washington, Jan 21, 1845.

SIR,—I have laid before the President your communication of the 15th inst. offering, on the part of Her Majesty's Government, to submit the settlement of the question between the two countries in reference to the Oregon Territory to arbitration.

The President instructs me to inform you, that, while he unites with Her Majesty's Government in the desire to see the question settled as early as may be practicable, he cannot accede to the offer.

Waiving all other reasons for declining it, it is sufficient to state that he continues to entertain the hope that the question may be settled by the negotiation now pending between the two countries; and that he is of opinion it would be unadvisable to entertain a proposal to resort to any other mode so long as there is hope of arriving at a satisfactory settlement by negotiation: and especially to one which might rather retard than expedite its final adjustment.

J. C. CALHOUN.

To the Right Hon. R. PAKENHAM, &c.

(J. B.)

Department of State, Washington, 12th July, 1845.

The undersigned, Secretary of State of the United States, now proceeds to resume the negotiation on the Oregon question, at the point where it was left by his predecessor.

The British Plenipotentiary, in his note to Mr. Calhoun on the 12th September last, requests 'that as the American Plenipotentiary declines the proposal offered on the part of Great Britain, he will have the goodness to state what arrangement he is, on the part of the United States, prepared to propose for an amicable adjustment of the question, and more especially that he will have the goodness to define the nature and extent of the claims which the United States may have to other portions of the territory to which allusion is made in the concluding part of the statement, as it is obvious that no arrangement can be made with respect to a part of the territory in dispute, while a claim is reserved to any portion of the remainder.'

The Secretary of State will now proceed, (reversing the order in which these requests have been made,) in the first place to present the title of the United States to the territory north of the valley of the Columbia, and will then propose on the part of the President, the terms upon which, in his opinion, the long pending controversy may be justly and equitably terminated between the parties.

The title of the United States to that portion of the territory between the valley of the Columbia and the Russian line, in 54 deg. 40 min. north latitude, is recorded in the Florida treaty. Under this treaty, dated on the 22d February, 1819, Spain ceded to the United States all her 'rights, claims and pretensions' to any territories west of the Rocky Mountains and north of the 42d parallel of latitude. We contend that, at the date of this cession, Spain had a good title, as against Great Britain, to the whole Oregon Territory; and, if this be established, the question is then decided in favour of the United States.

But the American title is now encountered at every step by declarations that we hold it subject to all the conditions of the Nootka Sound convention between Great Britain and Spain, signed at the Escorial on the 28th of October, 1790. Great Britain contends that, under this convention, the title of Spain was limited to a mere common right of joint occupancy with herself, over the whole territory. To employ the language of the British Plenipotentiary: 'If Spain could not make good her own right of exclusive dominion over those regions, still less could she confer such a right on another power; and hence Great Britain argues that from nothing deduced from the treaty of 1819 can the United States assert a valid claim to exclusive dominion over any part of the Oregon Territory.' Hence it is that Great Britain, resting her pretensions on the Nootka Sound convention, has necessarily limited her claim to a mere right of joint occupancy over the whole territory, in common with the United States, as the successor of Spain, leaving the right of exclusive dominion in abeyance.

It is, then, of the first importance that we should ascertain the true construction and meaning of the Nootka Sound convention.

If it should appear 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—that it did not interfere with the ultimate sovereignty of Spain over the territory—and above all, that it was annulled by the war between Spain and Great Britain in 1796, and has never since been renewed by the parties—then the British claim to any portion of the territory will prove to be destitute of foundation.

It is unnecessary to detail the circumstances out of which this convention arose. It is sufficient to say that John Meares, a British subject sailing under the Portuguese flag, landed at Nootka Sound, in 1788, and made a temporary establishment there for the purpose of building a vessel, and the Spaniards, in 1789, took possession of this establishment under the orders of the viceroy of Mexico, who claimed for Spain the exclusive sovereignty of the whole territory on the northwest coast of America up to the Russian line.—Meares appealed to the British Government for redress against Spain, and the danger of war between the two nations became imminent. This was prevented by the conclusion of the Nootka Sound convention. That convention provides, by its first and second articles, for the restoration of the lands and buildings of which the subjects of Great Britain had been dispossessed by the Spaniards, and the payment of an indemnity for the injuries sustained.

This indemnity was paid by Spain; but no evidence has been adduced, that Nootka Sound, or any other spot upon the coast, was ever actually surrendered by that power to Great Britain. All we know with certainty is, that Spain continued in possession of Nootka Sound until 1795, when she voluntarily abandoned the place. Since that period, no attempt has been made (unless very recently) by Great Britain, or her subjects, to occupy either this or any other part of Vancouver's Island. It is thus manifest, that she did not formerly attach much importance to the exercise of the rights, whatever they may have been, which she had acquired under the Nootka Sound convention.

The only other portion of this convention important for the present discussion, will be found in the third and fifth articles. They are as follows:

'Art. 3 In order to strengthen the bonds of friendship and preserve in future a perfect harmony and good understanding between the two contracting parties, it is agreed that their respective subjects shall not be disturbed or molested, either in navigating or carrying on their fisheries in the Pacific Ocean, or in the South Seas, or in 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; the whole subject, nevertheless, to the restrictions specified in the three following articles.' The material one of which is:

'Art. 5. As well in the places which are to be restored to the British subjects, by virtue of the first article, as in all other parts of the north-western coasts of North America, or of the