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HON. CALEB CUSHING'S LECTURE ON OREGON.

There is, at the present moment, no subject of such deep and general interest to the United States, and there is, at the same time, none in regard to which, judging from the language of many public journals, such complete and extraordinary misapprehension prevails among us, as that of Oregon. Having been much connected with this question myself, while in Congress, my attention has been drawn very naturally to the passing discussions regarding it. I find some persons of opinion, that the British title to a part, or even the whole, of Oregon is equal—nay, superior—to that of the United States; although, as appears from official public documents, the British government, in its correspondence with ours, has never pretended, but, on the contrary, had expressly and unequivocally disavowed, title to a single acre of ground in Oregon. A respectable newspaper now before me, published in this State, in which it is assumed—by ourselves at least,—that a great degree of knowledge is diffused, through all classes of men, deliberately affirms, that, if possible, the British and American claims be equal north of latitude 49, yet to the south of that parallel, the British claim is clearly better than the American; when the exact reverse of this is the fact. One writer argues, with perfect self-complacency of belief, that the establishments of the Hudson's Bay Company in Oregon give title to England, notwithstanding the contrary is positively agreed by treaty between the two governments. How often it is said, also, that Great Britain would willingly compromise this question; and that the unreasonableness and obstinacy of the American government are precipitating the United States into a war; when, to the contrary of this, the United States have, at several stages of the controversy, made the most liberal offers to compromise—such as to divide the disputed territory into two equal parts, by continuing our present boundary from the Rocky Mountains to the Pacific ocean, although our government thinks we have a good title to the whole of Oregon; and the British government admits that England has no title to any part of it; which offers have been most unreasonably refused by Great Britain. I am unwilling to ascribe all these, and a host of other prevailing errors on the subject, to mere party prejudice; and I am sure they cannot come from want of patriotism; but I apprehend the evil to arise from the deplorable tendency which exists among us to copy our ideas from England; from the many popular English essays on this question which have been republished and widely circulated in the United States, and from the consequence that, under the insensible influence of our want of intellectual independence, Americans have suffered their judgment of the merits of a controversy between us and Great Britain to be fixed by the interested, disingenuous, false, and, let me add, profoundly ignorant argument of our adversary's press, regardless of what is said by our own statesmen, and of the truth of the case, as exposed in the official correspondence of the two governments. And in view of all this, I feel confident there is nothing I could say on the present occasion more well timed and useful, or, I trust, more acceptable, than briefly to explain the real nature and present state of the Oregon question.

I beg leave, in advance, to say to the gentlemen present, that, in the discussion of this question, I shall of course avoid all party matters; to the ladies, that—historical and diplomatic as the subject is—I trust they cannot be unwilling to understand the merits of a question upon which their fathers and husbands may one day possibly be summoned to the battle field in defence of their country against foreign invasion; and to all, of either sex, that, as I shall say nothing in this matter which I do not deem to be true, and which I should not be free and glad to say to an assembly of Englishmen, I of course cannot presume that any American will shrink from listening to a frank but temperate exposition of the rights of the United States.

There is a great region of this continent, washed by the Pacific ocean, and bounded by the possessions of the Mexican republic on the south, those of Russia on the north, and those of the United States and Great Britain on the east, which is not subjected to the lawful government of any European or American power, and it is the only remaining part of North America

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which continues in such anomalous condition. In superficial extent, it is of nearly 400,000 square miles; that is more than three times as large as the aggregate of all the British Islands, and about equal in extent to Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, Vermont, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina and Georgia—(383,000 square miles)—in other words, to the original thirteen United States, and I shall presently show that its value in commensurate with its extent. This is Oregon.

To what Government does this great territory belong? Great Britain says: It belongs to nobody; that it is in the same condition with Massachusetts before the discovery of America; and that it is unappropriated savage lands, and that as such, she has a right to come and take it;—she, the general conqueror—she, the universal usurper—she, the exclusive appropriator of all parts of the terraqueous globe which may seem convenient to her commerce, or desirable to her ambition. She pretends title to no part of it; she claims the right to invade and occupy any part of it, at her discretion. The United States say, on the other hand; we have a good and valid title to the whole of it, as we think and believe; we are sure we have a perfectly indisputable title to all that part of it which adjoins the United States—namely, from the 42d to the 49th parallel of latitude. Great Britain admits, we know, that she has no title to any part of it; and if there be the shadow of any ground or claim of right, under which she can justly invade and possess any part of it, (which we consequently deny,) still such claim must apply only to so much of it, and no more, as being north of the 49th parallel, adjoins her existing possessions in America.

Such is a plain and unvarnished statement of the general nature of the pretension to this territory put forth by the British and American governments respectively. No government, except the United States, alleges or pretends any title to the territory, and no government, except Great Britain, sets itself up as the occupier and master by right of these (and of all other) unappropriated parts of the earth.

Reflecting on this statement of the case, you may say the case is a very extraordinary one. How is it possible that Great Britain should advance such extravagant pretensions, and should obstinately refuse, at the same time, all fair tender of compromise from the United States? I repeat, the statement of the case is nevertheless true. I assure you that, in making this statement, I do

"Nothing extenuate, nor slight
Set down in malice."

And this I proceed to show you by a brief analysis of the voluminous official documents in the case, as they have been published by our Congress, though suppressed by the British government.

When this continent first became known to Europeans, and in proportion as the several powers of Europe proceeded to make settlements here, it was necessary to establish certain rules by which their conflicting pretensions to territory should be adjusted. These rules were not fixed all at once, but in the course of colonization, of discussion, and of treaty, they came to be at length fully and universally recognized and admitted both in Europe and America. These rules lie at the basis of the Oregon question, and are as follows:

1. First, the European title is in no case considered as derived from the savages of America, and is regulated by considerations wholly irrespective of them. Our own government has indeed uniformly acted on the principle of paying to the Indians a fair, nay, a very large compensation, for their hunting right, or temporary occupancy of the lands; but neither the government nor any citizen of the United States does or can derive title from the Indians. I must not stop to discuss the grounds of this doctrine; suffice it to say that such is the public law of all the christian nations of Europe and America, and such is the municipal law and the practice under it, as well of our own colony, province, and State of Massachusetts, as of the federal government.

2. Secondly, one European government may acquire territory from another by conquest, as England did the Canadas; or by treaty, as the United States did Louisiana; and every American government, in the progress of an emancipation from the colonial

state, succeeds to the rights of its former European sovereign.

3. Thirdly, a European (or American) government may acquire title to unoccupied lands in America by prior discovery, followed by settlement, occupation, or conquest; and its sovereignty may be extended over any contiguous unoccupied territory, until it meets the bounds of some other power.

Such are the principles, as admitted on all hands by which the Oregon question is to be determined.

Now, there are five governments, and only five; which have, at one time or another, had, or been supposed to have, some sort of rights in or to Oregon—namely, Spain, France, Russia, Great Britain, and the United States.

Whatever exclusive rights Spain had north of latitude 42—that is, in Oregon—she herself, by the Florida treaty (so called,) in 1819, and afterwards the Mexican republic, in 1823, as the successor of Spain, have ceded to the United States.

Whatever exclusive rights France had, (if any,) she also, by the Louisiana treaty (so called,) in 1803, ceded to the United States.

If Russia had any claims, she also, by the treaty of 1826 with the United States, and by a corresponding treaty with England, stipulated to make no settlements, or pretensions south of the southernmost point of Prince of Wales Island—that is, latitude 54, 40, which thus becomes the northern limit of Oregon.

And, although Portugal, Holland, Sweden, Denmark, Naples, Austria, Prussia, Belgium, either of them, has clearly as much right as Great Britain to set herself up as the general appropriator of all unoccupied lands in America—which indeed, the British protocol admits in express terms—yet, as Great Britain has got in the habit of taking possession every where, until her politicians and writers have come thus to be subject to such an extraordinary mental hallucination as to imagine that she has an exclusive right of acquisition—that acquisitions made by any other government are an act of injury to her—that acquisitions of hers all over the world, made by wanton wars of invasion and the bloodiest and most ruthless conquests, are perfectly right and proper; but that even the most honorable, peaceful, and natural acquisitions made by Russia, France, or the United States, are monstrous acts of unparalleled ambition and rapacity,—I say, under the influence of this habit of action, and the mental hallucination consequent on it, Great Britain alone has come forward as the invading appropriator of Oregon; first against the title of Spain, Russia, or France, and now as against the title of the United States.

Thus in consequence of the all grasping ambition of Great Britain, and comparative unambitiousness of all the rest of Europe, the controversy is narrowed down to the conflicting pretensions of Great Britain and the United States.

The United States claim title to the whole of Oregon, considered as the valley of the river Columbia.

1. By our own discovery. It is conceded that Captain Gray of Boston, in the ship Columbia, first of all christian men discovered and entered, and named the river Columbia; and it is one of the points of the right of discovery, that the discoverer of a river holds the river valley; the discoverer of a bay the lands on the bay; on which principle France held the Mississippi country called Louisiana, England (under France) the St. Lawrence country called Canada, and England the northern interior of the continent from Hudson's bay to the Rocky Mountains. It is also conceded that Messrs. Lewis and Clarke, in the service of the United States first explored the Columbia valley on the land side from the head waters of the Columbia. It is also conceded that Mr. John Jacob Astor, a citizen of the United States, made the first settlement on the main waters of the Columbia. The American government points to these facts, as constituting a right by discovery, complete and exclusive, unless it be doubtful on the side of Spain.

2. We claim title in right of Spain. It is conceded that Spanish navigators from the west coast of Mexico first of all explored the coast of California to Cape Mendocino, named after the viceroy Mendoza. It is conceded that Spanish navigators first of all explored Nootka island and the Straits of Fuga-

laid, that Spain, first of all European powers made a settlement and erected a fort on Nootka Sound. We say that these facts might give Spain pretensions, to dispute titles with the United States; and that her pretensions, whatever they may be, being vested in the United States, give additional force to our own proper ground of title.

3. We claim title in the right of France, especially as against Britain.—We received Louisiana with limits undefined to the north and west, and of course with rights of extension by contiguity until the bounds of some power should be reached. And whatever rights in limitation of Louisiana, Spain might have on the west, Great Britain could have none—because by the treaty at Paris which gave the Canadas to England, the latter agreed that the western limit of British America proper should be fixed irrevocably at the Mississippi.

4. Finally on the supposition (if indeed, there be any foundation for the supposition) that Oregon is unoccupied, savage territory, to which no other American power has a better title, we claim title by extension of contiguity from the United States.

The British government came forward after the conclusion of the last war, (and not before,) and claimed title in Oregon.

1. In virtue of the voyage of Drake in 1580. We replied: 1st, that Drake was a mere pirate, and could not convey title; 2d, that Spanish navigators had gone over all the seas which Drake did, forty years before him; and 3d, that England had made no settlement under Drake. Whereupon, the British government gave up this ground of title, and proceeded to allege—

2. Cook's voyage to Nootka in 1778. We showed that sundry Spanish navigators had been there before Cook, in 1774, 1775, and 1776; and the British government then gave up this ground, and next relied on—

3. Vancouver's voyage (by his lieutenant) to the Columbia, before Vancouver, (or Boughton,) who, indeed, himself states that he proceeded upon information furnished by Gray; and so Great Britain was driven from all grounds of maritime title, and proceeded to allege—

1. Mackenzie's journey across the continent in 1792. But we proved from Mackenzie's journal that it was the head waters of the Tacoutchee Tesso, not the Columbia, that he struck on his way to the Pacific. Whereupon the British government said: Well, it must be conceded we have no title whatever in Oregon, either by discovery, settlement, or otherwise. We claim all title, and we set up a claim as follows:

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

Such are the precise words of the final claim of the British government, after all pretence of title on the part of Britain had been thoroughly refuted by us, and given up by herself. Or, as the same point is stated by the American minister in his official correspondence: 'Great Britain considered the whole of the unoccupied parts of America, as being open to her settlements, as heretofore. They included within these parts, as well that portion of the north-west coast lying between the 42d and 51st degrees of latitude as any other parts. The principle of colonization on that coast, or elsewhere, on any portion of those continents not yet occupied, Great Britain was not prepared to relinquish.'

Now all these facts are notorious, and accessible to whatsoever persons choose to seek them; and yet in the face of the official disclaimers of the British government, there are many persons in the United States, who misled, apparently, by the British Foreign Quarterly Review, and the British Edinburgh Review, and the British London Times, and the British Lord John Russell, honestly suppose, it would seem, that Great Britain has a probable, nay, a good and sound title to the whole or great part of Oregon. No; she does not claim or pretend any title whatever to Oregon; but only the general right to colonize, now, at this day, in North America.

To be sure, the Edinburgh Review, admitting as the writer is constrained to do (for he had read the documents,) that Great Britain has no title whatever in Oregon, either by settlement, treaty, conquest, or prescription, yet alleg-

es that Great Britain has a shadow of title north of the 49th parallel, by reason of contiguity, inasmuch as she now holds the country north of that parallel on this side of the mountains. To this I reply, that the British government advanced no such claim; prevented perhaps, by the consideration that, if this ground of claim gives to her the shadow of a right north of 49 degrees, it deprives her of even the shadow of a right south of 49 degrees, and she is not content with this, which would be an almost equal division of Oregon. Besides which, the British territory on this side of the mountains is incapable of extension by contiguity, for it belongs to the Hudson Bay Company, which company is limited by its charter to the lands on the coasts and confines of the seas, lakes and rivers within the Hudson straits, and it would be ridiculous, nay, impudent, past endurance, for Great Britain to pretend that the coasts of Hudson's straits cover the Pacific ocean which is necessary in order to carry the jurisdiction of the Hudson's Bay into Oregon.

Great Britain defends her pretension to treat Oregon as unoccupied country, subject to colonization by her, on two grounds:

First, she argued that, conceding her own defeat of title, still we had no better title. To this the United States replied, by showing that we had a better title in our own prior discovery, prior exploration, and prior settlement of Oregon, and in our rights under France and Spain.

Whereupon, secondly, Great Britain alleged a right to colonize in Oregon, under the concession made to her by Spain, in one of the clauses of what is called the Nootka convention; a word of explanation concerning which, will conclude all I have to say on the subject of our title in Oregon.

I suppose there is not in the history of modern times, any case of war undertaken or threatened with greater precipitancy, or on pretences more futile, than the Nootka Sound quarrel of Great Britain with Spain. The Spanish government, the first discoverer of Nootka Sound, sent Don Esteban Martinez there in 1789, to form a settlement in all the forms of legality and of public right belonging to any European establishment in America. Meanwhile, two vessels came to trade on the north west coast, under the general command of one Mears—the Felice, with Mears for master, and the Iphigenia, having one Douglas for supercargo. These two persons were English adventurers, but the vessels were Portuguese, with a Portuguese owner and Portuguese papers, fitted out in the Portuguese colony of Macao, in China. In 1789, the Iphigenia, (Mears being absent in the Felice) was seized by Don Esteban Martinez for an alleged breach of the Spanish law—and justly seized perhaps—but immediately released, on Douglas giving bond that his (nominal) owner in Macao would pay her value on demand to the order of the Viceroy of Mexico, in case the seizure should be pronounced legal and valid; after which, the Iphigenia continued her business along the north west coast. Subsequently two other vessels, the Argonaut and Princess Royal, under the direction of one Colnett, made their appearance; also from Macao, purporting to be the property of the (British) King George's Sound Company. These vessels, together with a vessel built on the coast by Mears's people, called the Northwest America, were seized by Martinez the same year, and the Argonaut, with Colnett on board, was sent to San Blas for adjudication.

The Conde de Revillagigedo, then viceroy, decided that the seizure was lawful and for good cause; but ordered the vessels to be released, as an act of comity towards England, and because of the alleged ignorance of the parties in regard to the rights of Spain—of all which Spain herself, in the spirit of candor and fair dealing, gave the first information to the English government. Mears, however, immediately repaired to England, and, upon the representations made by him—representations now known, and universally seen to be grossly and shamefully false in all essential particulars—the British Government decided upon war, unless ample satisfaction should be made by the Spanish government. Spain was in no condition or spirit to fight with England, and accordingly submitted without reserve to the demands of the British ministry. The result was the convention of 1790, called of the Secular or more commonly of Nootka. This convention provides, among other things, that the respective subjects of Spain and

Great Britain shall not be disturbed or molested, either in navigating or carrying on their fisheries in the Pacific ocean, or in the south seas, or in landing on the coast of those seas and places not already occupied, for the purpose of carrying on their commerce with the natives of the country, or of making settlements there; it being subjoined, that in any settlements to be made by either party, the subjects of the other shall have access, and shall carry on their trade without molestation.

Under this convention, Great Britain claims the right, by concession from Spain, now to make settlements in Oregon as against the United States, so far as we hold from Spain.

The United States reply, that the conditions of this convention are nothing but commercial stipulations of temporary occupancy for the purpose of fishing or trading, leaving the Spanish sovereignty unimpaired, or at least only in abeyance, and that upon the face of it, also, the convention is of the class of treaties which cease with war, and it was accordingly extinguished by the war, which soon afterwards broke out between Great Britain and Spain.

Such are the claims and pretensions of the two governments.

On this part of the subject, then, the question stands, in brief, thus:

We of the United States have, as we think, good title to the whole of Oregon, from 42 deg. 30 m. 60 sec.

- 1. In our own right.
2. Under Spain.
3. Under France.

Great Britain, on the other hand, neither has nor pretends to have any title whatever to any part of Oregon, but claims the right to treat Oregon as an aboriginal, wild country, and to settle it in common with all the world, or at least the joint right, under concession from Spain, to make settlements in that country, in common with Spain, or with us, the successors of Spain.

We of the United States exclude this pretension of Great Britain; first, by showing our general title; and second, by denying that Great Britain now possesses any rights whatever under the Nootka convention.

At all events; Great Britain's whole claim is now reduced to her rights (if any) under the Northern convention; for that convention itself recognises [implicitly] the sovereign rights of Spain.

During the many years the Oregon question has existed, the United States have, as before stated, at all times manifested a fair and amicable spirit towards Great Britain, especially in repeated offers to divide the disputed territory between us in almost equal parts, by the parallel of 49 deg. notwithstanding the comparative weakness of the rights of Great Britain.

These offers of the United States were based upon the supposition that the parallel of 49 deg. had been established by the treaty of Utrecht, by France and England, as the northern limit of Louisiana; upon which supposition, in the year 1818, the line between Louisiana and the Hudson's Bay Company, on this side of the Rocky mountains, was fixed by the British and American governments. When I came to investigate the subject, eight or nine years ago, in Congress, I discovered, to my surprise, that no evidence existed, in any work of history, or any diplomatic papers, that the line had ever been fixed, in the manner supposed, under the treaty of Utrecht. Following up this doubt, I addressed to the keeper of the archives of France [through the French minister] a note of inquiry on the subject; and his reply, certifying to me that no decision of this line is to be discovered in the French archives, confirmed me in the conviction that the current idea concerning it was erroneous, and that of course the United States were under no obligation to stop at 49 deg. as the northern limit of Louisiana.

This offer of the American government, which has been twice deliberately made, was, in my opinion, extremely liberal, in all views of the case, considering that Great Britain admits that she has no title whatever in Oregon, and that every successive administration of the federal government has maintained and felt that we have a good title to the whole of Oregon. Great Britain on the other hand whilst admitting that she has no title as proprietor to a single acre of the country, yet has the extravagance to pretend that we shall retire to the south of the Columbia, giving to her the absolute command of that great river, the military command of the coast, and indeed of the whole country of Oregon. Such a pretension as this is no compromise, of course, and is wholly inadmissible; and it is not our fault