

**GALLATIN
ALBERT**

THE OREGON
QUESTION

Albert Gallatin
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Albert Gallatin

The Oregon Question

NUMBER I

I had been a pioneer in collecting facts and stating the case. The only materials within my reach consisted of the accounts of voyages previously published, (including that of Maurelle, in Barrington's Miscellanies), of the varied and important information derived from Humboldt's New Spain, and of the voyage of the Sutil and Mexicano, the introduction to which contains a brief official account of the Spanish discoveries. The statement of the case was the best I was able to make with the materials on hand, and may be found defective in many respects. Since that time manuscript journals of several of the voyages have been obtained at Madrid. New facts have thus been added; others have been better analyzed, and some errors rectified. Arguments which had been only indicated have been enforced, and new views have been suggested. The subject, indeed, seems to be exhausted; and it would be difficult to add anything to the able correspondence between the two Governments which has been lately published.

Ministers charged with diplomatic discussions are not, however, in those official papers intended for publication, to be considered as philosophers calmly investigating the questions, with no other object but to elicit truth. They are always, to a certain extent, advocates, who use their best endeavors to urge and even strain the reasons that may be alleged in favor of the claims set up by their Governments; and in the same manner to repel, if not to deny, all that may be adduced by the other party. Such official papers are in fact appeals to public opinion, and generally published when there remains no hope to conclude for the present an amicable arrangement.

But, though acting in that respect as advocates, diplomatists are essentially ministers of peace, whose constant and primary duty is mutually to devise conciliatory means for the adjustment of conflicting pretensions, for the continuance of friendly relations, for preventing war, or for the restoration of peace. It has unfortunately happened that on this occasion, both Governments have assumed such absolute and exclusive grounds as to have greatly increased, at least for the present, the obstacles to an amicable arrangement.

It is morally impossible for the bulk of the people of any country thoroughly to investigate a subject so complex as that of the respective claims to the Oregon territory; and, for obvious reasons, it is much less understood by the great mass of the population in England than in the United States. Everywhere, when the question is between the country and a foreign nation, the people at large, impelled by natural and patriotic feelings, will rally around their Government. For the consequences that may ensue, those who are entrusted with the direction of the foreign relations are alone responsible. Whatever may be the cause, to whomsoever the result may be ascribed, it appears from the general style of the periodical press, that, with few exceptions, the people, both in Great Britain and in the United States, are imbued with the belief that the contested territory belongs exclusively to themselves, and that any concession which might be made would be a boon to the other party. Such opinions, if sustained by either Government and accompanied by corresponding measures, must necessarily lead to immediate collisions, and probably to war. Yet, a war so calamitous in itself, so fatal to the general interests of both countries, is almost universally deprecated, without distinction of parties, by all the rational men who are not carried away by the warmth of their feelings.

In the present state of excitement, an immediate amicable arrangement is almost hopeless; time is necessary before the two Governments can be induced to recede from their extreme pretensions. In the meanwhile, nothing, as it seems to me, should for the present be done, which might increase

the excitement, aggravate the difficulties, or remove the only remaining barrier against immediate collision.

The United States claim a right of sovereignty over the whole territory. The pretensions of the British Government, so far as they have been heretofore exhibited, though not extending to a claim of absolute sovereignty over the whole, are yet such as cannot be admitted by the United States, and, if persisted in, must lead to a similar result.

If the claim of Great Britain be properly analyzed, it will be found that, although she has incidentally discussed other questions, she in fact disregards every other claim but that of actual occupancy, and that she regards as such the establishment of trading factories by her subjects. She accordingly claims a participation in the navigation of the river Columbia, and would make that river the boundary between the two Powers. This utter disregard of the rights of discovery, particularly of that of the mouth, sources, and course of a river, of the principle of contiguity, and of every other consideration whatever, cannot be admitted by the United States. The offer of a detached defenceless territory, with a single port, and the reciprocal offers of what are called free ports, cannot be viewed but as derisory. An amicable arrangement by way of compromise cannot be effected without a due regard to the claims advanced by both parties, and to the expediency of the dividing line.¹

An equitable division must have reference not only to the extent of territory, but also to the other peculiar advantages attached to each portion respectively.

From and including Fuca Straits, the country extending northwardly abounds with convenient sea-ports. From the 42d degree of latitude to those Straits, there is but one port of any importance, the mouth of the River Columbia; and this is of difficult and dangerous access, and cannot admit ships of war of a large size. It is important only as a port of exports. As one of common resort for supplies, or asylum, in case of need, for the numberless American vessels engaged in the fisheries or commerce of the Pacific, it would be almost useless, even if in the exclusive possession of the United States. It must also be observed that the navigable channel of the river, from its mouth to Puget's Island, is, according to Vancouver, close along the northern shore. Great Britain proposes that the river should be the boundary, and that the United States should be content with the possession of the port it offered, in common with herself. It is really unnecessary to dwell on the consequences of such an arrangement. It is sufficient to say that, in case of war between the two countries, it would leave the United States without a single port, and give to Great Britain the indisputable and exclusive control over those seas and their commerce.

The first and indispensable step towards an amicable arrangement consists in the investigation, not so much of the superiority of one claim over the other, as of the question whether there be sufficient grounds to sustain the exclusive pretensions of either Government.

If the claim of the United States to the whole of the contested territory can be sustained against Great Britain, or if the pretensions of this Power can to their full extent be maintained against the United States, it must be, by either party assuming that the other has no opposite claim of any kind whatever, that there are no doubtful and debatable questions pending between the two countries. This, if true and maintained, must necessarily lead to war, unless one of the two Powers should yield what it considers as its absolute right. But, if there be any such debatable questions, the way is still open for negotiations; and both powers may recede from their extreme pretensions, without any abandonment of positive rights, without disgrace, without impairing national honor and dignity.

It has been asserted that the title of the United States to the whole Oregon territory was maintained by irrefragable facts and arguments. These must be sought for in the correspondence lately published. They consist – first, of the assertion of the ancient claim of Spain to the absolute sovereignty over the whole north-west coast of America as far north as the 61st degree of north

¹ I allude here only to the compromise proposed by Great Britain. Her actual claim, as explicitly stated by herself, is to the whole territory, limited to a right of joint occupancy, in common with other States, leaving the right of exclusive dominion in abeyance.

latitude. Secondly, of the cumulated proofs which sustain the claims of the United States to the various portions of the territory (whether in their own right, or as derived from the acquisition of Louisiana and the Spanish discoveries), and of the refutation of the arguments adduced by the other party. The first mentioned position would, if it could be sustained, be sufficient to prove, and is, as I think, the only one that could prove, the absolute and complete right of the United States to the whole contested territory.

It is undoubtedly true that "Spain considered the northwest coast of America as exclusively her own;" that this claim "had been asserted by her, and maintained with the most vigilant jealousy, ever since the discovery of the American continent, or nearly three centuries, as far north as her settlements or missions extended." There were two ways of examining the soundness of that claim; an investigation of the principles on which it was founded, and an appeal to precedents. The Secretary of State has abstained from discussing the principle; but he has said that the claim of Spain to sovereignty "had never been seriously questioned by any European nation: that it had been acquiesced in by all European Governments." This appears to me the most vulnerable part of his arguments.

The early charters of the British monarchs to the colonies bordering on the Atlantic, extended from sea to sea, from the Atlantic to the Pacific ocean, with the single exception which excluded from the grants the places actually occupied by the subjects of any Christian nation. The right of prior occupancy was recognized; but the general claim of Spain to the sovereignty of the whole coast bordering on the Pacific was utterly disregarded. Had that claim been considered as unquestionable, had it been acquiesced in, it never could have been supposed that, in any case whatever, England could have a right to bestow on her subjects a single foot of land bordering on the Pacific.

Coming down to modern times, the only nations which have set up any claims or attempted any settlements on the Pacific, north of the country actually occupied by the Spaniards, are Russia, Great Britain, and the United States. All three have asserted claims to the northwestern coasts of America, irreconcilable with the universal sovereignty claimed by Spain: Russia and England, from the time when their flags first floated along the coast and their subjects landed on its shores; the United States from a similar date, or at least from the time when they acquired Louisiana.

If the right of Spain was absolute and exclusive to the whole, there was no reason why it should not have extended beyond the 61st degree of latitude. The right of Russia was founded only on her discoveries and the establishment of some trading factories. She respected the right of Spain only as far as it did not interfere with her own claim. She has, in fact, extended this more than six degrees further south; and to this the United States, who had acquired all the rights of Spain, have assented by a solemn treaty. Whatever might be the boundary acquiesced in by Spain, it was not Russia which recognized the claim of Spain; it was Spain which recognized that her claim was not unlimited. And, let it be also observed, that, since Spain still claimed as far north as the 61st degree of north latitude (the southern limit of the Russian factories when first visited by Spanish navigators), the United States, if they believed the Spanish right absolute and exclusive, ought not to have ceded to Russia a country extending more than six degrees of latitude along the shores of the Pacific.

Great Britain contested the exclusive claim of Spain from the year 1778, the date of Cook's third voyage; and he was the first British navigator that had for more than two centuries appeared on those coasts. This doctrine she has maintained ever since. She did not resist the exclusive claim of Spain by virtue of the Nootka convention, but prior to it. It was on that ground that she imperiously demanded indemnity and restoration for the property and factory of one of her subjects, which had been forcibly taken by the Spanish Government. She even threatened war; and the Nootka convention was the result of those transactions. Whatever construction may at this time be given to that instrument, it is certain at least that Spain by it conceded a portion of the absolute and sovereign right she had till then asserted; that she yielded the right of trade with the natives on all that part of the coast lying north of her actual settlements; and that, by suffering the ultimate right of sovereignty to remain in abeyance, she made that pretension questionable which she had contended could not be called in question.

With respect to the United States, without recurring to former negotiations which were not attended with any result, it is sufficient to advert to the convention between them and Great Britain of the year 1818, concluded prior to the date of the treaty by which they acquired the claims of Spain to the territory north of the 42d degree of north latitude.

The United States at that time distinctly claimed, in their own right and independent of the Spanish claims, that the boundary along the 49th parallel, which had been agreed on as that between them and Great Britain, from the Lake of the Woods to the Stony Mountains, should be extended to the Pacific. To this division of territory Great Britain would not accede; and the provision for a joint occupancy during the next ensuing years was substituted. A clause was inserted that the agreement should not be taken to affect the claims of any other Power or State to any part of the country west of the Stony Mountains. This provision clearly referred to the claims of Russia and Spain. The northern and southern boundaries of the country, which the two contracting parties might claim, were left undefined: Great Britain probably thought herself bound by the Nootka convention to respect the Spanish claims to the extent provided by that instrument: the United States could not but recognize those derived from discovery, with which they were at that time but imperfectly acquainted, since their own claims were in a great degree derived from a similar source. But the convention decisively proves that the United States did not acquiesce in the antiquated claim of Spain to the absolute and exclusive sovereignty of the whole country; since, if they had recognized that prior claim to the whole, they could have had none whatever to any portion of it.

It is therefore undeniable that the assertion of the Spanish claim of absolute sovereignty cannot be sustained by a presumed acquiescence on the part of the only nations which now claim the country. It may perhaps be said that their opposition came too late, and that they neglected too long to protest against the Spanish pretension on the Pacific. No stress will be laid on Drake's voyage, which had a warlike character. But the British charters to their colonies show that those pretensions were disregarded at a very early date. There was no occasion for opposition or direct denial, with respect to the Pacific, until the attention of other nations was directed towards that remote country. This was neglected because all the commercial nations were, in their attempts to colonize, or to conquer the foreign and till then unexplored regions, attracted by countries far more accessible, and were exclusively engaged in pursuits much more important. The East Indies and the West India Islands offered a vast and lucrative field for commercial enterprise and territorial acquisition. With respect to the continent of America, France, England, and Holland most naturally planted their colonies on the nearest opposite shores of the Atlantic; and they did it in opposition to the pretended claim of Spain, which extended to the whole of America. Although strenuously engaged in extending those colonies westwardly, these, in the year 1754, twenty years only before Cook's third voyage, hardly extended beyond the Mississippi. What immediate interest could then have impelled either France or England to enter a formal protest against the antiquated claim of Spain to a country with which they had never attempted even to trade? And what opportunity had occurred for doing it prior to Cook's voyage?

But, what is still more conclusive, the country in question was equally neglected by Spain herself. Some exploring voyages, few of which are authentic, were indeed made by Spanish navigators; and the claims which may be derived from their discoveries have now been transferred to the United States, so far as discovery alone can give a claim, and no further. But, during more than two centuries that Spain had no competitor on the Pacific, there was on her part no occupancy, no settlement, or attempt to make a settlement. She had some missions on the western coast of the peninsula of California: but her missions or settlements in Northern or New California are of quite recent date; that of the most southern (San Diego) in 1769, and that of the most northern (San Francisco) in 1776, two years only before Cook's arrival at Nootka Sound.

In point of fact, the contested territory had been utterly neglected by Spain. All the energies, such as they were, of her Mexican colonies were much more advantageously applied to the

improvement of the vast and rich countries which they had conquered, principally to the discovery and working of the richest and most productive mines of the precious metals as yet known.

Anson's expedition was purely military, and confined to southern latitudes. But the narrative drew the public attention towards the Pacific ocean, and gave a new impulse to the spirit of discovery. Almost immediately after the peace of 1763 voyages were undertaken for that purpose by the Governments of England and France: the Pacific was explored: the Russians on the other hand had, more than thirty years before, ascertained the continuity of the American continent from Behring's Straits to Mount St. Elias. It was then, and not till then, that Spain, or rather the Mexican Government, awakening from its long lethargy, extended its missions to New California. In the year 1774, Perez, with his pilot, Martinez, sailed as far north as the northern extremity of Queen Charlotte's Island, having anchored in Nootka Sound, and, as Martinez asserts, perceived the entrance of Fuca's Straits. New and important discoveries were made by Quadra and Heceta in the year 1775. The sequel is well known.

But on what foundation did the claim of Spain rest? If she had indeed an absolute right to the whole country bordering on the Pacific, derived either from natural or international law, or from usages generally recognized, it matters but little, as respects right, whether other nations had acquiesced in, or opposed her claim. If there was no foundation for that absolute and exclusive right of sovereignty, Spain could transfer nothing more to the United States than the legitimate claims derived from her discoveries.

The discovery gives an incipient claim not only to the identical spot thus discovered, but to a certain distance beyond it. It has been admitted that the claim extends generally, though not universally, as far inland as the sources of rivers emptying into the sea where the discovery has been made. The distance to which the right or claim extends along the sea shore may not be precisely defined, and may vary according to circumstances. But it never can be unlimited; it has never been recognized beyond a reasonable extent. Spain was the first European nation which discovered and occupied Florida. A claim on that account to the absolute sovereignty over the whole of the Atlantic shores as far as Hudson's Bay, or the 60th degree of latitude, would strike every one as utterly absurd. A claim on the part of Spain to the sovereignty of all the shores of the Pacific, derived from her having established missions in California, would be similar in its nature and extent, and equally inadmissible. It cannot be sustained as a natural right, nor by the principles of international law, nor by any general usage or precedent. The claim of Spain rested on no such grounds.

It was derived from the bull of Pope Alexander VI., which the Spanish monarchs obtained in the year 1493, immediately after the discovery of America by Columbus. By virtue of that bull, combined with another previously granted to Portugal, and with modifications respecting the division line between the two Powers, the Pope granted to them the exclusive sovereignty over all the discoveries made or to be made in all the heathen portions of the globe, including, it must be recollected, all the countries in America bordering on the Atlantic, as well as those on the Pacific ocean. Yet, even at that time, the Catholic Kings of England, and France did not recognize the authority of the Pope on such subjects; as evidently appears by the voyages of Cabot under the orders of Henry VII. of England, and of Cartier under those of the King of France, Francis I. Subsequently, the colonies planted by both countries, from Florida to Hudson's Bay, were a practical and continued protest and denial of the Spanish claim of absolute sovereignty over the whole of America: whilst the acquiescence of Spain was tantamount to an abandonment of that claim where it was resisted. Ridiculous as a right derived from such a source may appear at this time, it was not then thus considered by Spain; and the western boundary of Brazil is to this day regulated by the division line prescribed by the Pope.

I am not aware of any other principle by which the claim ever was or can be sustained, unless it be the idle ceremony of taking possession, as it is called. The celebrated Spaniard who first discovered the Pacific ocean, "Balboa, advancing up to the middle in the waves, with his buckler and sword,

took possession of that ocean in the name of the King his master, and vowed to defend it, with his arms, against all his enemies." – (*Robertson.*)

I have dwelt longer on this subject than it may seem to deserve. The assertion of the solidity of this ancient exclusive Spanish claim has had an apparent effect on public opinion fatal to the prospect of an amicable arrangement. I am also fully satisfied that the resort to vulnerable arguments, instead of strengthening, has a tendency to lessen the weight of the multiplied proofs, by which the superiority of the American over the British claim has been so fully established.

NUMBER II

It has, it is believed, been conclusively proved that the claim of the United States to absolute sovereignty over the whole Oregon territory, in virtue of the ancient exclusive Spanish claim, is wholly unfounded. The next question is, whether the other facts and arguments adduced by either party establish a complete and absolute title of either to the whole; for the United States claim it explicitly; and, although the British proposal of compromise did yield a part, yet her qualified claim extends to the whole. It has been stated by herself in the following words: "Great Britain claims no exclusive sovereignty over any portion of that territory. Her present claim, not in 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." And, again: "The qualified rights which Great Britain now possesses over the whole of the territory in question, embrace the right to navigate the waters of those countries, the right to settle in and over any part of them, and the right freely to trade with the inhabitants and occupiers of the same. * * * * * It is fully admitted that the United States possess the same rights; but beyond they possess none."

In the nature of things, it seems almost impossible that a complete and absolute right to any portion of America can exist, unless it be by prescriptive and undisputed *actual* possession and settlements, or by virtue of a treaty.

At the time when America was discovered, the law of nations was altogether unsettled. More than a century elapsed before Grotius attempted to lay its foundation on Natural Law and the moral precepts of Christianity; and, when sustaining it by precedents, he was compelled to recur to Rome and Greece. It was in reality a new case, to which no ancient precedents could apply,² for which some new rules must be adopted. Gradually, some general principles were admitted, never universally, in their nature vague and often conflicting. For instance, discovery varies, from the simple ascertaining of the continuity of land, to a minute exploration of its various harbors, rivers, &c.; and the rights derived from it may vary accordingly, and may occasionally be claimed to the same district by different nations. There is no precise rule for regulating the time after which the neglect to occupy would nullify the right of prior discovery; nor for defining the extent of coast beyond the spot discovered to which the discoverer may be entitled, or how far inland his claim extends. The principle most generally admitted was, that, in case of a river, the right extended to the whole country drained by that river and its tributaries. Even this was not universally conceded. This right might be affected by a simultaneous or prior discovery and occupancy of some of the sources of such river by another party; or it might conflict with a general claim of contiguity. This last claim, when extending beyond the sources of rivers discovered and occupied, is vague and undefined: though it would seem that it cannot exceed in breadth that of the territory on the coast originally discovered and occupied. A few examples will show the uncertainty resulting from those various claims, when they conflicted with each other.

The old British charters extending from sea to sea have already been mentioned. They were founded, beyond the sources of the rivers emptying into the Atlantic, on no other principle than that of contiguity or continuity. The grant in 1621 of Nova Scotia, by James the First, is bounded on the north by the river St. Lawrence, though Cartier had more than eighty-five years before discovered the mouth of that river and ascended it as high up as the present site of Montreal, and the French under Champlain had several years before 1621 been settled at Quebec. But there is another case more important, and still more in point.

The few survivors of the disastrous expedition of Narvaez, who, coming from Florida, did in a most extraordinary way reach Culiacan on the Pacific, were the first Europeans who crossed the

² Grotius, however, sustains the right of occupation by a maxim of the Civil Roman Code.

Mississippi. Some years later, Ferdinand de Soto, coming also from Florida, did in the year 1541 reach and cross the Mississippi, at some place between the mouth of the Ohio and that of the Arkansas. He explored a portion of the river and of the adjacent country; and, after his death, Moscoso, who succeeded him in command, did, in the year 1543, build seven brigantines or barques, in which, with the residue of his followers, he descended the Mississippi, the mouth of which he reached in seventeen days. Thence putting to sea with his frail vessels, he was fortunate enough to reach the Spanish port of Panuco, on the Mexican coast. The right of discovery clearly belonged to Spain; but she had neglected for near one hundred and fifty years to make any settlement on the great river or any of its tributaries. The French, coming from Canada, reached the Mississippi in the year 1680, and ascended it as high up as St. Anthony's Falls; and La Salle descended it in 1682 to its mouth. The French Government did, in virtue of that second discovery, claim the country, subsequently founded New Orleans, and formed several other settlements in the interior, on the Mississippi or its waters. Spain almost immediately occupied Pensacola and Nacogdoches, in order to check the progress of the French eastwardly and westwardly; but she did not attempt to disturb them in their settlements on the Mississippi and its tributaries. We have here the proof of a prior right of discovery being superseded, when too long neglected, by that of actual occupancy and settlement.

The French, by virtue of having thus discovered the mouth of the Mississippi, of having ascended it more than fifteen hundred miles, of having explored the Ohio, the Wabash, and the Illinois, from their respective mouths to their most remote sources, and of having formed several settlements as above mentioned, laid claim to the whole country drained by the main river and its tributaries. They accordingly built forts at Le Bœuf, high up the Alleghany river, and on the site where Pittsburgh now stands. On the ground of discovery or settlement, Great Britain had not the slightest claim. General, then Colonel Washington, was the first who, at the age of twenty-two, and in the year 1754, planted the British banner on the Western waters. The British claim was founded principally on the ground of contiguity, enforced by other considerations. The strongest of these was, that it could not consist with natural law, that the British colonies, with a population of near two millions, should be confined to the narrow belt of land between the Atlantic and the Alleghany Mountains, and that the right derived from the discovery of the main river should be carried to such an extent as to allow the French colonies, with a population of fifty thousand, rightfully to claim the whole valley of the Mississippi. The contest was decided by the sword. By the treaty of peace of 1763, the Mississippi, with the exception of New Orleans and its immediate vicinity, was made the boundary. The French not only lost all that part of the valley which lay east of that river, but they were compelled to cede Canada to Great Britain.

It may, however, happen that all the various claims from which a title may be derived, instead of pertaining to several Powers, and giving rise to conflicting pretensions, are united and rightfully belong to one nation alone. This union, if entire, may justly be considered as giving a complete and exclusive title to the sovereignty of that part of the country embraced by such united claims.

The position assumed by the British Government, that those various claims exclude each other, and that the assertion of one forbids an appeal to the others, is obviously untenable. All that can be said in that respect is, that if any one claim is alone sufficient to establish a complete and indisputable title, an appeal to others is superfluous. Thus far, and no farther, can the objection be maintained. The argument on the part of the United States in reality was, that the Government considered the title derived from the ancient exclusive Spanish claim as indisputable; but that, if this was denied, all the other just claims of the United States taken together constituted a complete title, or at least far superior to any that could be adduced on the part of Great Britain.

It is not intended to enter into the merits of the question, which has been completely discussed, since the object of this paper is only to show that there remain on both sides certain debatable questions; and that therefore both Governments may, if so disposed, recede from some of their

pretensions, without any abandonment of positive rights, and without impairing national honor and dignity.

Although Great Britain seems, in this discussion, to have relied almost exclusively on the right derived from actual occupancy and settlement, she cannot reject absolutely those derived from other sources. She must admit that, both in theory and practice, the claims derived from prior discovery, from contiguity, from the principle which gives to the first discoverer of the mouth of a river and of its course a claim to the whole country drained by such river, have all been recognized to a certain, though not well-defined extent, by all the European nations claiming various portions of America. And she cannot deny the facts, that (as Mr. Greenhow justly concludes) the seashore had been generally examined from the 42d, and minutely from the 45th to the 48th degree of latitude, Nootka Sound discovered, and the general direction of the coast from the 48th to the 58th degree of latitude ascertained, by the Spanish expeditions, in the years 1774 and 1775, of Perez, Heceta, and Bodego y Quadra; that the American Captain Gray was the first who, in 1792, entered into and ascertained the existence of the River Columbia, and the place where it empties into the sea; that, prior to that discovery, the Spaniard Heceta was the first who had been within the bay, called Deception Bay by Meares, into which the river does empty; that, of the four navigators who had been in that bay prior to Gray's final discovery, the Spaniard Heceta and the American Gray were the only ones who had asserted that a great river emptied itself into that bay, Heceta having even given a name to the river (St. Roc), and the entrance having been designated by his own name (Ensennada de Heceta), whilst the two English navigators, Meares and Vancouver, had both concluded that no large river had its mouth there; that, in the year 1805, Lewis and Clarke were the first who descended the river Columbia, from one of its principal western sources to its mouth; that the first actual occupancy in that quarter was by Mr. Astor's company, on the 24th of March, 1811, though Mr. Thompson, the astronomer of the British Northwest Company, who arrived at Astoria on the 15th of July, may have wintered on or near some northern source of the river in 52 degrees north latitude; that amongst the factories established by that American company one was situated at the confluence of the Okanagan with the Columbia, in about 49 degrees of latitude; that the 42d degree is the boundary, west of the Stony Mountains, established by treaty between Spain, now Mexico, and the United States; that the 49th degree is likewise the boundary, from the Lake of the Woods to the Stony Mountains, established by treaty between Great Britain and the United States; and that therefore the right of the United States, which may be derived from the principle of contiguity or continuity, embraces the territory west of the Stony Mountains contained between the 42d and 49th degrees of latitude.

Omitting other considerations which apply principally to the territory north of Fuca Straits, where the claims of both parties are almost exclusively derived from their respective discoveries, including those of Spain, it may be rationally inferred from the preceding enumeration that there remain various questions which must be considered by Great Britain as being still doubtful and debatable, and that she may therefore, without any abandonment of positive rights, recede from the extreme pretensions which she has advanced in the discussion respecting a division of the territory. But, although conjectures may be formed, and the course pursued by the Government of the United States may have an influence on that which Great Britain will adopt, it does not belong to me to discuss what that Government may or will do. This paper is intended for the American, and not for the English public; and my attention has been principally directed to those points which may be considered by the United States as doubtful and debatable.

It was expressly stipulated that nothing contained in the conventions of 1818 and 1827 should be construed to impair, *or in any manner affect*, the claims which either of the contracting parties may have to any part of the country westward of the Stony or Rocky Mountains. After the most cool and impartial investigation of which I am capable, I have not been able to perceive any claim on the part of Great Britain, or debatable question, respecting the territory south of Fuca's Straits, but the species of occupancy by the British Fur companies between the year 1813 and October 20th,

1818; and this must be considered in connection with the restoration of "all territory, places, and possessions whatsoever, taken by either party from the other during the war," provided for by the treaty of Ghent. To this branch of the subject belongs also the question whether the establishment of trading factories with Indians may eventually give a right to sovereignty. My opinion was expressed in the American counter-statement of the case, dated 19th December, 1826: "It is believed that mere factories, established solely for the purpose of trafficking with the natives, and without any view to cultivation and permanent settlement, cannot, of themselves, and unsupported by any other consideration, give any better title to dominion and absolute sovereignty than similar establishments made in a civilized country." However true this may be as an abstract proposition, it must be admitted that, practically, the modest British factory at Calcutta has gradually grown up into absolute and undisputed sovereignty over a population of eighty millions of people.

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