

SPEECH

OF

MR. DICKINSON, OF NEW YORK,

ON THE

OREGON QUESTION.

DELIVERED

IN THE SENATE OF THE UNITED STATES.

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FEBRUARY 24 & 25, 1846.

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## S P E E C H .

### *On the resolution giving the twelve months' notice for the termination of the joint occupancy of the Oregon territory.*

Mr. DICKINSON then rose and addressed the Senate on the special order of the day—the joint resolution of notice, and the amendments thereto. He spoke as follows:

Mr. PRESIDENT: The question which I am now about to discuss in some of its most interesting and important relations, is one which deeply concerns the well-being of our political and social system. Though apparently confined to an extensive region of country on our western border, it spreads far beyond where human vision can penetrate, and rises above all physical considerations. To understand it adequately in all its bearings, and enable ourselves to judge of it dispassionately according to its great merits, it is necessary we should trace back the pathway of civilization, and learn something of the action and motives of those connected with its earliest history. Towards the close of the fifteenth century, we find the Portuguese engaged in examining the coast of Africa in a southerly and easterly direction, in the hope of finding a passage to the Indian ocean, in which they were stimulated by the bull of Pope Nicholas V, assigning to them the rights of conquest, sovereignty, and trade exclusively, in pagan lands which they might discover in that direction; and after the return of Columbus from his first voyage, the united sovereigns of Spain obtained a like authority, from Pope Alexander VI, for all lands and seas which they might discover in the west, not before discovered or occupied by a Christian prince or people. Under this extraordinary, but at that time recognised authority, the sovereigns of Spain and the king of Portugal—two of the greatest maritime powers of Europe—framed what they were pleased to call the "partition of the ocean," by drawing a line 370 leagues west of the Cape De Verd islands; and assigned all that portion of the globe east of it to Portugal, and that west of it to Spain. The success of Columbus lent to Spain an extraordinary stimulus, which sought its development in geographical discovery, territorial acquisition, and the promotion of physical science, and even in indulging a morbid superstition in the prosecution of its idle vagaries. In 1512 Ponce de Leon, a Spaniard of birth and fortune, in three vessels, fitted out at his own expense, while cruising among the newly-discovered islands, seeking for that spring so long desired by the Orient-

tals, which was to endue with perpetual youth all who bathed in its waters, discovered Florida. Balboa, governor of Santa Maria, a Spanish colony near Darien, whilst searching for an ocean in the west whose shores he believed to be paved with gold, after much suffering, privation, and fatigue, discovered the Pacific, and entering into its waters, proclaimed, with outstretched sword, that he took possession in the name of his king and master.

In 1520, Magellan, a Portuguese in the service of Spain, discovered the straits bearing his name, through which he sailed into the ocean discovered by Balboa, and which he named the Pacific, by reason of its peaceful bosom. About this time Mexico, which was discovered in 1518, was conquered, and Spain became the wealthiest nation of Europe, and prosecuted for a time her discoveries, explorations, and conquests, particularly upon the western coast of North America. From the time of the discovery of this ocean up to 1810, Mr. D. said he had collected from all the sources within his reach a connected history of the title to the Oregon territory. It would however occupy more time than he had allotted to himself on this occasion to go through that history in detail; and he had great pleasure in passing over it, since the able, and excellent commentary on that branch of the subject by his colleague, (Mr. Dix.) He would therefore content himself with little more than a mere allusion to a few historical facts, not for the purpose of tracing the history, but of presenting the points from which his deductions would be drawn. To all such as were kind enough to listen to his remarks, and who should honor him by reading any report of them, he would say that he should relieve them of all inferences as to conclusions; and, therefore, when speaking of Oregon, he desired to be understood as speaking of that region of country bordering on the Pacific, bounded on the south by latitude 42°; and on the north by 54° 40'. He intended to show clearly what were the rights of the respective parties; and not believing that any Christian nation, much less England, would go to war for even a profitable wrong, and not proposing to give up a right if she should, he should discuss the question with the same freedom as though it were the custom of nations to resort to a court of justice, for their *ultima ratio*, instead of the field of battle.

Territory might be acquired by a nation in various ways, and, among others, by treaty, by

conquest, by discovery, or by contiguity. Treaty and conquest explained themselves. Discovery, in its general sense, was described as follows, in a treatise on international law, by Marten, professor of law in the university of Gottingen:

"From the moment a nation has taken possession of a territory in right of first occupier, and with the design to establish themselves there for the future, they become the absolute and sole proprietors of it, and all that it contains; and have a right to exclude all other nations from it, to use it, and dispose of it as they think proper: provided, however, that they do not, in anywise, encroach on the rights of other nations."

"The case is but little different, strictly speaking, when, in right of legitimate conquest, a nation seizes on a territory which is ceded to it at the peace."

Mr. D. said, it is a general principle that the discovery of the leading geographical features of a territory is a discovery of the whole. The discovery of a river, either of its mouth or head waters, is a discovery, not of the river merely, but of the territory drained by it, and if the territory have natural or political boundaries, the discovery embraces the entire region limited by them. In this case the political boundaries of the territory being defined; no question can arise on that point; and we have therefore only to address ourselves to the question of the title to the particular section of country. Contiguity may come in aid of discovery; and when the discovered territory is contiguous to the possessions of those making it, the title is thereby strengthened, and discovery of an inferior character will be sufficient. Even contiguity will carry a title without discovery, if the possession of the territory be necessary to the interest and convenience of the adjacent power, and no other power will be permitted to take possession. Under these general rules, the law of nations—a code which experience has suggested, and religion, morality, and civilization have approved, assigns the territory to the government which shall discover it as the reward of its enterprise. Nor does a subsequent, more perfect, and minute discovery supersede the first. The first discovery, although it may not be minute and complete—although it may not ascertain all the geographical features of the country—yet if it have ascertained the leading features, then it is a discovery of the country, and carries with it all the advantages of a perfect discovery. Though occupation should follow, it need not immediately succeed discovery. But there must be an intent to follow up the discovery by occupation. It is a question of intent—of good faith. And that question must be settled by an examination of the motives and intentions of the party, as far as they can be ascertained; and hence the allusion to the circumstances which preceded the discovery of this territory. It is not contended that the papal authority conferred any title. But it was at that time, and with that people, recognised as authority—as the highest authority in Europe, and therefore shows that in discovering, exploring, and taking possession, they believed they had title, and intended to occupy, and although it is no title of itself, it comes in aid of, and fortifies the title by discovery,—shows that the discovery was not accidental, but that, every movement relating to it was the positive and efficient act of sovereignty. In no instance from the period when the Spanish first landed on its shores—from the first expedition authorized by the government—was there an act except under its authority and sanction. As early as 1543, the exploration of the

coast was commenced with the view of exercising sovereignty over the territory. The first large expedition which they planned was in 1540; but by reason of a mutiny in the Mexican provinces, it failed. The next was in 1543, by Ferrelo, who explored as far north as 43°. The next was by Juan de Fuca, who discovered the straits which now bear his name, in 1592. As this voyage and this discovery had been questioned, he would produce an authority which he trusted would not be disputed by any who advocated the British title on this or the other side of the water. The authority to which he referred was the *London Quarterly Review* for 1816. In speaking of this territory, and of the voyage of De Fuca, the reviewer remarks as follows:

"His real name was Apostolos Valerianus. The story told to Mr. Michael Lok, consul for the Turkey merchants at Aleppo, was a plain and no doubt a true one—that he was plundered in a Manila ship off Cape California, by one Candish, (Cavendish, who cites his having found a Greek pilot in one of the ships he plundered), an Englishman; that he was afterwards sent by the viceroy of Mexico to discover the strait of Anan, but owing to a mutiny in the squadron, he returned; that in 1599 he was again sent on this discovery; that he entered a strait between 47 deg. and 48 deg. of latitude, and sailed above twenty days in a broad sea; and that, opposed by savages clothed in skins, he returned to Acapulco. The late bishop of Salisbury, rather indiscreetly, has pronounced this story of De Fuca 'the fabric of imposture'; for the ink was scarcely dry which transmitted to posterity this hasty opinion, when the strait, and the sea, and the savages, were recognised by Meares and others, in the very spot pointed out by the old Greek pilot, to whom modern geographers have rendered tardy justice, by assigning to the strait he discovered the name of *Juan de Fuca*."

This was a high if not a conclusive authority, published in London thirty years ago, under the eye of the British ministry, where it would have been corrected, doubtless, if erroneous; for in all that related to her foreign policy Great Britain had no divisions.

Next was the expedition of Vizcaino in 1603. He explored as far as 43°, and then sailed for Madrid, for the purpose of obtaining liberty to return and establish settlements and garrisons upon the territory. He obtained this authority and returned, having been promised by Spain means to sustain the settlements which he should make, and died in 1608, as he was about starting upon his enterprise. From about this time, however, Spain for nearly a century and a half suspended the further prosecution of her explorations and discoveries. She was then torn by intestine broils and cabinet intrigues, and was at war, at times, with almost every nation of Europe. But after the peace of 1763 her energies revived, and she resumed the exploration of the coast; and for the purpose of doing so with greater vigor and extending her settlements, a distinct department, called the marine department of San Blas, was established in Mexico, which was especially charged with discovering, exploring, and taking possession of this territory on the northwest coast, showing her continued determination to maintain her position, which had not been changed there from 1603 to 1774, no other power having set up any claim or made any pretension whatever to any portion thereof. At this time Perez undertook his voyage, charged to proceed as far as 60°, and to explore the coast. He reached as high as 54°, and anchored in the bay afterwards ascertained to be Nootka.

In 1775 Heceta and Quadra were directed to the 60th parallel, and thence to explore southerly and take possession. Heceta made land at 50° and returning discovered, but could not enter the Colum-

bia. Quadra reached 56° C, and returning explored between 45° and 42° C.

In 1787 Martínez was sent to ascertain the character of some Russian settlements which were forming near Prince William's sound, at about 60°, which Spain seems to have considered her limits. He returned and reported that such settlements were encroachments upon the Spanish territory; and it was made the subject of remonstrance by Spain to the empress of Russia, who returned for answer that she had directed her subjects not to encroach upon any part of "Spanish America;" proving that this great power, holding adjoining territory, recognised this as the possessions of Spain. Martínez learned that two Russian ships were fitting out, and, as he understood, destined for Nootka, and hence his voyage to Nootka, under the orders of his government, to take absolute possession, and establish a settlement, and erect a fortification, which he did; and while there for this purpose he seized and condemned the vessels of Meares, which difficulty led to the Nootka convention. About this time the Columbia, commanded by Captain Gray, of Boston, on a trading voyage in the Pacific, was permitted to refit in the island of Juan Fernandez; and the Spanish officer in charge of the island was cashiered because he did not seize her and her crew for trading where Spain claimed the exclusive right—proving the jealousy with which Spain regarded any encroachments upon that which she claimed before the world as her lawful possession. Nor had any other power at this time pretended to claim or exercise any jurisdiction whatever upon this territory.

Spain had taken possession of the whole coast, and had exercised every act of sovereignty which she was capable of exercising over a savage region. Her officers had erected crosses—performed masses; had declared in the name of the sovereign, that they took possession; and if they did not execute a complete chart of the coast and territory, all the leading features were defined and had been named by the directions of the Spanish government, who, believing that it was improper to bestow the names of persons upon localities, had almost exhausted the names of the saints in her calendar. In 1800 she held Louisiana, and this whole territory was contiguous to her Louisiana, Mexico, and California possessions. This, then, was the title of Spain in 1800: having discovered every leading geographical feature in the country—having explored it—proclaimed her sovereignty over it—expelled others from it; and, having placed herself in a position before the world as its governor by the exercise of every possible act of sovereignty, short of actual occupation, which at that day was impracticable. In 1800 Spain transferred Louisiana to France with undefined western boundaries, and thus rested the Spanish title at that time.

The claim of our government was as follows:

In 1788, Gray and Kendrick, of Boston, under sea letters from Congress, went upon a trading voyage to the Pacific. Gray discovered the Columbia, but could not enter it. Both entered and sailed in the straits of Fuca; wintered in Nootka, and spent the following summer there and along the neighboring coast.

In 1792 Capt. Gray returned in the ship Columbia, and sailed up the Columbia twenty miles—naming it after his ship.

In 1803 France transferred to our government Louisiana, with undefined westerly boundaries, as

she had received it from Spain; under which transfer, as well as the discovery of the Columbia by Capt. Gray, this territory was claimed; and Mr. Jefferson, under the authority of Congress in 1805, sent a company of about fifty men, under Captains Lewis and Clark, to explore and take possession.

In 1805 Lewis and Clark entered upon this expedition. They reached the mouth of the Columbia in the autumn of 1805; erected a building there, which they named Fort Clatsop; remained there during the winter, and thence, tracing the river upwards, crossed the mountains, and returned to the States.

In 1808 Mr. Henry, agent of the Missouri Fur Company, erected trading establishments upon the Lewis river; and in 1810 Mr. Astor, at the head of the Pacific Fur Company, erected Astoria, near the mouth of the Columbia. This was taken by the British in 1813, during the last war, and was restored under the treaty of Ghent in 1818; in 1819, Spain, insisting that the Oregon territory was not transferred to France with Louisiana, assigned us any rights she might have there above 42°.

This presents the American claim, our government having fixed the dividing line on the north with Russia at 54° 40'.

Great Britain, for discovery, relies upon the voyage of Sir Francis Drake, who visited the Pacific in 1578—the voyage of the great circumnavigator Capt. Cook, in 1778, who touched at Cape Flattery, near the straits of Fuca, and anchored in Nootka—that of Meares in 1783, who sent a boat into the straits of Fuca, but did not enter—that of Vancouver in 1792—and the discovery of the head waters of Frazer's river by Mackenzie in 1793.

So far as Great Britain relied on the more perfect discoveries of her navigators, it might be worthy of remark that this could not apply to John Meares, who figured so largely in the history of her pretensions. This ubiquitous personage was at Nootka a land speculator and dealer in furs; at sea a Portuguese captain, and a smuggler; in London a lieutenant of the British navy; and, as to his extreme accuracy, he cruised along the northwest coast, where the Columbia enters the ocean by a mouth seven miles wide, and declared there was no such river there as the Spaniards pretended. He prided himself greatly in exploding their discovery of a river there which they called the St. Roque; and, to signalize his geographical triumph, he named the bay "Deception," and one of the capes at the mouth of the river, opposite to Astoria, "Disappointment." Vancouver, it was true, did make a more accurate examination of the coast; but he did it after that coast had been previously surveyed, and with the charts of Perez and Gray in his hand. Yet he too declared that Gray was mistaken; that there was no river there, nor stream of any kind, unless it might be a brook. But Gray and Heceta had both discovered the river, and Gray a few days after went again to the spot, entered the river, and sailed up its main channel for some miles, staying there some eight or ten days. How, then, could it with truth be said that Vancouver's explorations, though later, were more perfect than those of the Americans and Spaniards?

Much stress was laid upon the discovery of Frazer's river by Mackenzie; but he had no authority from his government, was a straggling Indian trader, and accidentally struck its head waters, and, after tracing it upwards of two hundred miles, left it, reached the Pacific far north of it, being at no time

south of 52°; and the point of coast where he reached the Pacific, as well as the region at the mouth of the river, had been discovered long before, though that particular river might not have been seen.

She admitted the priority of the Spanish discoveries, but insisted that her own discoveries were more perfect; but a more perfect examination and survey of what was already known gave her no title as a discoverer.

He would take up these British discoveries and examine them in order.

The voyages of Cook and Vancouver alone were undertaken by order of the British government, and even they were undertaken for other objects than discovery. As to the rest, they were the voyages of mere cruisers, and their discoveries, if any, were purely accidental. Drake was a sea-robber, a buccanier, cruising not only against the Spanish possessions and settlements, but against the commerce of the world. Yet such was the morality of the court of Elizabeth that she tolerated a pirate and homicide like Drake, because his deeds were supposed to be of advantage to the realm. However, as no reliance was placed by the British government on the alleged discoveries of Drake; he would pass them by.

The next was Capt. Cook; but he was not employed on a duty of this kind. In proof of this Mr. D. would refer to the occasion of his voyage, and to his specific instructions.

In 1745 the Parliament of Great Britain offered a reward of £20,000 sterling to the discoverer of a northwest passage through Hudson's bay. And in 1776 she made a like offer of £20,000, in addition, to any one who should discover an opening through the continent from the Atlantic to the Pacific above the latitude of 52°. To make the discovery of this latter passage was the avowed object of Cook's voyage. What was the language of his instructions from his government?

"With the consent of the natives, to take possession in the name of the king of Great Britain, of convenient situations in such countries as he might discover that had not been already discovered or visited by any other European power, and to distribute among the inhabitants such things as will remain as traces of his having been there; but, if he should find the countries so discovered to be uninhabited, he was to take possession of them for his sovereign, by setting up proper marks and inscriptions, as first discoverers and possessors."

The discoveries of the Spaniards were well known in England, and openly published, before Cook left the British shores. In proof of this he would refer to the London Annual Register of June, 1776. Mr. D. here read an extract expressly referring to the Spanish discoveries on the northwest coast, where Cook afterwards went, as follows:

"Several Spanish frigates having been sent from Acapulco to make discoveries, and to propagate the gospel among the Indians, to the north of California, in the month of July, 1741, they navigated as high up on the coast as the latitude of 58 degrees 20 minutes—6 degrees above Cape Blanco. Having discovered several good harbors and navigable rivers upon the west coast of this great continent, they established, in one of the largest ports, a garrison, and called the port the Presidio de San Carlos; and besides, left a mission at every port where the inhabitants were to be found. The Indians they here met with are said to be a very docile sort of people, agreeable in their countenance, honest in their traffic, and neat in their dress; but, at the same time, idolaters to the greatest degree, having never before had any intercourse with Europeans. M. Bucarelli, the viceroy of New Spain, has received his Catholic Majesty's thanks for these discoveries, as they were made under his direction; and the several navy officers upon that voyage have been preferred. It is imagined that these new discoveries will be very advantageous, as the coast abounds with

whales, as also a fish, equal to the Newfoundland cod, known in Spain by the name of Bacalao."

He also read from the London Quarterly Review of 1822, showing the priority of Spanish discoveries, and admitting that Great Britain had no territorial rights:

"The Spaniards visited the northern parts of the coast in 1774, when Don Juan Perez, in the corvette Santiago, traced it from latitude 53 degrees 53 minutes to a promontory in latitude 55 degrees, to which he gave the name of Santa Margarita, being the northwest extremity of Queen Charlotte's Island of our charts; and, on his return, touched at Nootka, about which we were once on the point of going to war. In the following year, the Santiago and Felicidad, under the orders of Don Juan Bruno Heceta, and Don Juan de la Bodega y Quadra, proceeded along the northwest coast, and described, in latitude 56 degrees 8 minutes, high mountains covered with snow, which they named Jacinto; and also a lofty cape, in latitude 57 degrees 2 minutes, to which they gave the name of Engano. Holding a northerly course, they reached latitude 57 degrees 58 minutes, and then returned.

"Three years after these Spanish voyages, Cook reconnoitred this coast more closely, and proceeded as high up as the icy Cape; it was subsequently visited by several English ships for the purposes of trade; and though every portion of it was explored with the greatest accuracy by that most excellent and persevering navigator, Vancouver, as far as the head of Cook's Inlet, in latitude 61 degrees 10 minutes; yet, on the ground of priority of discovery, it is sufficiently clear that England has no claim to territorial possession."—London Quarterly Review.

The voyage of Vancouver was for the purpose of receiving, as the agent of the British government, the property of Meares, which he alleged had been taken from him at Nootka—the return of which was stipulated in the Nootka convention. He was authorized to explore and survey, for the purpose of furnishing correct charts, but it was well known to the British government that the whole region had long been previously discovered, and he was charged with no such enterprise.

While Great Britain held that the discoveries of Spain were not enough to give her a title to any part of the country, she thought that the landing at Nootka by a Portuguese captain, the discovery of the head-waters of a small stream by an Indian trader, and the erection of a miserable hut wherein to dry skins, were all-sufficient to give her title to a country three times as large as England, at six thousand miles distance, though the territory lay immediately contiguous to the Spanish possessions, and was discovered throughout and taken possession of by authorized officers of the government. England has practised on this principle always; but she could not show as good a title to any part of her vast dominions (unless, perhaps, to the island of England itself) as we could show to the whole coast of North America. Her charters to her colonies "from sea to sea" were as valueless in the eyes of a Papist as the Pope's charter to Spain would be in the eyes of a Protestant. Neither conveyed any valid title unless followed up by discovery, by intent of settlement, by acts of sovereignty, and by actual occupation. The French first discovered the Ohio, but the British claimed it, went to war for it, and held it because it lay between certain parallels and was covered by her charter.

Captain Cook discovered Australia, a country larger than all Europe, and took possession of it by erecting a pole and breaking a bottle, and Great Britain holds it under that title to this day.

Mr. D. held that Oregon was homogenous—was one region. The country was drained almost entirely by the Columbia and its confluent. This river was its principal geographical feature, and a discovery of both its mouth and its head waters—

of the whole coast and its principal bays, harbors, capes, and islands by Spain and by the United States, was a discovery of the whole. Besides, it was followed by all the possession and occupation of which such a country was susceptible, and by resolute acts of sovereignty. This, he insisted, gave a complete title by discovery to the whole, against Great Britain and the world, under the most rigid construction of the rule.

But it was idle to discuss the mere question of title; for it was evident Great Britain did not claim upon that ground. Her able plenipotentiary had evidently attempted to draw attention from the true points, by arraying the American and Spanish titles against each other for the purpose of defeating both. However ingenious this process, it would not bear examination. There could not, it was apparent, be two good titles to the whole of the same territory; but each might be good to a portion; and if both parties held the links of the entire chain, each holding a portion, when united it would be complete. Or if one title was good and the other worthless, the perfect would not be destroyed if blanded with the spurious. Great Britain and the United States both assert claims. If she had ours, although hostile to hers, she would doubtless assert, as she would have, a good title to the whole against the world. As well may a nation procure outstanding titles to territory, and rely upon them, as a landlord the lease of his tenant, the remainder man the life estate, or the tenant in common his co-tenant.

But by the following statement of Messrs. Huskisson and Addington, British commissioners in the negotiations of 1826, it would be seen that they did not rely upon discovery, but upon the Nootka convention. They say:

"Whatever that title may have been, however, either on the part of Great Britain or on the part of Spain, prior to the convention of 1790, it was from thenceforward no longer to be traced in vague narratives of discoveries, several of them admitted to be apocryphal, but in the text and stipulations of that convention itself."

Whatever the title of England may have been prior to the Nootka convention in 1790, after that instrument her claims were no longer vague and uncertain, but were all embodied in that treaty. The British rights in Oregon were fixed by the convention of Nootka. If we would know exactly what they were, we must go there to find them. If she had no title there, she had no title. Spain lost no rights in 1790, and the British gained none unless by the stipulations of that treaty.

Now, we held that that convention was abrogated and abolished by the war of 1796. England denied this, but considering it not free from doubt, asserted that if the convention was abrogated by the war, still it revived again in 1814 by a convention reviving all former commercial treaties. But he insisted that by her own doctrine war destroyed such a treaty, for she held that her treaty with us as to fishing and settlement on the coast of Labrador was defeated by our war with her in 1812. If the principle was good as to the Labrador treaty, it was equally good as to the Nootka sound treaty. We denied that the treaty revived in 1814, because the treaty of revival was a treaty referring to Spain proper, and not applying to her colonies. But if it was revived in 1814, what followed? Spain transferred all her title to Louisiana to France in 1800. France claimed that Louisiana embraced everything to the ocean, including the northwest coast: and she made her treaty believing that there-

by she transferred the whole northwest coast to us, and we claimed that such was the fact—that the cession of Louisiana carried with it all Oregon. Under that claim, whether good or bad, (and in this argument it mattered little which,) and our previous discovery we took possession of the country under the order of our government; and the exploration of Lewis and Clarke was followed up by acts of possession by Mr. Henry and Mr. Astor, of the country and of the river, which was its chief and most important feature. Mr. Huskisson and Addington did not deny this transfer, but claimed that the question had previously been disposed of by the treaty of Nootka, and that they thus got rid of the force of the transfer.

Mr. D. would show that it had no such effect. The convention of Nootka was abolished by the war of 1796. Spain made the transfer in 1800, France in 1803, and we took possession in 1805, in 1806, in 1808, in 1810, and continued until 1813. By England's own showing the convention did not revive, if at all, till 1814; so that during the interval, while the treaty was null, we took possession of the country, and it was still ours.

We have already seen that Great Britain admits all her rights, previous to 1818, to rest in the stipulations of the Nootka convention. If, therefore, no rights can be found there, none existed. He did not deny but that her subjects had certain privileges guaranteed, but there was no grant to the sovereignty of Great Britain, and she had no right to exercise acts of sovereignty by any power conferred by that treaty. The first article of the convention provides that the buildings and tracts of land situated on the northwestern coast which had been taken from British subjects should be restored to them. The language of the treaty is not that they be given up to the British government, but to British subjects. By the second article, a just reparation was to be made for all injuries arising from the acts of either. By the third article—the only one which confers rights—in order to preserve a good understanding between the parties, it was agreed that the respective subjects and citizens of both should not be disturbed or molested in carrying on their fisheries and their trade with the natives. Spain was in possession by discovery, and here was no waiver of eminent domain.\*

Mr. D. called attention to this language for the purpose of showing the absence of all intention or expectation on the part of the British government of gaining any rights under this convention beyond those guaranteed to her subjects—the restoration of Meares's property—the privilege of occupying temporary habitations on land for the purpose of carrying on trade with the natives; and that those who ventured their property upon the sea, in prosecution of the fisheries, should not be molested. She always takes care of her subjects, and of their interests. Would we could say the same of our own government! The other articles of the convention were not material

\*The third article of the Nootka convention:  
"In order to strengthen the bonds of friendship, and to 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."

to the view he was taking, though they all favored the construction he contended for.

Mr. D. would now show what was the effect of the restoration of Astoria in 1818, under the treaty of Ghent. Great Britain sometimes asserted a claim by discovery. She insisted that she had rights under the Nootka convention, and all conceded that it was hers by conquest from 1813 until restored. She had one title, but from three sources which were merged. In 1818 she restored Astoria, which was a restoration of the country, without protest or pretence of any claim whatever. How, then, did she divide her title again, and transfer a portion to us, and retain the residue? He insisted that upon every principle of national law or common sense she was stopped from asserting any claim which she now pretends had existence then.

It was evident that she had no confidence in her claim, nor was any countenanced by the public men of that day; and Mr. Clay, who was soon after Secretary of State, in an official paper declared she had not the color of a title to any portion of the territory.

Though she had insisted upon some claim previous to the restoration under the Ghent treaty, Lord Castlereagh, principal secretary in the foreign office, declared that we were entitled to be fully restored, and to be deemed the party in possession while treating of the title. The fort and settlement were restored to the government of the United States, as such. The restoration and acceptance were the acts of the respective governments through their constituted authorities.

The first article of the treaty of Ghent, under which Astoria was restored, unlike the Nootka convention, provided for the restoration to this government; and under this provision, the country was restored, not to individuals, but to the *sovereignty* of the United States. We were then in full and peaceable possession by the consent and authority of the British government. We had successfully defied her arms, and she had restored it to us without even claiming a possessory right; and at this time, certainly, the whole world would have pronounced our title *clear and unquestionable*.

But in fourteen fatal days thereafter we entered upon negotiation, and, as usual, fell a prey to the sapping and mining of her diplomacy. The treaty of 1818, which it is contended is a treaty for joint occupancy, is not one for that purpose, but a treaty of permission to her subjects to trade and to fish upon the coast. It gives to Great Britain no right to exercise sovereignty. We were already in possession; and she had no rights there, unless she gained them under the treaty of 1818. The language of that treaty is worthy of examination. [Mr. D. here read a portion of the treaty, and then continued.] Now

"The third article of the treaty of 1818:  
"It is agreed that any country that may be claimed by either party on the northwest coast of America, westward of the Stony mountains, shall, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open, for the term of ten years from the date of the signature of the present convention, to the vessels, citizens, and subjects of the two powers; it being well understood that this agreement is not to be construed to the prejudice of any claim which either of the two high contracting parties may have to any part of the said country; nor shall it be taken to affect the claims of any other power or state to any part of the said country; the only object of the high contracting parties, in that respect, being to prevent disputes and differences amongst themselves."  
The treaty of 1827 extends the above article indefinitely, but provides it may be terminated by either party by giving one year's notice.

where did Great Britain obtain her right to exercise acts of sovereignty in that territory? It is said she is in actual occupation; perhaps it may be considered practical occupation, inasmuch as her subjects are there, though by mere permission, not by conquest, we being deemed in possession. She has no more right to exercise any act of sovereignty in that territory under the Nootka convention, or the convention of 1818, than she has to exercise acts of sovereignty within the District of Columbia. Suppose we should give the subjects of Great Britain the right to navigate the Potomac, or any other river in the United States: would that give the right to the government of Great Britain to exercise acts of sovereignty there? Suppose we should authorize British subjects to transact certain business in the District of Columbia: would any one pretend that it gave that government jurisdiction?

The honorable senator from Missouri, a few days ago, was pleased to say that this was the fruit of "barren negotiation." Would to Heaven the negotiation had been barren!

Mr. Benton remarked that the negotiations had lasted thirty years; and he had designated them, therefore, aged and barren.

Mr. Dickinson continued. He was glad it had been thus barren, and he was prepared to show that it ought to produce no fruit, such as was anticipated by Great Britain. To return to the convention of 1818. Though it gave no rights whatever to the British government as such; it had been, as was well said by the senator from Missouri, the source of difficulty to us. But for that convention, we should now be in peaceful and quiet occupation of the territory. It is that which has fortified the claim set up by the British negotiators—which claim, as late as 1818, they did not consider worthy of being called even a possessory right, but which has now grown into a right of which she cannot be deprived without war. What is the true state of her title? Legally, not in occupation of the territory, with no rights as a government, she assumes the right of extending the jurisdiction of her courts not only over her own subjects, but over the whole territory, and over all persons therein. She has erected extensive fortifications, and is now literally in the armed occupation of the country, and in the exercise of the highest acts of sovereignty, showing a disposition to hold it, peaceably if she can, forcibly if she must. How did they possess themselves of these privileges? and with what intention have they done so? An agent of the Hudson Bay Company thus explains it to his governor: "The territory may hereafter become of great consequence, to Great Britain, and we are strengthening her claim." They are making what was no claim a claim, then a right, and lastly a title. Sir, they are doing as they have done in the East Indies—converting a small trading post into a territorial possession, over which they exercise unlimited jurisdiction. What was a few years ago a small trading post at Calcutta, has given her jurisdiction over a hundred millions of human beings.

What was the real claim of Great Britain since 1818? Some might be surprised to hear it asserted that she claimed no title, but such was the fact, as would be seen by a close examination of the correspondence. Her negotiators did not rely upon discovery, but upon *rights* growing out of the conventions of Nootka and 1818. Messrs. Huskisson and

Addington, in their correspondence with Mr. Gallatin, in 1826, thus state their claim:

"Great Britain claimed no exclusive sovereignty over any portion of that territory. Her present claim, not in any respect to any part, but to the whole, is limited to a right of joint occupancy in common with other States, leaving the right of exclusive dominion in abeyance."

Upon this, Mr. Pakenham, the present able British minister, had improved; and, after amusing himself and the American people, and attempting to divert the American Secretary by pretended discoveries, had contrived to leave an idea to nestle amid a mass of words, in a manner which would have added another laurel to the wreath which adorned the brow of Talleyrand. After reciting the various grounds of claim, he closes with the following:

"In fine, the present state of the question between the two governments, appears to be this: Great Britain possesses and exercises in common with the United States, a right of joint occupancy in the Oregon territory, of which right she can be divested with respect to any part of that territory only by an equitable partition of the whole between the two powers."

"It is for obvious reasons desirable that such a partition should take place as soon as possible, and the difficulty appears to be in devising a line of demarcation which shall leave to each party that precise portion of the territory best suited to its interest and convenience."

It was said Mr. Pakenham was censured by his government. Mr. D. denied this. Sir Robert Peel was not prepared to say whether Mr. P. should have taken 49° or not; in short, he was not prepared to say anything about it before the public. Mr. D., although he desired no cabinet secrets, should like to know under what instructions Mr. P. rejected that offer. These would show whether the British minister was more grasping than his government, but there was nothing in the foreign news which indicated such a state of things.

But if this territory is ours, is it worth preserving? Great Britain sometimes describes it as a fertile region, and sometimes as a cold and barren waste; and it has been called on this this floor, the Siberia of America. It stretches for nearly a thousand miles along the Pacific coast, the distance from the coast to the Rocky mountains, varying from five to seven hundred miles, comprising a tract of country nearly equal in extent to one-half of the States of this Union, and containing rivers navigable for hundreds of miles. Its climate, in all respects, is better than that of New England. The Almighty has fashioned a highway from the fertile valley of the Mississippi to the head waters of the Columbia. Within that region, plants spring spontaneously; flowers bloom and shed their fragrance, and the humming bird performs its round in March. The country looks out upon the Pacific, offering facilities for commerce unsurpassed, and some of the best harbors in the known world will give us the China trade in as many weeks as it now takes months to perform the journey, and without the dangers of a passage around the capes; the trade of Japan, the Spanish islands, British and Dutch East India and the golden commerce of the whole east, which has enriched the world. It is the advantages of this great commercial possession of which Great Britain seeks to deprive us. She sees that the commerce of the world, if divided into eight parts, belongs five parts of it to herself and us; and by further allotment as between ourselves, two of those five parts are ours; and she sees, too, that, from our growing importance, if we possess ourselves of this territory, we shall be in possession of both oceans; that we shall be suc-

cessors to, as we are now the competitors for, her trident; that here great commercial cities will grow up, and that our merchants will become the common carriers of the world.

But we are told, as usual, that there will be war unless the country be at least divided. Mr. D. had said at the commencement that he would discuss the question with the same freedom as though it were one to be decided before a judicial tribunal; and while he should deprecate a reckless war, he should equally deprecate a craven and purchased peace. Neither the one nor the other was necessary. He had shown by the admissions of Great Britain, that she has no rights beyond those which appertain to her subjects as such. These we have never interfered with; but she has herself broken the treaty, by the exercise of acts of sovereignty which she has a right only to exercise within her own dominions, or within a country where that authority was given her.

We were told, too, that it must be terminated by peaceable, honorable negotiation. Peaceable negotiation becomes us—honorable negotiation should accompany it. But if, on a full examination, we can maintain, in the face of the civilized world, that it is ours, it would be an act of injustice towards ourselves to surrender it. Sir, we have the right to call upon Great Britain to give up her pretended claim. She cannot break the peace of the world, when we are willing to respect, and do respect, all the rights she has there.

But we are told that we must come down to the 49th degree of north latitude, and compromise. Why should that parallel be proposed? It has been repeatedly offered by our government, and as often rejected. The last time it was offered her Majesty's minister declared that he hoped this government would make an offer more consistent with fairness and equity. He returned this answer at once, without referring to his government; and no such question exists, except in imagination. Does it become our honor, dignity, or self-respect as a nation, to keep constantly urging before the people of this country and the world that the 49th parallel must be the dividing line; that we will give them that line, though they have declared they will not receive it? It will be time enough for us to say we will give Great Britain a part when she makes out a title to it; or, if we give her what is ours, let her first at least consent to receive it; and not force her to accept the territory which she says she refuses. Mr. D had too much respect for our government to occupy a position so humiliating; and though he had too much respect for the British government to indulge in aspersions, he had not that affection for it which should induce him to urge upon it a portion of our territory.

The strict question before the Senate was, shall the convention be terminated? But it had properly taken a much wider range, and the foreign and domestic policy of the government brought under discussion.

The different structure of the two governments was too obvious to require explanation; theirs, central, executive, and its chief power resting in its ministry—ours, popular, representative, and its elements of strength with the masses of the people. Theirs developed its greatest energies in the Star-chamber policy of diplomatic negotiations—ours through its popular expression; and hence the reason we failed when thus brought in conflict



with her, and not because her statesmen were more sagacious than ours.

The Oregon question here received its tone from the people—there from the cabinet. Why had the declaration of the President of the United States received such unqualified and universal approbation? It was not merely that he said, under the sanction of his high position, that our title to the whole of Oregon was clear and unquestionable—it was not that he was chosen by them to be their chief magistrate over a popular and distinguished competitor—it was not that they felt an abiding confidence in his stern integrity, and an assurance that, like him who had gone before him, he would claim only that which was right, and would submit to nothing which was wrong; but it was because in his language they heard their own, and felt that the sentiments he uttered were the sentiments of their hearts.

But it is said we must beware how we discuss this question, because the news from abroad is pacific; because the queen's speech is gentle; because the language used in Parliament is mild; because the tone of the public press in Great Britain is pacific. Sir, I concede all this; but, beginning with the queen's speech: when our whole policy is made to depend upon the queen's speech, or upon the sentiments of British statesmen, or upon the press of Great Britain, we may as well at once go back to a state of colonial servitude. Sir, what is the queen's speech? A formula which has not been changed three sentences for as many centuries; and from this we are to take our line of conduct. But the language in Parliament is pacific, certainly. Whoever knew an instance in which Great Britain paraded her foreign policy before the world? If we would know it, we must find out the secrets of her foreign office. Her energies are differently employed. The British premier comes into Parliament with every expression calculated and weighed well before uttered. The premier, in his place in Parliament, sees nothing that will disturb the peaceful relations of the country; but proposes to increase warlike preparation. He trusts that peace will be preserved, and so did he, (Mr. D.) but he trusted Great Britain would yield up a claim asserted without right and maintained against evidence. Hence it was that he hoped we should have no war.

As to any commercial arrangement contemplated between the two countries, it must depend upon its advantages, and not upon the Oregon question. Whenever Great Britain should propose any arrangement to this government, he trusted we should meet her in the same spirit of liberality and good feeling which should characterize the intercourse between two great nations. But he saw nothing in the queen's speech, in the debates in Parliament, or in the temper of the British press, which should induce us to hesitate or relax in the prosecution of our rights in Oregon.

Perhaps she would throw open her ports, but what would induce her to do it? Love and affection for the interests of the American people?—or had the cries of her starving millions reached to heaven? Did she see the genius of monarchy rocking upon its pedestal, and propose to permit famine to purchase its crust in the market of the world, and thus procure a renewal of her lease of despotism, which she feared was drawing to a close. It was a question between that government and its people; her aristocracy had given way upon compulsion, and not from choice. It

was a bold and masterly policy of her ministry to save the nation, and gave no indication that she would relax her unjust claim to Oregon. We should look to our own interest and to our own country for sentiments by which to regulate our action, and leave commercial treaties and regulations to the future. The Almighty had created beings there, and materials to feed them here, not upon the territories of monarchy but of freedom.

So much had been said upon the pacific tone of the British press, that Mr. D. would read a short extract from the London Times, which might be regarded as semi-official, and the true feeling of the British ministry:

"It appears that the last proposal submitted to him [Mr. Fakenham] by Mr. Buchanan, viz: a division of the territory, he rejected at once. Now it is urged that he should have communicated with the home government before he took so summary a course. It would require a fuller acquaintance with the circumstances of the case than is afforded by Sir R. Peel's explanation, to pronounce positively upon the propriety of his conduct. If by the term "division" be understood a division formed by a line continued from the forty-ninth parallel, we can understand the motives which forced him to reject the offer. This partition of territory would have deprived us of the Columbia river; in fact, of the most essential property—the only beneficial interest in the disputed country. Excluding this, it excluded not only the most important part of our claims, but that which previous conventions and previous proposals had conceded to us. It would have been impossible for any English cabinet to accept offers so humiliating, or rights so truncated."

"If Mr. Fakenham had betrayed an undecided or doubtful mind when called upon to cede the navigation of the Columbia and the rich soil upon its banks, what would have been said by the politicians of the United States, by the mob constitutions, by the mob flatterers, by the panders to bad passions, and the suitors for popular favor?"

This, then, was the conciliatory spirit which should induce the representatives of "mob constitutions" to surrender Oregon!

Mr. D. said so much had been urged in favor of negotiation, as the teachings of experience were valuable, he would refer to our diplomatic history for thirty years, and see how the various questions had been disposed of. It had been already seen that all the rights Great Britain had in Oregon were conferred by negotiation. A few years since there were four leading subjects of difference. The northeastern boundary, the Caroline, or McLeod affair, the right of search, and Oregon.

The northeastern boundary was first submitted to the arbitration of the King of Netherlands, who was instructed to follow the highlands, but located his line in the bed of the St. John's. His award was rejected and negotiations resumed. Great Britain had more territory awarded to her than a map in her foreign office showed she was entitled to, and this government paid to Maine and Massachusetts for the territory thus ceded, \$300,000. This was the history of one concession by this to the British government.

In 1837 there were collisions between citizens of New York and elsewhere, and the inhabitants of Canada—hostilities having been exchanged between the parties, at least as it was supposed, when an armed company, under the direction of the Canadian authorities, came over and seized a steamboat lying within the territory and jurisdiction of the State of New York, while the hands were asleep on board, cut it out, murdered a portion of the hands, and one who fled to the shore was shot down after he had reached it. The boat and her crew were sent over the Falls of Niagara. That was a question which, at the time, raised the indignation not only of citizens of New York,

but of the whole American people. The attention of the authorities of New York, and of the United States were directed to the subject; reparation was demanded, and how was it procured?

An individual named McLeod, an inhabitant of Canada, avowed himself the murderer, and being in the State of New York, was arrested and confined in jail. The federal government endeavored to prevent his trial by the courts of New York; and but for the commendable firmness of her executive and judicial authorities, would have succeeded. No reparation has yet been made; and it is said to have been charged upon the floor of the other branch of Congress that the fees of counsel who defended McLeod were paid from the treasury. Mr. D. knew nothing concerning the statement, but hoped for the honor of the nation it was not true.

Mr. WEBSTER. It is wholly false.

Mr. DICKINSON was happy to hear it. He wished to be correct as to the history of the past; but if his recollection served him, the federal government insisted that the authorities of New York, under the circumstances, had no right to try McLeod, who declared he had sent the missile which terminated the life of one of her citizens upon her own soil. Does the senator wish to explain?

Mr. WEBSTER. Not at present; I do not want to interrupt the senator. I shall think it necessary, perhaps, to call on him hereafter for the authority upon which he makes this statement.

Mr. DICKINSON had understood there was a correspondence between the authorities at Washington and the governor of New York to that effect; but he alluded particularly to a letter addressed by Mr. WEBSTER, Secretary of State, to Mr. CRITTENDEN, Attorney General, at that time, directing him to proceed to New York and take charge of the trial of McLeod. He had it not then before him, and did not recollect its precise language, but would refer to it before he should close. He would endeavor to speak of the history of the past truly, and in perfect kindness, but he wished to show what we had gained by negotiations with Great Britain, and who had made the concessions.

Mr. D. here gave way to a motion for executive session.

#### WEDNESDAY, FEBRUARY 25.

Mr. DICKINSON said when he gave way yesterday, in discussing the McLeod affair, he had incidentally alluded to a statement which, he had understood, had been made in the other house of Congress by the chairman of the Committee on Foreign Affairs. The statement surprised him, as he had previously stated; for he thought, if true, it was a great abuse which should be guarded against for the future, and, if not, it should be denied. He would produce and read the remarks to which he had alluded, as well in justification of his statement as to allow the late secretary [Mr. WEBSTER] a full opportunity for explanation, if he desired.\*

\*Extract from the speech of Mr. C. J. Ingersoll in the House of Representatives. Speaking of the McLeod affair, Mr. Ingersoll said:

"He viewed that matter as a considerable item among the causes which led to the overthrow of the party which had supported Mr. Van Buren, of which he himself was one. Out of this controversy arose the arrest of Alex. McLeod. What he intended to state now consisted of facts not yet generally known, but which would soon be made known, for they were in progress of publication, and he had received them in no confidence, from the best authority. When McLeod was arrested, Gen. Harrison had just died,

Mr. EVANS said it was not in order.

Mr. DICKINSON said he had no desire to read, if objected to from the other side, and would waive it. That part of the statement, however, as reported, which related to the late attorney of the United States for the northern district of New York, did that gentleman injustice, (unintentional, certainly,) for he was a gentleman of integrity, and had undertaken the defence of McLeod before his appointment; and besides, McLeod was prosecuted in a State court, by the attorney general of New York, where the district attorney of the United States had no official relation.

Mr. D. said he had also stated that the federal government endeavored to arrest the trial of McLeod by the authorities of New York, on the ground that, if he committed the murder, it was by the direction and under the authority of the British government, which had avowed the act, and that the government and not the individual was responsible. He understood the honorable senator from Massachusetts [Mr. WEBSTER] to deny such interference, or intimate that he should call for the authority for such statement. Mr. D. did not intend to charge a forcible or a lawless interference, but a palpable and direct one, and an attempt, on the part of the authorities at Washington, to arrest the ordinary course of justice, and prevent a trial upon the merits. McLeod was confined in jail in a western county of New York, charged by indictment with the murder of Durfee, a citizen of that State, within its borders. While so confined, and as his trial was approaching, Mr. Fox, the British minister, avowed the act to be that of her Majesty's government, and demanded the release of McLeod. A correspondence was said to have passed between the federal and State authorities touching the question of McLeod's release, of which Mr. D. did not pretend to speak; but he held in his hand a letter from the late Secretary of State [Mr. WEBSTER] to the late Attorney General [Mr. CRITTENDEN,] which he thought fully established all he had asserted.

The letter purported to be issued from the Department of State March 15, 1841, and, after relating the facts, and stating that McLeod had been de-

and Mr. Tyler was not yet at home as his successor. Mr. Webster—who was *de facto* the administration—Mr. Webster wrote to the governor of New York, with his own hand, a letter, and sent it by express, marked "private," in which the governor was told that he must release McLeod, or see the magnificent commercial emporium laid in ashes. The brilliant description given by the gentleman from Virginia of the prospective destruction of that city in the case of war, was, in a measure, anticipated on this occasion. McLeod must be released, said the Secretary of State, or New York must be laid in ashes. The governor asked when this would be done? The reply was, *forthwith*. Do you not see coming on the waves of the sea the Parthian guns?—and if McLeod be not released, New York will be destroyed. But, said the governor, the power of pardon is vested in me, and even if he be convicted, he may be pardoned. Oh, no, said the secretary, if you even try him you will bring destruction upon yourselves. The governor was not entirely driven from his course by this representation. The next step taken by the administration was to appoint a district attorney who was to be charged with the defence of Alexander McLeod—the gentleman who was lately removed from office—and a fee of five thousand dollars was put into his hands for this purpose. Application was afterwards made to the chief justice of the State of New York—who was now sitting as a justice in a neighboring hall [Justice Nelson]—for the release of McLeod. The judge did not think proper to grant the application. The marshal was about to let him go, when he was told that he must do it at his peril, and that if McLeod went out of prison, he should go in."

manded by the British minister, upon the ground that the expedition was planned by, and executed under, the authority of the British government, proceeds as follows:

"All that is intended to be said at present is, that since the attack on the *Caroline* is avowed as a national act which may justify reprisals, or even general war, if the government of the United States, in the judgment which it shall form of the transaction and of its own duty, should see fit so to decide, yet that it raises a question entirely public and political—a question between independent nations—and that individuals concerned in it cannot be arrested and tried before the ordinary tribunals, as for the violation of municipal law. If the attack on the *Caroline* was unjustifiable, as this government has asserted, the law which has been violated is the law of nations, and the redress which is to be sought is the redress authorized, in such cases, by the provisions of that code.

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"You will be furnished with a copy of this instruction for the use of the executive of New York, and the attorney general of that State. You will carry with you also *authentic evidence* of the recognition by the British government of the destruction of the *Caroline*, as an act of public force, done by national authority.

"Having consulted with the governor, you will proceed to Lockport, or wherever else the trial may be holden, and furnish the prisoner's counsel with the evidence of which you will be in possession, material to his defence. You will see that he have skilful and eminent counsel, if such be not already retained; and although you are desired to act as counsel yourself, you will cause it to be signified to him, and to the gentleman who may conduct his defence, that it is the wish of this government that in case his defence be overruled by the court in which he shall be tried, proper steps be taken immediately for removing the cause, by writ of error, to the Supreme Court of the United States."

Mr. D. understood the evidence the Attorney General was thus directed to take with him, to be evidence that McLeod acted by order of the British government, and the avowal of the act by that government. Here, it would be seen, was a declaration that McLeod could not be arrested or tried, under the circumstances, by the ordinary tribunals. The Attorney General of the United States was directed to proceed to the place of his trial, see that he had counsel, and in case the court should overrule the objection, and proceed to a trial upon the merits, it was to be signified that the *federal government* wished the question removed by writ of error to the federal court. This, Mr. D. thought, established an interference with the local administration of justice of a character somewhat decided and unequivocal; an interference in the affairs of a sovereign State; while seeking to try the supposed murder of one of her citizens—a doctrine fraught with alarming tendencies, but of too grave a character to receive discussion in this collateral manner.

A law of Congress was subsequently enacted, providing that foreigners charged as was McLeod, should be discharged by federal officers upon *habeas corpus*; and Lord Brougham, in discussing the Ashburton negotiations, in the British Parliament, and boasting of the triumphs of British diplomacy, erroneously, though not inaptly, said it was a law which *altered the constitution of the United States*. Satisfaction for the destruction of the *Caroline*, and the murder of citizens of the United States, had been demanded, but not given, and had been virtually waived. This matter, as a whole, Mr. D. thought, furnished further evidence of a spirit of concession and constant yielding of rights by this to the British government.

The third question was the right of search, or of visit, claimed by Great Britain, which was another name for the right of impressment—a claim which had at all times been resisted by this government as

inadmissible and unauthorized. In a correspondence with the American minister in London, Lord Palmerston and his successor Lord Aberdeen, in 1841, under pretence of arresting the slave trade, had asserted the right of British cruisers to board American vessels in time of peace, with a view to determine, by search, their nationality, and avowed its intention to exercise it. About this time, five European powers—England, France, Russia, Prussia, and Austria—for the alleged purpose of arresting the slave trade, (the slaves of Russia being white, and therefore not objects of sympathy,) signed the quintuple treaty, asserting the right of visitation or search. The American minister in Paris, [Mr. Cass,] believing that it was an attempt to establish this doctrine as the law of nations, in the name of his government protested against it, exposed its true character, and maintained and vindicated the freedom of the seas in a manner worthy of himself and the government he represented at that court. Although France had signed, she refused to ratify this treaty, and such refusal was imputed to the influence of the American minister at Paris. Thus stood the matter when Lord Ashburton came charged with the adjustment of subsisting difficulties between Great Britain and the United States. The American minister raised not only the question of the *Caroline*, but the question of the right of visit and of impressment, and showed with great ability that the ocean was the common property of nations, and that a vessel under the American flag was as sacred as American soil, and that no other power had the right to violate or invade it.

Lord Ashburton seems to have waived a discussion of the subject, by saying that he was not charged with it, though he virtually admits that Great Britain claimed the right, when an emergency should arise, requiring its exercise.

Mr. CRITTENDEN. Do I understand the senator as saying that the British minister insisted upon the right of impressment?

Mr. DICKINSON. I think he claims such right exists, to be exercised in time of war, but not necessary to be exercised in time of peace, and waived its consideration because he was not particularly charged with it. The right of visit was, however, a practical question, openly asserted by the British government—one that was deeply agitating this country and all Europe, and if not waived by our government, it was not abandoned by theirs, but was passed over to the future, with the declaration of the British government before the world, that British armed cruisers had the right to visit or search vessels bearing the American flag, with a view to ascertain their identity.

On the discussion of the Ashburton treaty, Lord Brougham assails our minister in Paris, who, he asserts, influenced France against ratifying the quintuple treaty, in a shower of bitter epithets and reproaches; and as we had heard much of the courtesy of that government towards ours, he would read an extract or two from the speech of that distinguished British statesman. Upon that discussion, he says:

"I must refer—though I am loth to broach any matter but those immediately under discussion—to a man existing in France, who may be said to have been, and still to be, the impersonation of hostile feeling, the promoter of discord between America and England. I name him, because I wish to attach undivided blame to the quarter within which, as I hope, the guilt is, without any accomplice, confined. I name General Cass as the person, whose manoeuvres, whose discreditable conduct, whose breach of duty to

his own government—more flagrant than his breach of duty to humanity, and as a descendant of free English parents—whose conduct in these particulars it is wholly impossible either to pass over or to palliate.”

And in the same connexion, continues:

“Wherever there can be discovered an inferior caste of statesmen—whosoever in raking into the filth and the dross of faction, the dregs of political society, there is to be dug up a grovelling, grounding set of politicians—that wherever the mere rabble holds sway, as contradistinguished from men of property, of information, and of principle—in that quarter, among those grounding statesmen, among those rabble mobs, among that lowest class of the people, you are absolutely certain to find the strongest and most venomous prejudices against the American alliance with England, and the greatest disposition to see war usurp the place of peace between the two kindred nations.”

This inelegant invective was earned by the American minister in France for truly representing and maintaining his country's interests and the honor of its flag; a question which not only concerned our whole merchant marine here, but the rights of every citizen of the United States. The course of the American minister was approved by the constituted authorities of his country, and applauded by the popular voice, and yet the right of search was left where it was found by the Ashburton treaty; and Mr. Cass, in a becoming spirit, asked leave to return to his country the day he was advised of its ratification. Mr. D. did not intend to pursue the question further than was necessary to show that it was another concession by this to the British government, which was already apparent; and yet it was said, we were uncompromising and indulged a spirit of war.

Thus it would be seen how three of the four matters in difference in 1842 had been disposed of by negotiation—on which side had been the concessions; and the fourth, Oregon, was where it was then, and the question now under consideration. The only action contemplated by Congress was the question of notice, which could be disposed of with much brevity. What kind of notice should be given? Mr. D. preferred the notice provided for by the treaty—a simple notice that the convention shall terminate. This would best comport with the dignity of both nations. But it had been said this kind of notice would break off negotiation, and lead to war, which he would in no wise regard; for war between two such nations ought not to flow from an act provided for by treaty stipulation. Nor did it necessarily break off negotiation, but brought the parties together, and would aid negotiation, if they should choose again to enter upon it. It was urged, that we must compromise. But there was no such question before the Senate or the country, and he would not consider any. The President, feeling bound by the acts of previous administrations, had, in a spirit of concession, made an offer, which was rejected and withdrawn.

Mr. J. M. CLAYTON called Mr. D.'s attention to his remark of yesterday, and asked what kind of a tariff he meant.

Mr. DICKINSON continued. Such an one as should be mutually advantageous, and should benefit all branches of industry equally, and it would be in time to discuss it when the question should arise. Mr. D.'s position was that Oregon must stand or fall upon its own merits.

Mr. D. approved of the measures the President had recommended, and would carry them all into effect. Great Britain had taken armed occupation of the territory, and extended her jurisdiction over it without right; and Mr. D. would have our gov-

ernment do so with. She was not lawfully in possession under the treaty; and he cared not that her hunters, and traders, and block-houses were there; he would not only erect stockades on this, but on that side of the mountains, if necessary; and he would as well extend our laws over Americans there, as over the territory. There was nothing to be gained by timidity, and a neglect to assert rights. It should be the policy of this government not to seek for territory beyond the continent, but to retain all its territories that it now has. We never can acknowledge the European doctrine of the balance of power, which has recently been so offensively exercised within this Union. We own not a single island of the ocean, and should not desire to own any, but should guard with peculiar vigilance all that is ours against the rapacity of a power which has already greater possessions in North America than ourselves.

When the annexation of Texas was under consideration we saw the governments of Great Britain and France, which had warred against each other for centuries, and are still alive with hereditary animosities, unite in attempting to regulate our balance of power, and at this moment they are engaged in controlling the affairs of the Argentine Confederacy—a principle akin to that which seeks to circumscribe our boundaries and our institutions, and yields to monarchy what it takes from freedom—a policy which can never be tolerated, and which cannot be too soon nor too firmly met and resisted.

This territory was neither to be undervalued nor disregarded, because it was distant. When the route to Oregon should be traversed by steam, as it would at no distant day, it would be nearer in point of time than many of the old States were a few years since, and the facilities for interchanging communications with it greater. Time and space were practically annihilated. An element which superstition recently regarded only as the messenger of heaven's vengeance, now transmits as well the transactions of business as the notes of affection. In a government constituted like ours, where the executive power was the servant, and not the master, the remotest points were the strongest, and every pillar added strength and beauty to the structure.

Mr. D. said, that as an inducement to our government to yield to Great Britain each of the negotiations to which he had alluded had been accompanied by a declaration of probable war, and yet there would have been no war had our rights been fully asserted and firmly maintained. War would be as injurious to Great Britain as to us. If she could do us any harm, it was in a few acts of rapine in our commercial cities, and in these she would reach as many of her own interests as ours. Great Britain, it had been truly said, was a mighty and powerful nation; but this was no reason for yielding her that which was not her own. But her power was greatly overrated. Great outlay was not always evidence of positive strength, nor was profuse expenditure invariable evidence of wealth. True, she had armies in every quarter of the globe, and naval forces in every sea; but it was resources which gave strength and not men or material in commission. She had soldiers amid Arctic snows and burning sands, warring as well with the elements as with man; but in her thirst for power and her efforts to subjugate the world, she had possessions there to maintain and her forces could not be withdrawn. She had increased her armaments, but her demands had increased with the supply. She was mighty, too,

in 1776 and in 1812, and yet exerted her power over a freedom-loving people in vain.—Should she tender the olive-branch, Mr. D. would accept it. Should she arm, he would arm too, and place the country in a state of defence, and stand firmly and fearlessly by it. She knows the strong sympathy which exists between the commercial interests of the two countries. She knows how sensitive that interest is. She knows, too, its influences, and hence it is that she opens negotiation, prepares for war, and then waits for panic and diplomacy to conquer. In thirty years, though often threatened, she has not turned her guns against us. May it be a longer period yet before the peace of the nations shall be disturbed. But if, in the maintenance of our rights, war shall follow, let it be regarded as the destiny of freemen.

But while we are contemplating the magnitude of this gigantic power, let us turn for a single moment to our own fair land, and see whether we have power to defend our own possessions. Look out, sir, upon the regions of the great northern lakes, and thence upon the Rio del Norte. Cast your eye upon the wide-spread prairies of the west, thence to the banks of the St. John's, and see twenty millions of free and happy people. No hireling soldiery to wrench from the hand of industry the bread it has earned; no standing armies to eat out the substance of the people; but millions of swords ready to leap from their scabbards—millions of men armed and equipped for the service, to defend their country, their firesides, and their altars; and millions of mothers, sisters, and daughters, as in the days of the revolution, with their own fair hands, ready to feed, and clothe, and bind up the lacerated bosom of the soldier.

With a right to this territory clear and unquestionable—with such high motives to defend it, and such elements of strength, should it now be abandoned we should deserve the reproaches which fell from the mother of the Moorish chief, when he

mourned over the fall of Granada, which he had ingloriously surrendered: "Well mayest thou weep like a woman over that which thou didst not defend like a man."

But, sir, this is not a mere struggle for Oregon—for 500,000 miles of distant territory; it is a contest between two great systems—between monarchy and freedom—between the darkness of the Old World and the sunlight of the New—between the mines and manufactories of Europe and the fertile fields of the distant West—another effort by tyrannic man to lord it over his fellows, claiming Divine commission. In this, most of the wars which have scourged mankind and desolated the world have originated—the faggot has blazed, the inquisition been erected, and human blood streamed around its polluted altar; and it was the influences of the same fell spirit which sought to extend its dominions to the western hemisphere.

But Mr. D. would preserve this heritage of freedom for the adventurous young, who were thronging thither to achieve a substance—for aged penury which might there find a shelter and filial protection—for the hardy frontiersmen who had braved the dangers of border life that our institutions might spread into these virgin realms, and fertilize and bless with all that could minister to the happiness of man. But especially he would preserve it for the enslaved of the earth who might there throw off their chains, and sit under their own vine and fig tree, with none to molest or to make them afraid—for the down-trodden and oppressed sons of Ireland who might flee to this refuge of liberty, and of England, too, when, like the sea, she should give up her living dead.

Mr. D. would close in the language of the distinguished senator from Michigan, [Mr. Cass,] that "it was better to fight for the first foot than the last—for the door-sill than the hearthstone—the porch than the altar."

