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EDITOR AND PROPRIETOR.

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THE MUSE'S BOWER.

AN EVENING PRAYER.

Oh, THOU! to whom the shades of night
Are radiant, as the noon-day light—
THOU! who art *Light*—Thyself the stream
Whence light of Sun and Stars doth gleam:
To THEE, I raise my Evening Prayer,
And supplicate THY guardian care.

Oh, THOU! whose word bid chaos yield
The countless worlds which stud the field
Of azure space—which keepeth still
In motion ceaseless--by Thy will—
Those brilliant orbs—deign now to hear
Thy suppliant creatures' evening prayer.

Spurn not, oh GOD, from Mercy's throne
A child, who comes his guilt to own—
But pardon grant, to him who dies,
If this—his prayer—his God denies—
Let me, thy spirit breathing, hear,
"*Son, I forgive—be of good cheer.*"

And FATHER, I've a boon to crave
For one, whom THOU, in mercy, gave
To share with me, my lot in life,
My fondly prized, tho' absent wife—
Be THOU with her, and oh! may she
Be render'd meet to dwell with THEE.

Oh, bless her, with Thy guardian care—
And may our *Child* that blessing share.
Guard both from ill!—within thine arm,
If they're embraced, they're safe from harm—
And may the hope—"We'll meet again,"
With joy, on Earth—not prove in vain.

But oh! if this Thy will denies,
And here below, our mutual eyes
Shall no more gleam with mutual love—
Oh! grant that we may meet *above!*
Redeem'd—in glory—at thy throne,
May I rejoin my WIFE and SON.

From the Cleveland Plaindealer.

The Elopement.

A ROLAND FOR AN OLIVER.

In the items of gossip on the pave is the elopement, ay, a well authenticated elopement, decidedly *racy*, and passably romantic, which came off, or rather *went* off this week.

At Oberlin, a sort of factory where they spin out low-pressure parsons, and dub the girls "*Mistresses of Art*," was our heroine. She was a quadroon from the South; such graces as hers—an olive complexion, the red bursting through the brown—hair black, and long as nights in winter—limbs delicate, and form straight as a sugar cane, and eyes like deep flowing streams—would win *lawyers* any day in upper-crust society, any hour in Oberlin.

Well *Rose* (we must call her so, though by any other name, &c., you know,) had two of them. The first was a colored theologian of the *dark* and mystical brotherhood of divinity students, the pride and boast of the faculty, and *in prospectu*, the *perfection* of preachers. Intellectual, melancholy, blue, broad dickey, long face, spiritual minded. He made love by mathematics, talked Latin, and, as the Hoosier's say, 'laid himself out,' and 'did his prettiest.' The 'most potent, grave and reverend signiors' *backed him*, but Rose didn't fancy the spiritual darkie—he might be 'a nice young man,' 'a *moral* man,' and acquainted with the dead languages'—but, *he couldn't come in.*

Rose loved *another*; her heart, like a young swarm of honey-loving bees settled upon *another* sunflower. That *other* was a *travelled* gentleman of color. He had sunned himself under the Tropics, rambled in Mexico, vagabonded in Texas, and overran all the States of the Union, was a bird of passage, played the guitar like a Spaniard, sung like a Troubadour, talked Spanish, jabbered French, and had the gift of tongues—had had adventures, and moving accidents, and hair-breadth 'scapes—told her tales of his travel's history

> "Wherein of antres vast, and deserts wide
> It was his hint to speak, such was the process;
> And of the Cannibals that each other eat,
> The anthropophagi, and men whose heads
> Do grow *upon* their shoulders."

To which Rose, like Desdemona, did seriously incline. The 'down river songs,' and his parody of 'Oberlin gals, wont ye come out to-night, and dance by the light ob de moon,' finished his work.

But every body knows that the course of true love never did run like a railroad; more like a genuine corduroy turnpike with toll gates every half-a-mile; our here *would* have Rose, but the Faculty and the rivalry, the trouble and all, sent him to Cleveland.

Here he taught music, wrote for the papers, translated Spanish, longed to *translate* Rose out of the Vulgate Oberlin into the very regions of the matrimonial paradise, and he told her so—for he cultivated the *belles-lettres* with her. So they appointed a meeting—our hero is on the spot—just in the 'Superbs' of Oberlin, with one of Gurley's *inside-of-three-minute-nags*, and Rose walks out, jumps into the buggy, and away they whirl towards Cleveland.

But the spiritual young theologue is afte, the *lawyers* in hot haste; he arrived at Cleveland and ransacked the town, but the pair were on their way to Pittsburgh, that Gretna Green of this Buckeye county. 'Night is Cupid's day,' the poet's say.

There was a 'pretty considerable sprinkling' of stars abroad, though not the first shadow of a moon. *Our* hero dashed on towards the Pennsylvania line.

> "He *rode* all night,
> Till broad day light—
> And married that gal in the morning!"

That's the story. The poor disappointed theologue went back to Oberlin with a *dark* cloud on his brow. 'Blessed are the poor in spirits.'

'Jem,' said he, to his classmate, 'Can you tell me, widout your voculberry, why I'se like de man wid de two wooden legs?'

'Giv's it right up, preemptorily, Sam, I can't tell you.'

'Well, said Sam, 'because—as how—*somebody else is standin' in my boots!*'

'Ha, ha! '*sensitive to de last*,' nigga!'

It is very hard to deny a craving appetite, or to subdue a vicious habit; but is it not *harder* to lose everlasting happiness for a momentary indulgence, and, like the wretched Esau, to sell heaven in reversion for a mess of pottage.

A true sportsman will never quail at shooting a quail, nor a milkmaid turn pale at lifting a pail over a pail.

OREGON QUESTION.

CORRESPONDENCE WITH THE DEPARTMENT OF STATE.

(J. B. 2.)

DEPARTMENT OF STATE,
WASHINGTON, Aug. 30, 1845.

The undersigned Secretary of State of the United States, deems it his duty to make some observations in reply to the statement of her Britanic Majesty's envoy extraordinary and minister plenipotentiary, marked R. P., and dated 29th July, 1845.

Preliminary to the discussion, it is necessary to fix our attention upon the precise question under consideration, in the present stage of the negotiation. This question simply is, were the titles of Spain and the United States, when united by the Florida treaty on the 22d of February, 1819, good as against Great Britain, to the Oregon territory as far north as the Russian line, in the latitude of 54 deg. 40 min.? If they were, it will be admitted this this whole territory now belongs to the United States.

The undersigned again remarks that it is not his purpose to repeat the argument by which his predecessor, Mr. Calhoun, has demonstrated the American title "to the entire region drained by the Columbia river and its branches." He will not thus impair its force.

It is contended, on the part of Great Britain that the United States acquired and hold the Spanish title subject to the terms and conditions of the Nootka Sound convention, concluded between Great Britain and Spain, at the Escurial, on the 28th October, 1790.

In opposition to the argument of the undersigned contained in his statement marked J. B., maintaining that this convention had been annulled by the war between Spain and Great Britain, in 1796, and has never since been revived by the parties, the British plenipotentiary, in his statement marked R. P., has taken the following positions:

1. "That when Spain concluded with the United States the treaty of 1819, commonly called the Florida treaty, the convention concluded between the former power and Great Britain in 1790, was considered by the parties to it be all in force."

And 2. "But that, even if no such treaty had ever existed, Great Britain would stand, with reference to a claim to the Oregon territory, in a position at least as favorable as the United States."

The undersigned will follow, step by step, the argument of the British plenipotentiary in support of these propositions.

The British plenipotentiary states "that the treaty of 1790 is not appealed to by the British government, as the American plenipotentiary seems to suppose, as their 'main reliance' in the present discussion," but to show that, by the Florida treaty of 1819, the United States acquired no right to exclusive dominion over any part of the Oregon territory.

The undersigned had believed that ever since 1826, the Nootka convention had been regarded by the British government as their main, if not their only reliance. The very nature and peculiarity of their claim identified it with the construction which they have imposed upon this convention, and necessarily excludes every other basis of title. What, but to accord with this construction, could have caused Messrs. Huskinson and Addington, the British commissioners, in specifying their title, on the 16th December, 1826, to declare "that 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. "By that convention (of Nootka) it was agreed that all parts of the North western coast of America, not already occupied at that time by either of the contracting parties, should thenceforward be equally open to the subjects of both for all purposes of commerce and settlement—the sovereignty remaining in abeyance." But on this subject we are not left to mere inferences, however clear. The British commissioners, in their statement from which the undersigned has just quoted, have virtually abandoned any other title which great Britain may have previously asserted to the territory in dispute, and expressly declare "that whatsover that title may have been, however, either on the part of Great Britain or on the part of Spain, prior to the convention of 1790, it was *thenceforward to be traced no longer in vague narratives of discoveries, several of them admitted to be apocryphal, but in the text and stipulations of that convention itself.*"

And again, in summing up their whole case, they say:

"Admitting that the United States have acquired all the rights which Spain possessed up to the treaty of Florida, either in virtue of discovery, or, as is pretended, in right of Louisiana.—Great Britain maintains that the extent of these rights, as well as the rights of Great Britain, are fixed and defined by the convention of Nootka," &c., &c., &c.,

The undersigned, after a careful examination, can discover nothing in the note of the present British plenipotentiary to Mr. Calhoun, of the 12th September last, to impair the force of these declarations and admissions of his predecessors. On the contrary, its general tone is in perfect accordance with them.

Whatever may be the consequences then, whether for good or for evil—whether to strengthen or to destroy the British claim—it is now too late for the British government to vary their position. If the Nootka convention confers upon them no such rights as they claim, they cannot at this late hour go behind its provisions, and set up claims which in 1826, they admitted had been merged "in the text and stipulations of that convention itself."

The undersigned regrets that the British plenipotentiary has not noticed his exposition of the true construction of the Nootka convention. He had endeavored, and he believes successfully, to prove that this treaty was transient in its very nature; that it conferred upon Great Britain no right but that of merely trading with the Indians whilst the country should remain unsettled, and making the necessary establishments for this purpose; and that it did not interfere with the ultimate sovereignty of Spain over the territory. The British plenipotentiary has not attempted to resist these conclusions. If they be fair and legitimate, then it would not avail Great Britain, even if she should prove the Nootka convention to be still in force. On the contrary, this convention, if the construction placed upon it by the undersigned be correct, contains a clear virtual admission on the part of Great Britain that Spain held the eventual right of sovereignty over the whole disputed territory; and consequently that it now belongs to the United States.

The value of this admission, made in 1790, is the same whether or not the convention continued to exist until the present day. But he is willing to leave this point on the uncontroverted argument contained in his former statement.

But is the Nootka Sound convention still in force? The British plenipotentiary does not contest the clear general principle of public law, "that war terminates all subsisting treaties between the belligerent powers." He contends, however, in the first place, that this convention is partly commercial; and that, so far as it partakes of this character, it was revived by the treaty concluded at Madrid on the 28th August, 1814, which declares "that all the treaties of commerce which subsisted between the two parties (Great Britain and Spain) in 1796, were thereby ratified and confirmed;" and 2d, "that in other respects it must be considered as an acknowledgement of subsisting rights—an admission of certain principles of international law," not to be be revoked by war.

In regard to the first proposition, the undersigned is satisfied to leave the question, rest upon his former argument, as the British plenipotentiary has contented himself with merely asserting the fact, that the commercial portion of the Nootka Sound convention was revived by the treaty of 1814, without even specifying what he considers to be that portion of that convention. If the undersigned had desired to strengthen his former position, he might have repeated with great effect the argument contained in the note of Lord Aberdeen to the Duke of Stotomayor, dated 30th June, 1845, in which his lordship clearly established that all the treaties of commerce subsisting between Great Britain and Spain previous to 1796 were confined to the treaty with Spain alone, and did not embrace her colonies and remote possessions.

The second proposition of the British plenipotentiary deserves greater attention. Does the Nootka Sound convention belong to that class of treaties containing "an acknowledgement of subsisting rights--an admission of certain principles of international law" not to be abrogated by war? Had Spain by this convention acknowledged the right of all nations to make discoveries, plant settlements, and establish colonies, on the North-west coast of America, bringing with them their sovereign jurisdiction, there would have been much force in the argument. But such an admission never was made, and never was intended to be made, by Spain. The Nootka convention is arbitrary and artificial in the highest degree, and is anything rather than the mere acknowledgement of simple and elementary principles consecrated by the law of nations. In all its provisions it is expressly confined to Great Britain and Spain, and acknowledges no right whatever in any third power to interfere with the North-west coast of America. Neither in its terms, nor in its essence, does it contain any acknowledgement of previously subsisting territorial rights in Great Britain, or any other nation. It is strictly confined to future engagements; and these are of a most peculiar character. Even under the construction of its provisions maintained by Great Britain, her claim does not extend to plant colonies; which she would have a right to do under the law of nations, had the country been unappropriated; but it is limited to a mere right of joint occupancy, not in respect to any part, but to the whole, the sovereignty remaining in abeyance? Not separate and distinct colonies, but scattered settlements, intermingled with each other, over the whole surface of the territory, for the single purpose of trading with the Indians, to all of which the subjects of each power should have free access, he right of exclusive dominion remaining suspended. Surely it cannot be successfully contended that such a treaty is "an admission of certain principles of international law," so sacred and so perpetual in their nature as not to be annulled by war. On the contrary, from the character of its provisions, it cannot be supposed for a single moment that it was intended for any purpose but that of a mere temporary arrangement between Great Britain and Spain. The law of nations recognizes no such principles in regard to unappropriated territory as those embraced in this treaty; and the British plenipotentiary must fail in the attempt to prove that it contains "an admission of certain principles of international law" which will survive the shock of war.

But the British plenipotentiary contends that from the silence of Spain during the negotiations of 1818, between Great Britain and the United States respecting the Oregon territory, as well as "from her silence with respect to the continued occupation by the British of their settlements in the Columbia territory, subsequently to the convention of 1814," it may fairly "be inferred that Spain considered the stipulations of the Nootka convention, and the principles therein laid down, to be still in force."

The undersigned cannot imagine a case where the obligations of a treaty, once extinguished by war, can be revived without a positive agreement to this effect between the parties.—Even if both parties, after the conclusion of peace, should perform positive and unequivocal acts in accordance with its provisions, these must be construed as merely voluntary, to be discontinued by either at pleasure. But in the present case it is not even pretended that Spain performed any act in accordance with the Convention of Nootka Sound, after her treaty with Great Britain of 1814. Her mere silence is relied upon to revive that Convention.

The undersigned asserts confidently that neither by public nor private law will the mere silence of one party, whilst another is encroaching upon his rights, even if he had knowledge of this encroachment, deprive him of those rights. If this principle be correct, as applied to individuals, it holds with much greater force in regard to nations. The feeble may not be in a condition to complain against the powerful; and thus the encroachment of the strong would convert itself into a perfect tide against the weak.

In the present case, it was scarcely possible for Spain even to have learned the pendency of negotiations between the United States and Great Britain, in relation to the north-west coast of America, before she had ceded all her rights on that coast to the former by the Florida treaty of 22d February, 1819. The convention of joint occupation between the United States and Great Britain was not signed at London until the 20th October, 1818—but four months previous to the date of the Florida treaty; and the ratifications were not exchanged, and the convention published, until the 30th of January, 1819.

Besides, the negotiations which terminated in the Florida treaty had been commenced as early as December, 1815, and were in full progress on the 20th October, 1818, when the convention was signed between Great Britain and the United States. It does not appear, therefore, that Spain had any knowledge of the existence of these negotiations; and even if this were otherwise, she would have no motive to complain, as she was in the very act of transferring all her rights to the United States.

But, says the British plenipotentiary, Spain looked in silence on the continued occupation by the British of the settlement in the Columbia territory subsequently to the convention of 1814; and, therefore, she considered the Nootka Sound convention to be still in force. The period of this silence, so far as it could affect Spain, commenced on the 28th day of August, 1814, the date of the additional articles to the treaty of Madrid, and terminated on the 22d February, 1819, the date of the Florida treaty. Is there the least reason from this silence to infer an admission by Spain of the continued existence of the Nootka Sound convention? In the first place, this convention was entirely confined 'to landing on the coasts of those seas, in places not already occupied, for the purpose of carrying on their commerce with the natives of the country, or of making settlements there.' It did not extend to the interior. At the date of this convention, no person deemed that British traders from Canada or Hudson's Bay would cross the Rocky Mountains and encroach on the rights of Spain from that quarter. Great Britain had never made any settlement on the north-western coast of America from the date of the Nootka Sound convention, until the 22d February, 1819; nor, so far as the undersigned is informed, has she done so down to the present moment.

Spain could not, therefore, have complained of any such settlement. In regard to the encroachments which had been made from the interior by the North-west Company, neither Spain nor the rest of the world had any specific knowledge of their existence. But even if the British plenipotentiary had brought such knowledge home to her—which he has not attempted—she had been exhausted by one long and bloody war, and was then engaged in another with her colonies; and was, besides, negotiating for the transfer of all her rights on the north-west coast of America to the United States. Surely these were sufficient reasons for her silence, without inferring that she acquiesced in the continued existence of the Nootka convention. If Spain had entertained the least idea that the Nootka convention was still in force, her good faith and her national honor would have caused her to communicate this fact to the United States before she had ceded this territory to them for an ample consideration. Not the least intimation of this kind was ever communicated.

Like Great Britain in 1818, Spain in 1819 had no idea that the Nootka Sound Convention was in force. It had passed away and was forgotten.

The British plenipotentiary alleges, that the reason why Great Britain did not assert the existence of the Nootka Convention during the negotiation between the two governments in 1818, was, that no occasion had arisen for its interposition, the American government then not having acquired the title of Spain. It is very true that the United States had not then acquired the Spanish title; but is it possible to imagine, that throughout the whole negotiation, the British commissioners, had they supposed this convention to have been in existence, would have remained entirely silent in regard to a treaty which, as Great Britain now alleges, gave her equal and co-ordinate rights with Spain to the whole north-west coast of America? At that period Great Britain confined her claims to those of discovery and purchase from the Indians. How vastly she could have strengthened these claims, had she then supposed the Nootka convention to be in force, with her present construction of its provisions. Even in 1824 it was first introduced into the negotiation, not by her commissioners, but by Mr. Rush, the American plenipotentiary.

But the British plenipotentiary argues, that 'the United States can found no claim on discovery, exploration and settlement effected previously to the Florida treaty, without admitting the principles of the Nootka convention;' 'nor can they appeal to any exclusive right acquired by the Florida treaty, without upsetting all claims adduced in their own proper right, by reason of discovery, exploration, and settlement antecedent to that arrangement.

This is a most ingenious method of making two distinct and independent titles held by the same nation worse than one—of arraying them against each other, and thus destroying the validity of both. Does he forget that the United States own both these titles, and can wield them either separately or conjointly against the claim of Great Britain at their pleasure? From the course of his remarks, it might be supposed that Great Britain, and not the United States, had acquired the Spanish title under the Florida treaty. But Great Britain is a third party—an entire stranger to both these titles—and has no right whatever to marshal the one against the other.

By what authority can Great Britain interfere in this manner? Was it ever imagined in any court of justice that the acquisition of a new title destroyed the old one: and *vice versa*, that the purchase of the old title destroyed the new one? In a question of mere private right, it would be considered absurd, if a stranger to both titles should say to the party who had made a settlement, you shall not avail yourself of your possession, because this was taken in violation of another outstanding title: and although I must admit that you have acquired this outstanding title, yet even this avails you nothing, because, having taken possession previously to your purchase, you thereby evinced that you did not regard such title as valid. And yet such is the mode by which the British Plenipotentiary has attempted to destroy both the American and Spanish titles. On the contrary, in the case mentioned, the possession and the outstanding title being united in the same individual, these conjoined would be as perfect as if both had been vested in him from the beginning.

The undersigned, whilst strongly asserting both these titles, and believing each of them separately to be good as against Great Britain, has studiously avoided instituting any comparison between them. But admitting for the sake of argument merely, that the discovery by Captain Gray of the mouth of the Columbia, its exploration by Lewis & Clarke, and the settlements on its banks at Astoria, were encroachments on Spain, she, and she alone, had a right to complain. Great Britain was a third party; and, as such, had no right to interfere in the question between Spain and the United States. But Spain, instead of complaining of these acts as encroachments, on the 22d February, 1819, by the Florida treaty, transferred the whole to the United States. From that moment all possible conflict between the two titles was ended, both being united in the same party. Two titles which might have conflicted therefore, were thus blended together. The title now vested in the United States is just as strong as though every act of discovery exploration, and settlement on the part of both powers had been performed by Spain alone, before she had transferred all her rights to the United States. The two powers are one in this respect; the two titles are one; and, as the undersigned will show hereafter, they serve to confirm and strengthen each other. If Great Britain, instead of the United States, had acquired the title of Spain, she might have contended that those acts of the United States were encroachments, but, standing in the attitude of a stranger to both titles, she has no right to interfere in the matter.

The undersigned deems it unnecessary to pursue this branch of the subject further than to state, that the United States, before they had acquired the title of Spain, always treated that title with respect. In the negotiation of 1818, the American plenipotentiaries did not assert that the United States had a perfect right to that country; but insisted that their claim was at least as good as that of Great Britain,' and the convention of October 20, 1818, unlike that of Nootka Sound, reserved the claims of any other power or State to any part of the said country. This reservation could have been intended but for Spain alone. But, ever since the United States acquired the Spanish title, they have always asserted and maintained their right in the strongest terms up to the Russian possessions, even whilst offering, for the sake of harmony and peace, to divide the territory in dispute by the 49th parallel of latitude.

The British plenipotentiary, then, has entirely failed to sustain his position, that the United States can found no claim on discovery, exploration and settlement, without admitting the principles of the Nootka convention. That convention died on the commencement of the war between Spain and England, in 1796, and has never since been revived.

The British plenipotentiary next 'endeavors to prove that, even if the Nootka Sound Convention had never existed, the position of Great Britain in regard to her claim, whether in regard to the whole or to any particular portion of the Oregon territory, is at least as good as that of the United States.' In order to establish this position, he must show that the British claim is equal in validity to the titles of both Spain and the United States. These can never now be separated.—They are one and the same. Different and diverging as they may have been before the Florida treaty, they are now blended together and identified. The separate discoveries, explorations and settlements of the two powers previous to that date must now be considered as if they had all been made by the United States alone. Under this palpable view of the subject, the undersigned was surprised to find that in the comparison and contrast instituted by the British plenipotentiary between the claim of Great Britain and that of the United States, he had entirely omitted to refer to the discoveries, explorations and settlements made by Spain. The undersigned will endeavor to supply the omission.

But before he proceeds to the main argument on this point, he feels himself constrained to express his surprise that the British plenipotentiary should again have invoked in support of the British title the inconsistency between the Spanish and American branches of the title of the United States. The undersigned cannot forbear to congratulate himself upon the fact, that a gentleman of Mr. Pakenham's acknowledged ability has been reduced to the necessity of relying chiefly upon such a support for sustaining the British pretensions. Stated in brief, the argument is this: the American title is not good against Great Britain, because inconsistent with that of Spain; and the Spanish title is not good against Great Britain, because inconsistent with that of the United States. The undersigned had experienced something far different from such an argument in a circle. He had anticipated that the British plenipotentiary would have attempted to prove that Spain had no right to the north-western coast of America; that it was vacant and unappropriated: and hence, under the law of nations, was open to discovery, exploration, and settlement by all nations. But no such thing. On this vital point of his case, he rests his argument solely on the declaration made by the undersigned, that the title of the United States to the valley of the Columbia was perfect and complete before the treaty of joint occupation of October, 1818, and August, 1827, and before the date of the Florida treaty, in 1819. But the British plenipotentiary ought to recollect that this title was asserted to be complete not against Spain, but against Great Britain; that the argument was conducted not against a Spanish, but a British plenipotentiary; and that the United States, and not Great Britain, represent the Spanish title.—And, further, that the statement from which he extracts these declarations was almost exclusively devoted to prove, in the language quoted by the British plenipotentiary himself, that 'Spain had a good title, as against Great Britain, to the whole of the Oregon territory.' The undersigned has never, as he before observed, instituted any comparison between the American and the Spanish titles. Holding both—having a perfect right to rely upon both, whether jointly or