

opening, and got in over the bar, though he had hard work to get out again. Under these circumstances we can hardly say that he made a perfectly independent and peculiar discovery, which was worth more than all that his predecessors had accomplished.

Nor is the principle itself by any means established in international law, that the discovery of a river takes rank over all previous discoveries on the sea coast. Historical precedents are rather against it. Hudson in the service of the Dutch, discovered the river which bears his name, in 1609, and sailed far up the stream; but the claim of his employers was not allowed to hold against the title created by the English by Cabot, who explored the whole sea coast nearly a century before. The Dutch dominion was forcibly put down, and New Amsterdam was changed into New York. Again, France discovered the mouth of the Mississippi, and her subjects were the first to sail down the whole length of that mighty stream. But she made good her title only to a small tract on the east side of the river; while the English by the right of contiguity alone, carried back their settlements upon the whole remaining portion of the left bank. The people of the United States surely are the last persons who ought to complain that the matter was thus adjusted. Park explored the Niger, and Lander discovered its mouth; but England has not yet laid claim to Timbuctoo. In fine, we cannot recollect a single instance in which the discovery of a river was held to be a more solid basis of title to a territory than the discovery of its coast. The precedents are all the other way.

The expedition of Lewis and Clarke is of no substantive importance in creating a title to Oregon. It may assist or confirm antecedent pretensions founded on discovery or settlement, because it indicated a purpose of taking possession of the land; but in itself it was no act of discovery or settlement. Captain Fremont is now absent on a journey to the hitherto unexplored wastes in the interior of California; his party travel by the authority and at the expense of the United States, as did Lewis and Clarke, and we anticipate that science will profit as much by this expedition as by the former one; but surely the exploration was not planned by our government in order to create a title to California. Besides, if the expedition in 1805 gave us a right to the region drained by the upper branches of the Columbia, then we must admit the pretensions of the British, founded on Vancouver and Broughton's exploration in 1792, to both banks of the river from the point where Gray's ship stopped to another point near to the foot of the Cascades; for Broughton's boat was certainly the first that carried white men over this portion of the stream. A division made on this principle would give England what is unquestionably the most fertile and valuable portion of Oregon.

Again, in 1793, Mackenzie, a British subject, coming from the north, passed down a considerable portion of Fraser's river, which opens into the straits of Juan de Fuca, in latitude 49° , and then striking off to the west, reached the sea coast near the mouth of a river in latitude 52° . He was the first white man who explored this region, or passed down this river; How, then, can the United States consistently deny the British claim to the region drained by Fraser's river, or, at any rate, to that portion of it lying north of 52° ? The northernmost branch of the Columbia does not extend above 52° ; it is doubtful even whether it reaches so far. It is evident, then, that the discovery of Gray, and the expedition of Lewis and Clarke, give us no claim to the region between 52° and $54^{\circ} 40'$. In the negotiation of 1824, our minister, Mr. Rush, *expressly admitted* even more than this to the British negotiators. In his official report of the negotiation, addressed to our Secretary of State, on the 12th of August, 1824, giving the language which he used in the conference, Mr Rush says:—

"I added that *the United States did not desire to interfere with the actual settlements of other nations on the northwest coast of America, and that, in regard to those which Great Britain might have formed above the 51st degree of latitude, they would remain*, with all such rights of trade with the natives, and rights of fishery, as those settlements had enjoyed hitherto."

The claim of our present administration, then, to the whole of Oregon, extending up to $54^{\circ} 40'$, is contracted by the direct admission of our own government.

The settlement of Astoria will not detain us long. It was a mere trading establishment, formed for purposes of commerce, and not as a permanent abode for men, or as a commencement of a colony. Mr. Forsyth, in a report to Congress, in 1838, calls it 'a trading establishment,' and it has always been thus denominated. Now Mr. Gallatin, in the Oregon negotiation in 1827, not only admitted, but laboured with great earnestness to prove, that mere factories established for traffic, and not followed by actual cultivation, give no title. The whole basis of his argument is, that only actual colonies imply exclusive sovereignty. The British formed a trading establishment at Nootka Sound in 1788; Lieutenant Meares erected a house there, cleared out a shipyard, and built a vessel,—quite as much as was done at Astoria. The Spaniards captured the place the next year; but its restoration was stipulated in the Nootka convention, and it was restored to Vancouver in 1792, though it was immediately abandoned. Thus its history affords a curious parallel in every respect to that of Mr. Astor's establishment. To dwell upon the settlement of Astoria, then, would be fatal to our claim, for it would be an admission that England had a good title to the whole region around Nootka Sound, in latitude 49° , four years before Gray entered Columbia river.

We have but one other remark to make upon this subject, but it is applicable to all the grounds upon which the American claim to Oregon is supported. A disputed title, whether it rests on discovery, settlement, or contiguity, is entirely indefinite in respect to the limits of the country claimed. If the subject of dispute be an island, indeed, of moderate magnitude, then discovery or settlement of any portion of it constitutes a title to the whole. But when the land in question is only a small part of a vast continent, it is impossible to tell where the title ends. Discoveries and settlements are usually made on the seacoast; how far do they extend inland?—Not, surely, over the whole breadth of the continent. England, indeed, tried to establish this doctrine for the benefit of her colonies on the eastern coast of North America; but she was obliged to abandon it, and to limit them on the west by the Mississippi river; and the principle has been generally abandoned. If we now attempt to enforce it, we must in consistency demand a belt of country, between 49° and $54^{\circ} 40'$, extending east of the Rocky Mountains, through the heart of the British possessions to the Atlantic Ocean. This may seem extravagant; but it is on this principle that our whole claim to Oregon rests, so far as it is derived from the possession of Louisiana. And the principle may be turned against us; if Louisiana gives us a title to the Pacific coast south of 49° , the Hudson's Bay possessions give England a title to the same coast north of that parallel.

Does our claim, then, cover the whole region drained by the Columbia and its tributaries? But this is not the whole of Oregon; a considerable portion of the territory discharges its waters directly into the ocean through the Klamet, the Umpqua, the Chickeels, and the Salmon, or into the straits of Juan de Fuca by Fraser's river. And to the region thus drained, which includes much of the most valuable land in Oregon, the discovery of Grey, the expedition of Lewis and Clarke, and the settlement of Astoria, afford us not a shadow of a title.

But enough of this dry discussion of claims, which