

waters of this river almost from its head springs to the Pacific, passing the winter of 1805 and 1806 on its northern shore, near the ocean; that the first settlement upon this river was made by a citizen of the United States, at Astoria; and that the British Government solemnly recognised our right to the possession of this settlement, which had been captured during the war, by surrendering it up to the United States, on the 6th of October, 1818, in obedience to the treaty of Ghent. If the discovery of the mouth of a river, followed up within a reasonable time by the first exploration, both of its main channel and its branches, and appropriated by the first settlements on its banks, do not constitute a title to the territory drained by its waters in the nation performing these acts, then the principles consecrated by the practice of civilized nations ever since the discovery of the New World must have lost their force. These principles were necessary to preserve the peace of the world. Had they not been enforced in practice, clashing claims to newly discovered territory, and perpetual strife among the nations, would have been the inevitable result.

The title of the United States to the entire region drained by the Columbia river and its branches, was perfect and complete before the date of the treaties of joint occupation of October, 1818, and August 1827; and under the express provisions of these treaties, this title, whilst they endure, can never be impaired by any act of the British Government. In the strong language of the treaty of 1827, "nothing contained in this convention, or in the third article of the convention of 1818, hereby continued in force, shall be construed to impair, or in any manner affect, the claims which either of the contracting parties may have to any part of the country westward of the Stony or Rocky mountains." Had not the convention contained this plain provision, which has prevented the respective parties from looking with jealousy on the occupation of portions of the territory by the citizens and subjects of each other, its chief object—which was to preserve peace and prevent collisions in those distant regions—would have been entirely defeated. It is then manifest, that either the grant of this territory for a term of years, made by Great Britain to the Hudson Bay Co., in December 1821, nor the extension of this grant in 1838, nor the settlements, trading posts, and forts, which have been established by that Company under it, can, in the slightest degree, strengthen the British or impair the American title to any portion of the Oregon Territory. The British claim is neither better nor worse than it was on the 29th October, 1818, the date of the first convention.

The title of the United States to the valley of the Columbia is older than the Florida treaty of February, 1819, under which the United States acquired all the right of Spain to the north-west coast of America, and exists independently of its provisions. Even supposing, then, that the British construction of the Nootka Sound convention were correct, it could not apply to this portion of the territory in dispute. A convention between Great Britain and Spain, originating from a dispute concerning a petty trading establishment at Nootka Sound, could not abridge the rights of other nations. Both in public and private law, an agreement between two parties can never bind a third without his consent, express or implied.

The extraordinary proposition will scarcely be again urged, that our acquisition of the rights of Spain under the Florida treaty can in any manner weaken or impair our pre-existing title. It may often become expedient for nations, as it is for individuals, to purchase an outstanding title merely for the sake of peace; and it has never heretofore been imagined that the acquisition of such a new title rendered the old one less valid. Under this principle, a party having two titles would be confined to his worst, and would forfeit his best. Our acquisition of the right of Spain, then, under the Florida treaty, whilst it cannot affect the prior title of the United States to the valley of the Columbia, has rendered it more clear and unquestionable before the world. We have a perfect right to claim under both these titles; and the Spanish title alone, even if it were necessary to confine ourselves to it, would in the opinion of the President, be good as against Great Britain, not merely to the valley of the Columbia, but the whole territory of Oregon.

Our own American title, to the extent of the valley of the Columbia, resting as it does on discovery, exploration and possession—a possession acknowledged by a most solemn act of the British Government itself—is a sufficient assurance against all mankind; whilst our superadded title derived from Spain, extends our exclusive rights over the whole territory in dispute as against Great Britain.

Such being the opinion of the President in regard to the title of the United States, he would not have consented to yield any portion of the Oregon Territory, had he not found himself embarrassed, if not committed, by the acts of his predecessors. They had uniformly proceeded upon the principle of compromise in all their negotiations. Indeed, the first question presented to him, after entering upon the duties of his office, was, whether he should abruptly terminate the negotiation which had been commenced and conducted between Mr. Calhoun and Mr. Pakenham, on the principle avowed in the first protocol, not of contending for the whole territory in dispute, but of treating of the respective claims of the parties, "with the view

to establish a permanent boundary between the two countries westward of the Rocky Mountains."

In view of these facts the President has determined to pursue the present negotiation to its conclusion, upon the principle of compromise in which it commenced, and to make one more effort to adjust this long pending controversy. In this determination he trusts that the British Government will recognize his sincere and anxious desire to cultivate the most friendly relations between the two countries, and to manifest to the world that he is actuated by a spirit of moderation. He has, therefore, instructed the undersigned again to propose to the Government of Great Britain, that the Oregon territory shall be divided between the two countries by the 49th parallel of north latitude from the Rocky mountains to the Pacific Ocean, offering at the same time, to make free to Great Britain any port or ports on Vancouver's Island, south of this parallel, which the British Government may desire. He trusts that Great Britain may receive this proposition in the friendly spirit by which it was dictated, and that it may prove the foundation of lasting peace and harmony between the two countries. The line proposed will carry out the principle of continuity equally for both parties, by extending the limits both of ancient Louisiana and Canada to the Pacific, along the same parallel of latitude which divides them east of the Rocky Mountains, and will secure to each a sufficient number of commodious harbours on the north west coast of America.

The undersigned avails himself of this occasion to renew to Mr. Pakenham the assurance of his distinguished consideration.

JAMES BUCHANAN.

The Right Hon. R. Pakenham, &c.

(R. P.)

WASHINGTON, July 29, 1845.

Notwithstanding the prolix discussion which the subject has already undergone, the undersigned, Her Britannic Majesty's envoy extraordinary and minister plenipotentiary, feels obliged to place on record a few observations in reply to the statement (marked J. B.) which he had the honor to receive, on the 16th of this month, from the hands of the Secretary of State of the United States, terminating with a proposition on the part of the United States for the settlement of the Oregon question.

In this paper it is stated, "that the title of the United States, to that portion of the Oregon territory between the valley of the Columbia and the Russian line, in 54° 40' north latitude, is recorded in the Florida treaty. Under this treaty, dated on 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," says the Secretary of State, "that at the date of this convention, 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 favor of the United States," the convention between Great Britain and Spain, signed at the Escorial, on the 28th October, 1790, notwithstanding.

"If," says the American plenipotentiary, "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 1790, 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."

The undersigned will endeavour to show, not only 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, 1790, was considered by the parties to it to be still in force; but even that, 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 favourable as the United States.

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; it is appealed to to show that, by the treaty of 1819, by which "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," the United States acquired no right to exclusive dominion over any part of the Oregon territory.

The treaty of 1790 embraced, in fact, a variety of objects. It partook in some of its stipulations of the nature of a commercial convention, in other respects it must be considered as an acknowledgment of existing rights—an admission of certain principles of international law, not to be revoked at the pleasure of either party, or to be set aside by a cessation of friendly relations between them.

Viewed in the former light, its stipulations might have been considered as cancelled in consequence of the war which subsequently took place between the contracting parties, were it not that by the treaty concluded at Madrid, on the 28th August, 1814, it was declared that all the treaties of commerce which subsisted between