

OREGON AND THE NOOTKA CONVENTION.

5

SPEECH

OF

MR. ROBERT DALE OWEN, OF INDIANA,

DELIVERED

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, JAN. 28, 1844,

IN

VINDICATION OF THE COURSE PURSUED BY THE GOVERNMENT OF THE UNITED STATES, IN RELATION TO THE TERRITORY OF OREGON.

MR. OWEN said:

EDMUND BURKE, when a member of the British Parliament, was once asked, why ministers, when, in any case, they had a well ascertained majority, did not press the question at once, without the trouble of discussing its merits. "That has been tried," was his reply; "but it would not do. The minister who should persevere in it would soon have to go out."

And yet, there is no direct responsibility of the British Premier to the people whom he governs. Powerful he is; absolute, almost, while he retains a controlling majority at his beck; but still, he must defer to public opinion; or, if he neglect such deference, loss of power and degradation from place, is the speedy penalty.

And thus, we of these United States, while we are responsible for our acts as a nation to no human power, must yet defer to the public opinion of mankind. If we would retain our station and influence among the nations of the earth, not only must our public acts be justifiable, but, before we consummate, we must take the trouble to justify them.

My motive in rising now is to furnish such small contribution as I may to the mass of evidence and argument so ably supplied from our Department of State, in vindication, to the world, of the course pursued by our government, on the great question of the day.

Accusations of a grave character are brought, in respectable quarters, impugning the justice of the measures recommended by the President and now under consideration by the House, in regard to the territory of Oregon. I do not speak of charges coming from foreign and interested sources; but of language used by the press here at home, and by members on this very floor. We of the majority may feel exceedingly well satisfied, that our course is just, and these charges unfounded; but it is not the less an imperative duty to defend the one and repel the other.

I select, as a specimen of the ground assumed by a portion of the press, a paragraph from a New York paper of good standing. Speaking of our ti-

tle to Oregon, the Journal of Commerce, in an editorial of December 25, says:

"The evidence, even as far south as Columbia river, is not all on one side, by a great deal. And when we come to latitude 49, the English claim is better than our own."

If this be true, then the President lost sight of right and justice, when he adhered to the offer of 49 as an ultimatum; and Mr. Pakenham was justified in expecting from our government some "further proposal more consistent with fairness and equity."

And, when some London journalist triumphantly quotes against us such a paragraph as that, drawn from the pages of one among the leading periodicals of the Union, he will find, in further aid of an argument about the reckless and grasping ambition of these States, certain resolutions touching war and Oregon, offered at your table, not by some young, rash, hot-headed partisan, but by a member from Massachusetts, [MR. WINTHROP,] both able and experienced, a gentleman whose talent and standing no one disputes. The second of these resolutions declares:

"That it would be a dishonor to the age in which we live and to the highest degree, disgraceful to both the nations concerned, if they should suffer themselves to be drawn into a war upon a question of no immediate or practical interest to either of them."

An eminent British statesman once said, that "as we ought never to go to war for a profitable wrong, so neither ought we to go to war for an unprofitable right." There is much good sense in the maxim; and the gentleman from Massachusetts doubtless considers it strictly applicable in the present case.

The direct inference from his resolution is, in the first place, that the right in dispute, if indeed it be a right at all, is an unprofitable right; that it is of no practical importance whether we cede to England a part, or even the whole, of the territory lying south of 49 and north of the Columbia. He esteems it our imperative duty, rather than resort to war, to make some compromising division of this disputed tract.

I will ask the gentleman to take map in hand, and answer me a question or two. It avails nothing to talk vaguely of *some* compromise. Let him tell me *what* compromise, beyond that already offered, he suggests. If he recede but half a degree south

of 45, he touches already the straits of Foca, the entrance, and the only entrance, to Puget Sound. If he abandons England but one degree out of the three, which span this debarable land, the line cuts as wholly off these straits, from Admiralty flet, and consequently from Puget Sound, as might as well take the line of 47 of *once* and surrender that Sound altogether, as to reduce some entrance and exit.

the first moment of negotiation she assented to, these; to the very last she has adhered to her pretensions. And when ever the day comes, if it comes, when she shall relinquish to us that master key to the commerce of the Columbia valley, then will a favorite and long-cherished plan of hers fall to the ground: the plan of settling west British subjects, partly but exclusively, the district of country ² distinguished gentlemen from South Carolina (Mr. BREVET seems to prefer) no evidence of danger of any such plan. To tell him, is it to go for nothing, that while six thousand American citizens have already settled south of the Columbia, not one, no not even one, has found a home south of that stream. Are we to pass over, as of no serious import, the fact, that the Hudson Bay Company deliberately, in view of an audience, induce the removal, to what they call the American side of the river, of every citizen of these States who attempts a settlement on what they persist in calling the British side? Must he have stronger portents to tell? Can French cheer? The following paragraph from Mr. Keane's letter states

if we contend for that which is no right at all; for that which is but a profitable wrong.

Sir, if there be a situation in life, public or private, where a wise and just man will set jealous guard on his reason, it is, when he bends its powers to decide a question of disputed right, to which he is one of the parties. The best of us are but men. Our longings dare our judgments. That which we desire should be, how readily do we find, or frame, a plea to justify! When our wishes urge, or our interests solicit, how prone are we all to rush upon conclusions, to which our unbiassed reason would never have assented!

In a spirit of scrupulous self-witchfulness, then, let us approach this question. In the great cause now pending between us and England, before the tribunal of the civilized world, let us adopt the principles of her declaration rather than those of our own; let us take the testimony of her witnesses, rather than of those it is our equal privilege to summon. And if, even out of these materials, of our opponent's own selection, we can still erect an impregnable title, not only to what we have claimed but to much that we have offered to relinquish, then even self-jalousy may be satisfied, and the judgment of a candid world must, perforce, be given in our favor.

England, pending this negotiation, has virtually abandoned all claims founded on discovery or prior settlement, a very sufficient proof, that she does not consider them tenable. In the official statement by her plenipotentiaries, appended to the protocol of the sixth conference held in December 1826, they declare:

"Whatever title may have been, however, either on the part of Great Britain, or on the part of Spain, prior to the convention of 1793, it was, from thence forward, no longer to be treated as a genuine narrative of discovery, nor of them appropriated, but in the first and second articles of that convention itself."—*Proc. 19 H. R. 20th Cong. 1st sess. p. 51*

This proposition, if it be admitted, narrows down the whole controversy to a very simple point: to an examination, namely, of the "text and stipulations" of the convention in question, as the only just source of title, in either nation, to territory on the Northwest coast.

Our negotiators have argued, that this Convention, being but of a temporary character, was annulled by the war between Spain and Great Britain, declared in 1796. But Mr. Pakenham still stoutly maintains the contrary. In his letter to Mr. Buchanan of July last, he says:

"The Nootka Sound Convention has continued in full and complete force up to the present moment."

He argues, in another part of the same letter, in regard to this Convention, that

"It must be considered as an acknowledgment of existing rights, an admission of certain principles of international law, not to be reversed at the pleasure of either party, or to be set aside by a cessation of friendly relations between them."

In so far as the Convention *actually recognizes territorial rights, then existing*, there is force in the above view. And, at all events, after such a declaration, England is for ever barred from demurring to any conclusion, to which, following the text and stipulations of that Convention, we may justly arrive.

Now, taking the words of that Convention thus expressly appealed to by Great Britain, interpreting these in their plain and obvious sense, corroborated and elucidated by the most authentic contemporaneous

commentaries thereon, I assert, broadly and positively, that this very document recognises in Spain—and consequently in us as Spain's assignee—an **ABSOLUTE AND UNDIVIDED RIGHT OF TERRITORY, UP TO THE LATITUDE OF FORTY-NINE AND A HALF; AND, IN BOTH NATIONS, A JOINT RIGHT OF SETTLEMENT THENCE TO THE BOUNDARY SINCE AGREED UPON WITH RUSSIA.**

I repeat it: by the Nootka Sound Convention, England wholly abandons to Spain all territorial right south of latitude forty-nine and a half; and acknowledges in that country equal rights with her north of that parallel.

As to the accuracy and justice of this view of the case, I submit it, without one doubt as to the result, alike to scrupulous friends at home, and to just-minded enemies abroad. If to the learned gentleman from Virginia, [Mr. BARRY,] who did not allude to it yesterday in his argument on title, or to any one else, it seem overstrained, his attention I ask to the proofs I am about to adduce. Let him suffer me, in the first place, to refer him to an episode in British history, instructive in itself, as a specimen of the temper and policy of that powerful government, and especially interesting in connexion with her diplomacy at the present day.

It was in 1790. William Pitt, the ablest of Tory statesmen, the best friend of negro freedom in England and of feudal slavery in France,—William Pitt was prime minister. In May of that year, a royal message declared to Parliament, that certain British vessels had been seized on the northwest coast of America, by a Spanish officer, and that a demand for satisfaction had been fruitlessly made upon Spain. The message therefore recommended vigorous preparation for war.

In confirmation of this alleged outrage on the British flag, a memorial was, a few days afterwards, presented to Parliament, signed by one John Meares, commander of the vessels in question, in which he stated, that he had reached Nootka, on a trading voyage, in 1783; that he had then purchased from Maquinna, the native chief, "a spot of ground whereon he built a house for his occasional residence," that he afterwards proceeded to China; and in 1790 sent two vessels to the northwest coast; that these had been seized in the name of the Spanish King, while at anchor in Nootka Sound, by Don Martinez, who had previously made a Spanish settlement there; that their crews had been sent, as usurers, to a Spanish prison; and that the flag of Spain had been hoisted on "the lands" belonging to the memorialist.

A negotiation ensued. Spain offered to submit the matter to arbitration, by any one of the Kings of Europe, to be chosen by England; but the British Government, not then as much in favor of that mode of settling a dispute as now, refused all arbitration and hastened her military preparations; equipping, by incredible exertions and at a cost of fifteen million dollars, seventy ships of the line in five months. Spain, in this emergency, applied for aid to the National Assembly of France; and Mirabeau reported in her favor. The language of his report might almost be supposed to have supplied a text for use in our own day:

"Shall we do so much injustice (saith he) to the character of two enlightened nations, as to suppose they would lavish their blood and treasure for the acquisition of so distant, so barren a spot of ground?"

With many high compliments to England the report concludes, that Spain must not be deserted,

at a moment of danger; and, accordingly, the Assembly voted an augmentation of the naval force. But the reluctance of France to engage in a war with England soon became so apparent, that Spain, finding herself pressed, with haughty urgency, for a categorical answer, and considering that Great Britain had augmented her navy to a hundred and fifty-eight sail of the line, while her own numbered but seventy line ships, finally, in October of the same year, submitted, to necessity, and signed, at the Escurial, the celebrated CONVENTION OF NOOTKA; the same since claimed by England as the basis of all her territorial rights on the northwest coast.

It behooves us to examine, with strict care, the provisions of that Convention.

Its first and second articles declare, that "the buildings and tracts of land of which the subjects of his Britannic Majesty were dispossessed" in 1789, shall be restored, and that just reparation shall be made for all acts of violence and forcible seizure of property, on the north west coast.

Its third article secures to both nations the navigation and fishery of the Pacific and South Seas, "subject, nevertheless, to the provisions and restrictions specified in the three following articles;" that is to say, the 4th, 5th, and 6th.

The fourth article prohibits British subjects from navigating or fishing within ten sea leagues of any Spanish settlement.

And the fifth article, the most important of the whole, lying at the very basis of the present dispute, reads thus:

"Art. 5. It is agreed, that, as well in the places which are to be restored to the British subjects, by virtue of the first article as in all other parts of the northwestern coasts of North America, or of the islands adjacent, situated to the north of the coast already occupied by Spain, wherever the subjects of the two powers shall have made settlements since the month of April, 1789, or shall hereafter make any, the subjects of the other shall have free access, and shall carry on their trade, without any disturbance or molestation." (The 6th article refers to South America.)

Observe, I pray you, the wording of this article. The species of joint occupation thereby established is to be, as well at Nootka, if land be there restored to British subjects, as in other parts of the north-west coast, "situated to the north of the parts ALREADY occupied by Spain." "Occupied" is the word, not even legally possessed; and "already occupied," that is, at the date of the convention, to wit on the 28th October, 1790. That Nootka, at that date, was "already occupied by Spain" no one pretends to deny. It is a fact established, indeed, by Meares' memorial itself, that it had been settled by the Spaniards eighteen months before. And it remained a Spanish settlement, as we shall see, for more than four years afterwards.

But the latitude of Nootka is a little north of forty-nine and a half. It follows, that by that very Convention on which the British commissioners appeal, in which they profess to discover the sole authentic source of all territorial rights on the Northwest Coast, England has not a shadow of a claim south of forty-nine and a half, and but a joint right of settlement north of that latitude.

Is this a new view of the subject? a new interpretation of that Convention and the reciprocal rights it confirms? It may be new to many members of this House. It may be new, even, among the arguments called forth by the negotiations on this subject; for our negotiators, not admitting that the Nootka Convention is

still in force, may not have deemed it necessary scrupulously to test the bearing of its provisions. It is not new to England, no matter with what skillful ingenuity she has hitherto kept it out of sight. To the British Cabinet it is nearly as old as the Convention itself. It is established by that commentary on the Convention, of all others the most authentic, namely, the debates in Parliament occurring but a few weeks after its signature, and growing out of the usual motion for an address of thanks to the King, on the occasion.

In the Lords, the Duke of Montrose moved the vote of thanks. How does this apologist of the crown construe the rights accruing under the Convention? Hear him:

"We are not only restored to Nootka, but we may participate in a more northern settlement, if we should find at any time, that a more northern situation would be preferable for the carrying on of the trade."—*Parliamentary History*, vol. 25, p. 932.

In the Commons, the mover of the address did not even allude to the acquisition, by the Convention, of any territorial rights whatever; but a certain loyal Mr. Smith, who followed him, boasted, in the exaltation of his heart,

"That the whole coast of Prince William Sound was free for us to settle on, no place being occupied, and there by a Spanish colony."—*Parl. Hist.*, vol. 25, p. 939.

Prince William's Sound lies in sixty north latitude, more than seven hundred miles north of Nootka. If Mr. Smith were still alive, he would have to settle that claim with the Russians, not with us.

But the chief debate in the Lower House, and that which is decisive of the entire question, was between the two master spirits of the day, Fox and Pitt. To it I invite your special attention.

Mr. Fox, whose patriotism no man ever doubted, first makes a concession of the greatest importance to Spain. He said:

"He was as much a friend to the claims of Spain, sanctioned by the treaty of Utrecht, as Count Florida Blanca, or any Spanish minister, because they were founded in justice. These were an exclusive right of territory, navigation and commerce, on the seas and coasts of Spanish America. The absurd and extravagant claims arose from extending the term Spanish America, to seas and coasts where Spain had no right of occupancy. To what did we object before, but to the indefinite limits of Spanish America? The objection still remained, for the limits of Spanish America were still undefined."—p. 994.

Following up the same argument, he adds:

"Where our admitted right of settlement on the Northwest coast commenced was completely undefined. If it was said of Nootka, we did not know that Nootka would be restored"—*Ibid.*

And again:

"Thus we had given up all right to settle, except for temporary purposes, to the south of the Spanish settlements, or in the intervals between them, if they happened to be distant. We had obtained an admission of our right to settle to the north, and even that we had not obtained with clearness. As Spanish settlements were the only mark of limits, suppose we were to meet with one farther to the north than we expected, and a dispute were to arise, whether it was new or old, it would be some difficulty to send out our builders to decide, &c."—p. 995.

Such were Mr. Fox's interpretations of the convention. Will it be argued, that they are but the opinions of an opposition member, however distinguished for probity and ability? But we have the reply of Mr. Pitt, officially recorded, to prove, what was admitted, and what denied, by the British cabinet.

I will ask my fellow-members to read that speech of Mr. Pitt, as they will find it in the "Parliamentary History of England," from the first word to the

last. They will find there not one syllable contradicting the assertions made, and inferences drawn, by his great rival, in the foregoing extracts. Mr. Fox had said, that Spain's claim of exclusive territory in Spanish America was sanctioned by treaty stipulations and was founded in justice. No denial of this by Mr. Pitt. Mr. Fox had asserted, that either Nootka, if indeed Nootka was restored, or a yet more northern Spanish settlement, if such should hereafter be found, was the mark of limit on the north, of Spanish America. Mr Pitt's silence admits the accuracy of this interpretation. Mr. Fox had declared, that to the south of these Great Britain had renounced all right of sovereignty or permanent settlement. That, too, by passing it over unanswered, Mr. Pitt concedes. Nay, the British minister goes further yet. In reply to the inference deduced by Mr. Fox from the above, that "every new regulation was a concession, not an acquisition," Mr. Pitt admits:

"That though what this country (Great Britain) had gained consisted not of new rights, it certainly did of new advantages."—p. 1692.

And then he proceeds to expatiate—on territorial rights acquired? on the privilege of settlement south to San Francisco? Not a word of it; but on the whale fishery and its advantages; and therewith he winds up his speech.

Now is it credible—is it conceivable even—that a minister, than whom one more able in debate or more accomplished in diplomacy never guided the desunies of Britain, should have listened to all these assertions, thus publicly put forth in the National Legislature, by a member hardly second to himself in talent and in standing; knowing, too, that, the next morning, the thousand tongues of the press were to declare these aloud, to England, to Spain, to the civilized world; is it, I ask, within the bounds of possibility, that such a minister should have suffered all this, without protest or contradiction, if any protest could reach, if any contradiction could disprove it? It is not credible, not conceivable, not possible. No man, who stands on his reputation for common sense, will argue or believe it.

The conclusion is irresistible, that, let England's pretensions on the Northwest coast, be, at the present day, what they will, they extended, in 1790, no further than to a joint right of settlement, north of latitude forty nine and a half, shared with her equally by Spain. Such was, then, the "acknowledgment of existing rights," which, Mr. Pakenham declares, "cannot be revoked at the pleasure of either party."

I might here rest, without another word, the whole case. But it is useful as well as curious, to pursue the matter a little further, and trace the growth of these pretensions of England, from their modest shape in 1790, to their overgrown form at the present day.

The first opportunity on which England, in accordance with a policy which has gradually secured to her the dominion of a large portion of the world, saw fit to push onward her territorial claims in Northwestern America, was the appointment of commissioners to carry out the first article of the Nootka convention.

The celebrated navigator Vancouver, was appointed on behalf of England, and a Señor Quadra, on the part of Spain. They met at Nootka, in August 1792; and the account of their negotiation is given to us by Vancouver, in the narrative of his

voyage. Their respective views as to the matters in dispute were soon found to differ very widely.

Quadra maintained, that Meares never had actually purchased any land at Nootka; that he had never even had possession of any, except a single spot, "forming nearly an equilateral triangle, not extending a hundred yards on any one side, bounded in front by the sea; and on the other two sides by high craggy rocks;" on which isolated spot Mr. Meares had erected his temporary residence. He adduced, in proof of his assertions, the testimony of two American captains, Gray and Ingraham, who had been present at Nootka in 1788 and during the whole proceedings in 1789. These gentlemen depose, that though they remained there nine months and could converse perfectly with the natives, they never heard of any purchase of land by Meares.

In regard to buildings, and in proof that even the above spot of ground was abandoned by Meares, when his last vessel, the *Iphigenia*, commanded by a Captain Douglass, left the Sound, in the autumn of 1788, they add:

"On the arrival of the *Columbia* in the year 1788, there was a house, or rather a hut, consisting of rough posts, covered with boards, made by the Indians, but this Captain Douglass pulled to pieces, prior to his sailing for the Sandwich Islands, the same year. The boards he took on board the *Iphigenia*, and the tool he gave to Captain Kendrick, which was cut up and used as firewood on board the *Columbia*, so that, on the arrival of Don Martinez, there was no vestige of any house remaining."—*Proofs and Illustrations to Greenough's Oregon*, p. 416.

Under these circumstances Señor Quadra very naturally concluded, that Meares had been dispossessed of neither lands nor buildings; and, consequently, that there was "nothing to deliver up." He observed, at the same time, (so Vancouver informs us:)

"That Nootka ought to be the last or most northerly Spanish settlement; that there the dividing point should be fixed; and that, from thence to the northward, should be free for entrance, use, and commerce to both parties, conformably with the fifth article of the convention, that establishments should not be formed without permission of the respective courts, and that the English should not pass to the south of Paea."—*Vancouver's Voyage*, vol. 2, p. 12.

In a word, the Spanish commissioner put upon the provisions of the Convention the very same interpretation which had been put upon them, publicly and uncontradicted, by Fox and others in the British Parliament, two years before.

Subsequently, Señor Quadra offered to leave Vancouver in possession of the spot Mr. Meares had occupied, and even to place at his command the houses, gardens and offices then occupied by the Spaniards, whilst himself retired; but "without prejudice to the legitimate right of Spain."

To this Vancouver declared, that he was not authorized to agree. He contended, that the words "buildings and tracts of land" employed in the first article of the Convention could not possibly be construed to mean merely a triangular spot hardly containing one acre of ground, and

"that at least the whole port of Nootka, including Majesty's subjects had been forcibly dispossessed, and of which themselves, their vessels and cargoes had been deprived, must have been the proposed object of restitution."—*Voyage*, vol. 2, p. 375.

He also put forward the British claim, then for the first time asserted, to equal settlement with Spain, *South to Latitude thirty-eight*; declaring that he

"Conceived port St. Francisco to be the northernmost settlement occupied by the subjects of His Catholic Majesty, in April 1789."—*Voyage*, vol. 2, p. 360.

This, by the way, was not, in any sense, the

question; the words "already occupied" clearly referring to the date of the convention, to wit October, 1790; and not, by any possible construction, as Vancouver would have them refer, to the date of the alleged capture.

As an offset to the evidence of Captains Gray and Ingraham, and, so far as it appears, as the sole warrant beyond the words of the convention, for his demand of the whole settlement of Nootka, Vancouver brings forward the deposition of a certain Robert Duffin, supercargo, under Meares, and who was with him at Nootka in 1788. Vancouver gives, in his voyage, but the substance of this man's evidence; of which the material part, according to his version, is as follows:

"Mr. Meares attended by himself (Duffin) and Mr. Robert Hunter, on the 17th or 18th of May, 1788, went on shore and bought of the two chiefs, Maquilla and Callicum, the whole of the land that forms the Friendly Cove, Nootka Sound, in his Majesty's name, for eight or ten docts of copper, and some trifling articles: that the natives were perfectly satisfied, and, with the chiefs, did homage to Mr. Meares as their sovereign, according to the custom of the country &c."—*Voyage*, Vol. 2, p. 370—371.

This statement of Duffin's is an utter falsehood: whether suborned for the occasion or not, we may not now determine. Great Britain's own principal witness shall disprove it; the reputed sovereign, the very man, who is said to have made this important purchase, and who published, the next year, the narrative of his voyage and his claims and his wrongs; even Mr. Meares himself. Here he is, in very respectable quarto form. And what is his testimony? What says his daily journal of the proceedings at Nootka? Under date the 16th May 1788 (Duffin has it the 17th or 18th) Meares says, that he had a visit from the two Nootka chiefs. He adds:

"A present consisting of copper, iron and other trifling articles, was made to the chiefs Maquilla and Callicum: who, on receiving it, took of their sea otter garments, threw them in the most graceful manner, at our feet; they danced, in the untroubled garb of nature, on the deck."—*Voyage*, p. 113—114.

A present observe; and generously returned too. But is there no mention made, on that day, or on the 17th or 18th, of the purchase of Nootka; nothing said of the flattering homage done to Mr. Meares as sovereign? Not a syllable, either on the 17th, 18th, 19th, 20th, nor any other day. The sole foundation for this romance, of the supercargo, if foundation it have at all, is to be found in Meares's journal, under date of the 25th of that month, where he says:

"Maquilla had not only most readily consented to grant us a spot of ground in his territory, whereon a house ought to be built for the accommodation of the people we intended to leave there, but had promised us also his assistance in forwarding our works, and his protection of the party who were destined to remain at Nootka during our absence. In return for this kindness, the chief was presented with a pair of pistols, which he had regarded with an eye of solicitude ever since our arrival."—*Voyage*, p. 114.

Was ever, in a grave dispute between two great nations, pretension so idle supported by falsehood so shameless! The whole proceeding is a type, but too strictly faithful, of England's pretensions on the Northwest coast. Thus it stands:

Meares, a British trader in search of furs, puts into Nootka Sound. There, according to his own story told his own way, the native chief "consents to grant, not to sell, a "spot of ground," whereon he may build; and "in return for this kindness"—no price here, of payment, even for that spot of ground—the trader makes to the chief a small present.

To the commencement of this man's visit before Parliament two years afterwards, only "a spot of ground, whereon he built for his occasional residence;" but it is from Maquilla. Even before the memoirs of Meares, however, this modest spot of ground swelled into "the lands belonging to your realist."

The men in buckram increase in number as drama proceeds. By the month of October 1, and in the words of the Convention, it had become "buildings and tracts of land," of which Meares had been dispossessed; and when two years more had passed over the transaction, nothing short of the whole settlement of Nootka, with the recognition of Meares as sovereign of the territory, would satisfy the voraciously increasing appetite of the British claim.

Spain, as may well be supposed, was not prepared to keep pace with these yearly-increasing demands. Quadra and the British navigator parted in personal kindness, but after a fruitless negotiation; Nootka remaining in the possession of Spain. Vancouver expressly says:

"I requested in conversation the next day (September 16, 1792) to be informed, if he (Quadra) was positively resolved to adhere, in the resolution of this country, to the principle contained in his last letter? and, on receiving from him a reply in the affirmative, I acquainted him, that I should consider Nootka as a Spanish port; and requested his personal testimony on the necessary employments on shore, which he very politely gave."—*Voyage*, Vol. 2, p. 387, 304.

Two years after this negotiation, namely in September 1794, Vancouver returned to Nootka, found the Spanish flag still flying there, and Quadra having died meanwhile, found Soto y Aizoa appointed commandant of Nootka. From this gentleman he learnt that he (Alava) had been appointed "for the particular purpose of finishing the pending negotiation." But no instructions from England had reached Vancouver; and he left Nootka without effecting anything.

Two months later, at Monterey, Vancouver says that Alava received instructions, of which he confided a part to the British navigator; and these instructions, so Vancouver tells us, would enable an amicable adjustment "merely on the terms offered to Soto y Aizoa in September 1792." But still, no instructions to Vancouver, who accordingly returned to England, leaving the whole matter open as before.

So far, then, it is confessed, that for more than four years after the signature of a convention wrong from Spain by menace and lavish warlike preparation, she remained in peaceful and undisturbed possession of the entire settlement of Nootka. Nor is there any evidence, unless we consider as such a vague report alluded to by an undistinguished navigator, that one foot of land in that Sound ever was surrendered by Spain to England. A Captain Broughton, in his "Voyage to the Pacific," in 1795—6, tells us, that, in March 1796, he made the harbor of Nootka; and he adds:

"I sent an officer into the cove for intelligence, who returned at noon, and reported there were no vessels in it, and that the spot on which the Spanish settlement formerly stood was now occupied by an Indian village."—*Voyage*, p. 50.

He then goes on to say:

"Maquilla, the chief of Nootka, paid us a visit here, and he and Captain H. another chief, brought me several letters dated March 1795, which informed me, that Captain Vancouver sailed from Monterey the 1st December 1794

question; the words "already occupied" clearly referring to the date of the convention, to wit October, 1790; and not, by any possible construction, as Vancouver would have them refer, to the date of the alleged capture.

As an offset to the evidence of Captains Gray and Ingraham, and, so far as it appears, as the sole warrant beyond the words of the convention, for his demand of the whole settlement of Nootka, Vancouver brings forward the deposition of a certain Robert Duffin, supercargo under Meares, and who was with him at Nootka in 1788. Vancouver gives, in his voyage, but the substance of this man's evidence; of which the material part, according to his version, is as follows:

"Mr. Meares attended by himself (Duffin) and Mr. Robert Hunter, on the 17th or 18th of May, 1788, went on shore and bought of the two chiefs, Maquilla and Callemo, the whole of the land that forms the Friendly Cove, Nootka Sound, in his Majesty's name, for eight or ten sheets of copper, and some trifling articles, that the natives were perfectly satisfied, and, with the chiefs, did homage to Mr. Meares as their sovereign, according to the custom of the country &c."—*Voyage*, Vol. 2, p. 370-371.

This statement of Duffin's is an utter falsehood; whether suborned for the occasion or not, we may not now determine. Great Britain's own principal witness shall disprove it; the reputed sovereign, the very man, who is said to have made this important purchase, and who published, the next year, the narrative of his voyage and his claims and his wrongs; even Mr. Meares himself. Here he is, in very respectable quarto form. And what is his testimony?—What says his daily journal of the proceedings at Nootka? Under date the 16th May 1788 (Duffin has it the 17th or 18th) Meares says, that he had a visit from the two Nootka chiefs. He adds:

"A present consisting of copper, iron and other gratifying articles, was made to the chiefs Maquilla and Callemo, who, on receiving it, took off their sea-ott garments, threw them, in the most graceful manner, at our feet, and received, in the unfeigned gush of nature, on the deck."—*Id.* page, p. 113-114.

A present observe; and generously returned, too. But is there no mention made, on that day, or on the 17th or 18th, of the purchase of Nootka, nothing said of the flattering homage done to Mr. Meares as sovereign? Not a syllable, either on the 17th, 18th, 19th, 20th, nor any other day. The sole foundation for this romance of the supercargo, if the adoration it have at all, is to be found in Meares's journal, under date of the 25th of that month, where he says:

"Maquilla had not only most readily consented to grant us a spot of ground in his territory, where on a house might be built for the accommodation of the people we intended to leave there, but had promised us also his assistance in forwarding our works, and his protection of the party, who were destined to remain at Nootka during our absence. In return for this kindness, the chief was presented with a pair of pistols, which he had regarded with an eye of solicitude ever since our arrival."—*Voyage*, p. 115.

Was ever, in a grave dispute between two great nations, pretension so idle supported by falsehood so shameless! The whole proceeding is a type, but too strictly faithful, of England's pretensions on the Northwest coast. Thus it stands:

Meares, a British trader in search of furs, puts into Nootka Sound. There, according to his own story told his own way, the native chief "consents to grant," not to sell, a "spot of ground," whereon he may build; and "in return for this kindness"—no price here, of payment, even for that spot of ground—the trader makes to the chief a small present.

In the commencement of this man's memorial laid before Parliament two years afterwards, it is still only "a spot of ground, whereon he built a house for his occasional residence;" but it is *purchased* from Maquilla. Even before the memorial concludes, however, this modest spot of ground has swelled into "the lands belonging to your memorialist."

The men in buckram increase in number as the drama proceeds. By the month of October 1790, and in the words of the Convention, it had become "buildings and tracts of land," of which Meares had been dispossessed; and when two years more had passed over the transaction, nothing short of the whole settlement of Nootka, with the recognition of Meares as sovereign of the territory, would satisfy the voraciously increasing appetite of the British claim.

Spain, as may well be supposed, was not prepared to keep pace with these yearly-increasing demands. Quadra and the British navigator parted in personal kindness, but after a fruitless negotiation; Nootka remaining in the possession of Spain. Vancouver expressly says:

"I requested in conversation the next day (September 16, 1790) to be informed, if the Quadra was positively resolved to adhere, in the restitution of this country, to the principle contained in his last letter? and on receiving from him a reply in the affirmative, I acquainted him, that I should consider Nootka as a *Spanish port*; and requested his permission to carry on the necessary employments on shore, which he very politely gave."—*Voyage*, Vol. 2, p. 367, 368.

Two years after this negotiation, namely in September 1794, Vancouver returned to Nootka, found the Spanish flag still flying there, and Quadra having died meanwhile, found Señor Alava appointed commandant of Nootka. From this gentleman he learnt that he (Alava) had been appointed "for the particular purpose of finishing the pending negotiation." But no instructions from England had reached Vancouver; and he left Nootka without effecting anything.

Two months later, at Monterey, Vancouver says that Alava received instructions, of which he confided a part to the British navigator, and these instructions, so Vancouver tells us, would enable an amicable adjustment "nearly on the terms offered to Señor Quadra in September 1792." But still, no instructions to Vancouver; who accordingly returned to England, leaving the whole matter open as before.

So far, then, it is confessed, that for more than four years after the signature of a convention wrung from Spain by menace and lavish warlike preparation, she remained in peaceful and undisturbed possession of the entire settlement of Nootka. Nor is there any evidence, unless we consider as such a vague report alluded to by an undistinguished navigator, that one foot of land in that Sound ever was surrendered by Spain to England. A Captain Brougham, in his "Voyage to the Pacific," in 1795-6, tells us, that, in March 1796, he made the harbor of Nootka; and he adds:

"I sent an officer into the cove for intelligence, who returned at noon, and reported there were no vessels in it; and that the spot on which the Spanish settlement formerly stood was now occupied by an Indian village."—*Voyage*, p. 50.

He then goes on to say:

"Maquilla, the chief of Nootka, paid us a visit here; and he and Cupanut, another chief, brought me several letters dated March 1795, which informed me, that Captain Vancouver sailed from Monterey the 1st December 1794.

for England; and that the Spaniards had delivered up in support of Nootka, &c., to Lieutenant Pierce, of the Marine Corps, agreeably to the mode of regulation settled between the two courts. A letter from the Spanish officer, Brigadier Vaca, informed me of their sailing in March 1793, from here."

"Several letters," Captain Broughton says, from whom we are not even informed; and Stelfox & Moore mentions nothing of the surrender, but only that the Spaniards had left the place.

A recent English historical work of reputation, with the name of the Queen and most of the nation on its list of subscribers, varies this story, thus:

"It may be mentioned here, that, in 1793, his Majesty was formally taken possession of by Lieutenant Pierce, of the British navy, and received the name of Nootka Sound. See *History of the Reign of George the Third*, vol. 1, p. 235."

Nothing about a surrender, here. It was formally taken possession of, and named a very important thing for a Lieutenant Pierce, or any one else, to do, after the Spaniards had vacated the settlement.

Whereas this "Lieutenant Pierce of the Marine Corps," all of a sudden, does not appear. You may say, or a word, in his "page," of his being only one at Nootka. And, on the face of it, it is a long most unlikely, then, England should entrust the ultimate settlement of a dispute that cost her millions, and had built the glory of Vancouver, to a simple Lieutenant of Marines.

But, further, even if he did all these glorious probabilities, were all the latter were common, and was restored, and under what conditions or conditions the surrender is alleged to have been made. Nor could the simple surrender of any "buildings and tracts of land" there, since the fact, that Nootka was, in October 1790, already occupied by Spain; nor the express stipulation of the Convention that north of that point of occupation only, was the coast to be free for settlement to both Powers.

Yet even this is not the entire case. Two historians—the only two I have found whose works date within a few years of this transaction—one a French authority, the other British—agree in saying that there was any restitution. However, the elder, French ambassador, successively at the courts of St. Petersburg, Berlin and Vienna, writing, in 1801, a political picture of Europe, in 1795 to 1796, says:

"England, and in the flower of her power, commenced a series of steps, for by the Spaniards on the west coast of North America, declared to declare war against Spain. France, since a short intestine war, maintaining the disorder often to press, determined to support Spain against the English. And the cabinet of London, in violation of its engagements, and unexpected resolution, postponed its ambitious projects, restricted itself to the duty of the great vessels that had been engaged, and agreed with the court of Madrid, virtually to a peace. See *Spain's Reign of Ferdinand VI*, vol. 2, p. 13 and 14."

The motive may be incorrectly inferred; but, at least, the fact, we can hardly suppose it unknown to one of the most noted diplomats of the day.

The testimony of the British historian Belsheim, writing in 1865, but ten years after the date of the affair, is still more distinct. In summing up the history of the Nootka dispute, he says:

"So insignificant was the object in contest, that no one, either in or out of Parliament, has, so far as appears, thought it worth while to inquire, whether restoration has really been made in the mode prescribed by the Treaty or not. It is certain, nevertheless, from the most authentic subsequent information, that the Spanish flag flying at the port and settlement of Nootka was never struck, and that the whole territory has been virtually relinquished by Great Britain."—*Belsheim's Hist. of England*, vol. 2, p. 337.

And again, in the appendix to the same volume,

after giving the official documents connected with the dispute, he adds:

"Although England, at the expense of three millions, yielded to the Spaniards a promise of restoration and compensation, it is well ascertained, first, that the settlement was never restored by Spain, nor the Spanish flag at Nootka ever struck, and secondly, that no settlement was ever been subsequently attempted by England on the Nootka Sound coast."—*Appendix*, pp. 40-41.

The Edinburgh Review of July last takes nearly the same view of the facts. Its words are:

"We never lost Nootka Sound in the possession of the Spaniards, and there is considerable doubt whether any territory was ever restored to Spain, or whether there were any compensation. All we know is, that, in 1793, all parties, Spanish and English, abandoned Nootka Sound, and left the coast open."—*Review*, p. 26, 27.

And, finally, corroborating evidence of the foregoing, and most cheering kind, in proof, that Nootka was never surrendered to Great Britain by Spain, and that Spain regarded her exclusive right to Nootka as admitted, is to be found in a very curious original Spanish manuscript, preserved in the Library of Congress, and entitled "Memoria de las instrucciones para el Gobierno de New Spain," drawn up by Count Gálvez, former Viceroy, and addressed to his successor, the Marquis de San Carlos, dated June 30, 1794.

In these instructions, given, it ought to be borne in mind, solely as a matter of confidence and business, and not, by possibility, for the sake of effect, the viceroy says, in paragraph 711:

"Moreover, it will always be necessary, that there be, in all of these parts, either in that of San Carlos or in that of the Nootka, a person, in possession of the knowledge of the language of the English, some vessels and detachments of arms, to make it perfect the authority of the sovereign, &c."

We can hardly have any thing more conclusive. And especially to the point is a portion of paragraph 713, in which, after giving it, as his opinion, that it was inadvisable to contract the Spanish throne as far as the straits of Fuca, Gálvez adds:

"The Government already knows how much the past dispute has cost, notwithstanding the compensation made by the English prisoners, and the compensation made to be made to them for all their losses, which being a great deal, would be a great deal. A royal decree, in conformity with these principles, has been issued, for the abandonment of Nootka to which service I have, in consequence of the death of the viceroy, succeeded, as General Brigadier Don José Manuel de Páez, in account of the incidents which might supervene and the caution given by the Court to oblige the conduct of the English Commissioner."

Adolphus, above quoted, (vol. IV, page 501) tells us, "the impression" here alluded to was fixed at \$250,000.

The above extract shows, that Alava was appointed expressly to carry into effect the abandonment of Nootka, and was instructed in so doing, jealously to watch the conduct of the English Commissioner. Taken in connexion with Alava's letter to Broughton, already referred to, it leaves little doubt as to the fact, that Nootka was voluntarily abandoned by Spain, never surrendered to England.

Such are the facts of the case. And they would be equally conclusive of our title, even if Gray had never discovered the Columbia, and if Lewis and Clark had never explored it.

They are facts, too, I pray you to observe, almost exclusively derived from British authorities. It is the man who is the sculptor, not the lion. And yet adopting their own version of the story, assuming as now in force the document put forth by England as the sole authentic bill

of territorial rights on the Northwest coast, and interpreting its provisions by the light of the debates ensuing thereon in her own Parliament, I do not see how any candid man can resist the conclusion, that England has no more right to a foot of soil south of forty-nine and a half than has the Emperor of Morocco; and that the only portion of territory in regard to which she may talk of a compromising division at all, is the tract from Nootka to the Russian Boundary; about five degrees of latitude; of which tract the centre line is about FIFTY-TWO; leaving us, if we suppose that compromise made, the whole of Vancouver's island and the coast beyond as far north as the southern point of Washington or Queen Charlotte's island.

And now, let those who accuse our Government of grasping ambition and reckless contempt of right, stand forth and answer me! Has our Government claimed more than its own? Has it offered no sacrifices for the sake of peace? By the text of British claimed documents, by the showing of British authorities, latitude *fifty-two* is the fair line of compromise. And have we not proffered *forty-nine*? In a spirit, even of Quaker forbearance, have we not, to avert the calamities of war, expressed our willingness to relinquish to British pertinacity three degrees—three most important degrees, too, embracing the valuable and commanding harbors of Vancouver's island—upwards of two hundred miles of coast, which, on every principle of fairness and equity, is our own?

I admit, to an able reasoner from South Carolina [Mr. RHETT] the consolidating influence of war, and I admit the lurking danger, in all republics, of consolidation. I admit, that war is the enemy of human progress; the friend of ignorance, the ally of despotism. I believe, that the wars of Napoleon arrested, as only the glare of military glory could have arrested, the onward march of liberty in revolutionized France. War is a terrible alternative. But yet it sometimes happens, that only through grievous evil can men attain great good. Our republic was cradled in war. If war, under any circumstances, be a discredit and a dishonor, what of a certain DECLARATION, written by Thomas Jefferson, and adopted, seventy years ago, by a band of sturdy patriots assembled in the old Philadelphia State-house?

There must be an end, somewhere, to concession and compromise. Let those who deal in imputations of discredit and dishonor, tell us plainly, where the end shall be. For myself, I declare, that I consider the whole course of our administration throughout this affair, from first to last, to reflect credit on America, honor on the age in which we live. I challenge, out of all history, an example of

a territorial dispute, in which a nation with rights so clear, with power so great as ours, ever made concessions so liberal, demands so moderate.

So much for the rights in this case. So much in justification of our course, and in proof of its moderation. One word now, in conclusion, in reply to that plea for delay, urged by the gentleman from Alabama, [Mr. YANCEY,] and others: "We are not ready to assert our rights; in peace we have not prepared for war." If the meaning is, that we have no standing army and powerful navy to match England's, then devoutly do I hope, that we never shall be, in peace, prepared for war. Whenever we are, we shall be prepared also for despotism. We are as much prepared now, as any free nation in peace ever ought to be; yes, and as we need be. Cadmus's fabled dragon teeth have been sowed, in very deed, throughout our land, and are ready to spring up, in armed shape, in every forest, on every prairie. It is not in our country as in England, where the peasant carries no weapon, nor learns the use of any. The chase and the hardships of the frontier have trained, to our hands, an army of hundred thousands, not uniformed or enrolled indeed, but with every essential of the soldier, and armed with that terrible weapon, America's own rifle, before which the bayoneted musket of the regular—witness New Orleans!—is but as the plaything of a child.

England may boast, and boast justly, that if we, bent on a war of aggression, were to cross the Atlantic and attack her in her own sea-girt isle, the attempt would result in disaster and defeat. And she knows, full as well, that such will be her own fate, whenever she carries war into our hemisphere. Either nation is impregnable at home. Neither can succeed against the other, in an unjust war of conquest, abroad. I speak here, not of the result of a few months' or of a single year's warfare, but of ultimate consequences.

We have sought peace. We have sacrificed for peace. Not that war, in such a cause, is a thing to be feared; but only because, with its horrors and its barbarizing influences, it is a thing ever earnestly to be avoided. If, notwithstanding, war be thrust upon us, with prompt energy let us meet it. If, in spite of our averting efforts, the blow must be given, let it be in the spirit of the old adage, "he gives twice, who gives quickly."

No temporizing policy befits the present crisis, nor can avail, to avert its dangers, if with any it be rife. Firmness, neither boastful itself, nor yet moved by the boasts of others, becomes us as an independent nation. And, in such firmness, is to be found the best promise, at last, of permanent, because honorable, peace.

