Pacific or in the South Seas, or in landing on the coast of those seas in places not already occupied, for the purpose of commerce with the natives, or of *making settlement there.*

By Article *fourth*, British subjects are not to navigate or fish within ten sea-leagues from any part of the coast already occupied by Spain.

By Article *fifth*, in all places on the northwestern coast to the north of the parts of that coast already occupied by Spain—that is to the north of San Francisco, in latitude 38°—wherever the subjects of either nation shall hereafter make settlements, the subjects of the other are to have free access.

Captain Vancouver was dispatched by the British government to receive the surrender of the tracts of land mentioned in the first article. On his arrival at Nootka Sound, however, no such tracts of land were identified. A hut was offered, which he refused. He left Nootka Sound in the possession of the Spaniards; and there is considerable doubt whether any lands were ever restored to Meares, or whether there were any to restore. All that we know is, that in 1795 all parties, Spaniards and English, had abandoned Nootka Sound, and it has not been reoccupied.

During his voyage, Vancouver we trust without instructions, was guilty of an assumption of sovereignty more ridiculous than even the average absurdity of such transactions.

He first took possession in the name of England of all the country from latitude 39° 20′ to the Straits of Fuca, and afterwards from the Straits of Fuca to the 59th parallel. That is to say, the treaty, to superintend the execution of which he was dispatched, having stipulated that the whole coast should be open to settlement by England and by Spain, he took exclusive possession of nearly the whole of it on the part of England.

We are glad to think that no British negotiator has relied on this assertion of claim. Indeed, the northern part of the territory comprised in it is now under the undisputed sovereignty of Russia, and the southern under that of Mexico.

The next important attempt at settlement was made by Mr. Astor, an American. He dispatched an expedition by sea and by land, which met near the mouth of the Columbia, and in 1811 erected on its south bank the little fort which he named Astoria, intended to be the centre of an extensive trade between America and China. Nearly the same events followed as had occurred at Nootka Sound. In the course of the war between England and America, which broke out in the next year, Astoria was taken by a British force, the British standard hoisted, and the name changed to Fort George. *This is the only case in which any part of the Oregon Territory has been occupied by any person under the authority of the British Government.* The treaty of Ghent, which terminated that war, provided for the restoration of all possessions taken by either party from the other during the war. In obedience to this stipulation, Fort George was, on the 6th of October 1818, restored to an agent appointed by the American Government. The British flag was struck, and the American hoisted. *This again, is the only case in which any person authorized by the Government of the United States has occupied any part of Oregon.* But that occupation was as brief as the occupation of Nootka Sound. Astoria has been abandoned as a settlement, and is now reduced to a mere log house, in which a clerk of the Hudson's Bay Company resides, for the purpose of communication between Vancouver and the mouth of the Columbia.

It follows from this statement, up to the year 1818, no civilized nation had acquired the sovereignty over any part of Oregon. Spain was entitled by discovery, but did not perfect that title by permanent settlement; and the settlements, if mere trading posts can be called settlements, made by English or American subjects, were unauthorized by their respective governments.

The resumption of Nootka Sound by England, and of Astoria by America, were indeed official executive acts; but each of these posts has been abandoned.

Since that time, however, some pastoral and agricultural establishments have, as we have seen, been formed.

But on two distinct grounds these settlements give no title to the sovereignty of the soil. First, because they have been merely the unauthorized acts of individuals. With respect to the British settlements, this is obvious from the statement we have already given of the words of the Hudson's Bay Company's charter. And with respect to the American settlements, the United States have not done a single act authorizing their people to acquire lands beyond the Rocky Mountains. Those who have done so are mere squatters, like the squatters in Texas. And secondly, because the convention of 1818, to which we shall immediately proceed, and which has never ceased to operate, stipulates, that during its continuance the country westward of the Rocky Mountains shall be open to the subjects of both powers; 'it being understood,' continues the treaty, 'that this agreement is not to be construed to 'the prejudice of any claim of either party to any part of the coun-'try.' It is obvious that the right of sovereignty being expressly left in abeyance, no act done by either party, during the continuance of the treaty, can affect the right of the other.

We now proceed to consider the *Treaties* affecting Oregon. We have already stated the material parts of the Nootka Sound convention. Between the conclusion of that convention in 1790, and the restoration of Astoria in 1818, important events had occurred in the countries bordering on Oregon. Russia had created a fur company, authorized to settle and bring under the Russian sovereignty any portion of America unoccupied by a civilized power. The company scattered their posts through the Aleutian Islands, and along the north coast of the Pacific—fixed their head quarters at Sitca, near the fifty sixth parallel, claimed all that coast as Russian territory, and were preparing to advance towards the south. The United States, by the purchase of Louisiana, extended their western frontier to the Rocky Mountains. Oregon, therefore, became contiguous to four great Empires. To Russia on the north, to England and America on the west, and to Spain on the south.

Several questions were open between England and the United States in 1818. One was that of fisheries. The treaty of 1783 had given, or rather continued, to the people of the United States a general liberty to fish on the coasts of British America. America claimed the benefit of this stipulation as a permanent arrangement; or, to use the odd expression of Jurists, a transitory convention. England maintained that it had ceased by the war of 1812. A question also existed as to the northern boundary line of the United States. These points were settled by the convention of the 20th October 1818. The liberty of fishing was confined within certain limits; the forty ninth parallel was declared to divide the British and American territories, from the Lake of the Woods to the Rocky Mountains. The American negotiators, Rush and Gallatin, proposed to continue that parallel as the boundary line down to the Pacific. This was refused by the British commissioners, Robinson and Goulburn, and the Columbia suggested in its place. The very undue importance attached at that time to the Columbia, probably was the circumstance which prevented an agreement. As the best expedient, the precedent of the Nootka Sound convention was followed; and, as we have already stated, the use of the country was declared to be open to both parties for ten years—the sovereignty remaining in abeyance. On the 22d of February 1819, Spain and the United States, by the Florida treaty, recognised the forty second parallel as their mutual boundary, from the source of the Arkansas, on the eastern side of the Rocky Mountains, down to the Pacific; and Spain ceded to the United States all her claims to any territories north of that line. Spain, however, having lost by non-user the rights which she had acquired by discovery, had no claims to cede; except such as she was entitled to either by mere contiguity, or, as against England, by the Nootka Sound convention. In 1824 and 1825, the claims of Russia were satisfied by a treaty with the United States, which stipulates that the Russians shall confine their settlements to the north of latitude 54° 40′; and by a treaty with England, by which a line beginning at 54° 40′, is fixed as the boundary between the Russian and British dominions.

These treaties, of course, affected only the four nations who were parties to them. As to those nations, the effect was to exclude Russia and Spain, and to prevent England and America from acquiring any title by settlement as against one another. To the rest of the world Oregon remains open; and, unfit as it is by situation, soil, and climate, for profitable settlement, it is probable that it will long continue open.

Of the five sources of title, we have now gone through three—*discovery*, *settlement*, and *treaty*, and we have shown that under no one of them has a title to any portion of Oregon been acquired by any civilized nation. There remain two others, *prescription* and *contiguity*. Prescription obviously does not apply to a country which was not discovered till the end of the last century. There remains, therefore, only contiguity; and this claim is confined to England and the United States—Spain and Russia, the other contiguous states, having taken their shares and retired. But neither England nor America can claim a perfect title by contiguity. Neither of them has a settlement within 2000 miles of the Rocky Mountains. Neither of them can maintain that the occupation of the country to the west of those mountains is necessary to the security, or would even add to the convenience, of her territories to the east of them;—accessible as they are only by a land journey of between three and four thousand miles, or a voyage of eight months. But an imperfect title by contiguity—a title depending merely on geographical connexion—each certainly has to the portion of the country which adjoins its own frontier; that is to say, England to the portion north of the forty ninth parallel, and America to that south. This is, without doubt, the weakest of all titles; so weak, that when expressed in words it seems almost to disappear; for what can be less substantial than a claim to territory which is not yours, merely because it is bounded by that which is? Still, it must be admitted to be a source of title, however slight, where there is no other. And this is a case in point.

The arrangements for joint occupation made by England, first with Spain, and afterwards with the United States, were plausible expedients for the suspension of immediate disputes, but could not have been practically acted on. Under such an arrangement, the sovereignty being in abeyance, there is no *lex loci* unless it be the law of the aborigines. The Hudson Bay Company and the Canadian Courts have, under an act of the British Parliament, power over British subjects, but over British subjects only. If an American murder an Englishman under the lines of Fort Vancouver, he cannot be legally punished. The British law cannot touch an American; the American law cannot take cognizance of a crime committed against a foreigner beyond the sovereignty of the States. The only resource seems to be to hand him over to Casenove, to be disposed of according to Klackatack law. Joint settlement of the