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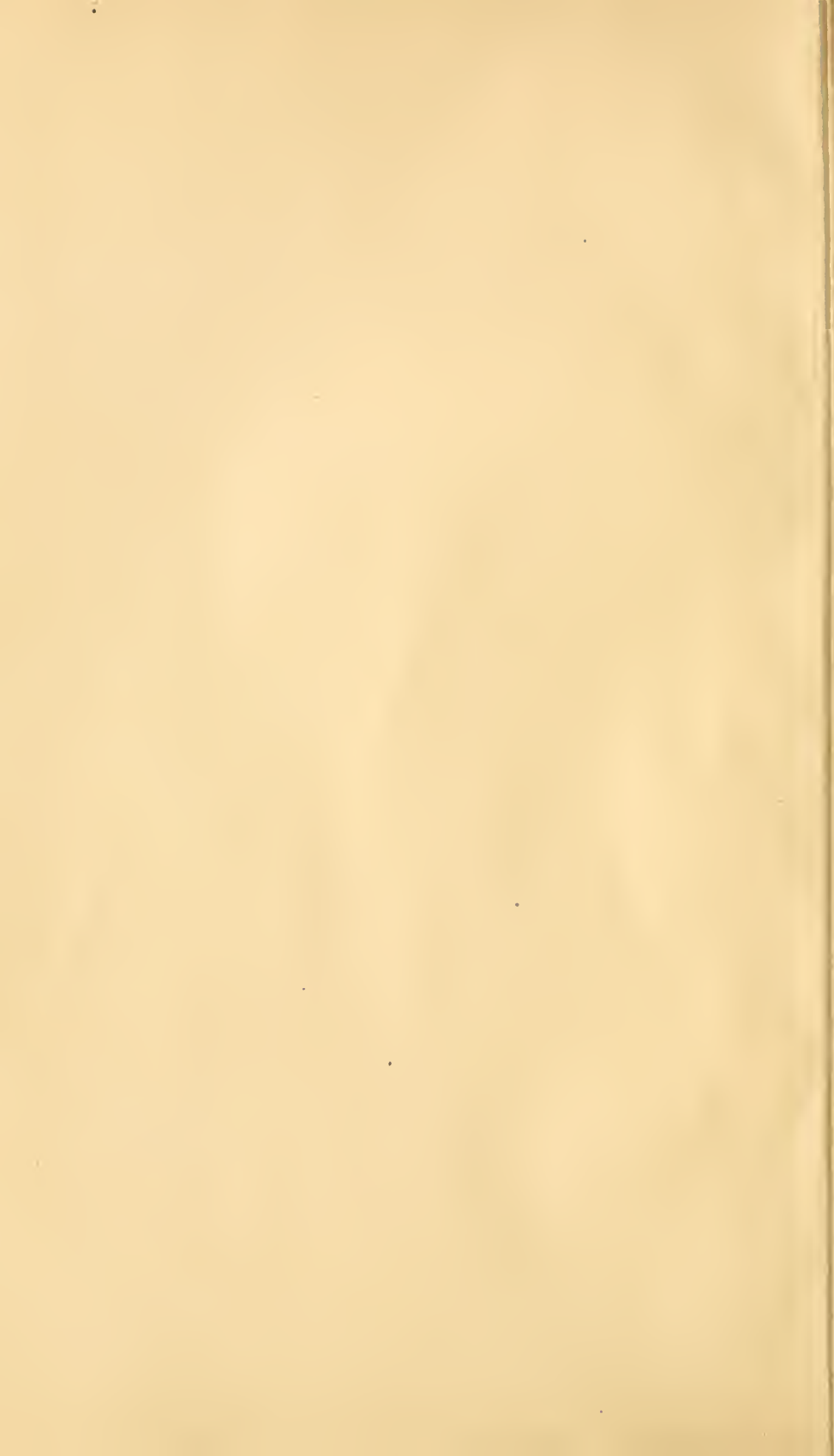




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SPEECH

OF

HON. LEWIS CASS, OF MICHIGAN,

IN REPLY TO

MR. BENTON, OF MISSOURI,

WITH SOME ADDITIONS.

DELIVERED

IN THE SENATE OF THE UNITED STATES, THURSDAY, APRIL 2, 1846.

Mr. ASHLEY said that he was yesterday entitled to the floor; but had yielded to the Senator from Missouri, [Mr. BENTON,] who spoke at such length as to preclude him (Mr. A.) from addressing the Senate. The Senator from Michigan [Mr. Cass] was now in his seat, and as he was on parole, it was to be supposed he was desirous of responding to the Senator from Missouri. He (Mr. A.) therefore very willingly again waived his right, and gave way to the Senator from Michigan.

Mr. CASS then rose and said:

Mr. President: I am much obliged to my friend from Arkansas, [Mr. ASHLEY,] for his kindness in yielding to me the floor upon this occasion. He is right in supposing it is necessary, from the position in which the honorable Senator from Missouri, by his remarks of yesterday, placed me. Before, however, proceeding further, I must return my thanks to my friend from Indiana, [Mr. HANNEGAN,] for what he said of me, and for me, while I was absent. I am still more obliged to him, however, for the sake of the common object which he and I, and others of us, have in view, than even for my own sake. I learn, and I learn it without any surprise, that his vindication was masterly and eloquent. I can well believe it, sir, from the many proofs, which he has given us during the session of his powers of oratory, and especially from the positions he has taken and supported in the Oregon controversy.

Mr. President, I have come here this morning to set myself free. Twice in my life I have been captured by enemies—once fighting against British pretensions in war, and again fighting against British pretensions in peace. My country redeemed me in the former case—I come to redeem myself in the latter. I say enemies, but I trust the term is only metaphorically applicable. There is nothing in the former relations between the honorable Senator from Missouri and myself, nothing in our present position, which should make us enemies. On the contrary, a long personal friendship has exist-

ed between us, which I did not suppose was surrendered. If, however, it is otherwise, I must bear it as I may. I have borne greater calamities than even the hostility of the honorable gentleman from Missouri.

I came here, sir, as I said before, to redeem myself; and I mean to do it: to do it by correcting a misapprehension,—by speaking the truth.

"He is the freeman, whom the truth makes free:
All else are slaves beside."

I will not speak in the triumphant tone, which pervades the speech of the honorable Senator from Missouri. It is not my habit. "Let not him that girdeth on his harness, boast himself, as he that putteth it off." Let no man boast till the victory is won. And especially, let him not boast while his adversary is absent. What the Senator said presents subjects enough for animadversion, but the manner in which he said it was still more unacceptable. I am ignorant of any circumstances, in our relative situations, which could justify it; still, I repeat, that I mean to vindicate myself, and that, too, to the entire satisfaction of every man within the sound of my voice.

Mr. HANNEGAN. Every impartial man.

Mr. CASS. No, Mr. President: I will not accept the qualification suggested by my friend from Indiana. If my vindication is not satisfactory to every man, partial or impartial, I will agree to be tied to the chariot wheels of the honorable Senator from Missouri, and to fight the battles of '49; and I hardly know two more severe punishments, that could be inflicted upon me.

The honorable Senator says that I came here the other day to make a studied speech on the subject of Oregon. I did so, sir; and he overrates his own powers, and underrates the mental qualities of the members of this body, who comes here to give his opinions upon a great national subject without due preparation. I shall not commit that folly; and I have too much regard for the intelli-

In witness whereof,

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gence and experience of the honorable Senator to believe that he would. I presume that his thoughts are fully prepared upon every grave topic, on which he presents his views to this body. But, however it may have been before, I have not had much time for preparation now, for I was not in my seat yesterday when the honorable Senator made his attack; and of course I could not know, except from rumor, what he said till this morning.

Now, sir, what is the subject in controversy between the honorable Senator and myself? He says that I am committed, by my own declaration, to go for 49, if it is shown that commissioners were appointed under the treaty of Utrecht to establish that parallel as a boundary. This assertion is the whole foundation of his argument, upon which the whole superstructure rests. If the one falls, the other falls with it. Now, sir, I not only never said so, but the idea never occurred to me; I never thought of it. And the honorable gentleman has wholly misunderstood me, either through my fault or his own.

He has erected a fortification for me, and battered it down with his own cannon. I choose to be shut up in my own defensive works only. If these are carried by siege or by storm, then I will surrender. But let me be my own engineer.

My position was this, sir. Many of the members upon this floor contend that the parallel of 49° is the northern boundary of our claim in Oregon. Some directly so; and others, because it was assumed to be such by our Government in the early period of our controversy on this subject with England. To us, therefore, who believe that our claim in Oregon goes to 54° 40', it was essential to show there was an error on this subject; that the treaty of Utrecht never extended to the country west of the Rocky Mountains.

Mr. Greenhow, in his work on Oregon, had examined this question, and had endeavored to show that no commissioners, under the treaty of Utrecht, had ever established any boundary between the French and English possessions on this continent. So far as respects the general proposition, it is a mere question of historical authenticity, not having the slightest practical bearing upon our title to Oregon. Because, before our title to Oregon could be affected, it must be shown, that that line, if established at all, must extend west of the Rocky Mountains.

Mr. Greenhow, in his work, enters into the question, and I referred to his book as one entitled to talent, industry, and caution; and I requested gentlemen, who had doubts on this subject to turn to that work, and I thought they would satisfy themselves, that no such line had been established. I did not vouch for the facts or conclusions. I never examined the general subject in its extent. I stated, however, that the result of his discussion upon my mind was, that such a line had not been run. I am still under that impression, sir, and nothing that was said yesterday has shaken its strength. Still, I do not hold myself at all responsible for Mr. Greenhow's accuracy. I should investigate the subject with far more care than I have done, if I were to be held responsible for deductions resting upon any other man's assertions.

The Senator from Missouri says he comes here not to settle a point, which can at all influence the

action of this body, or have the slightest effect upon the termination of our controversy with England. He says he "makes no application of this fact," referring to his proof that the parallel of 49 was established somewhere by the treaty of Utrecht. He says: "I draw no argument from it. I do not apply it to the question of title. I am not arguing title, and will not do it; but I am vindicating history, assailed in a vital point by the book which has been quoted and endorsed. I am vindicating the intelligence of the American Senate, exposed to contempt in the eyes of Europe, by a supposed ignorance of a treaty which is one of the great political landmarks in Europe and America," &c.

The Senator will pardon me for saying that this seems to me very much of a tempest in a teapot. What does he profess to vindicate before the Senate of the United States? Not the rights of the country, but the alleged truth of an historical fact, misrepresented by Mr. Greenhow, and vouched for, as the Senator thinks, by me. Now, sir, it seems to me, that this solemn trial, before such a court as this, is hardly justified by the nature of the accusation. Here is an historical error. Be it so. Nobody contends that it affects our interests or our honor in the remotest degree; no more so than the parentage of Romulus and Remus. This is not a lecture room. We are neither professors nor students, assembled here to discuss the truth or falsehood of historical statements, which have no relation to our duties. And it seems to me, also, that Europe will know little, and care less, respecting this grave controversy, now *sub judice*, before this high tribunal. I doubt if its fame reaches there. I rather imagine, that, in that quarter of the globe, there are other, if not graver, subjects to engage the attention of both Governments and people, than historic doubts, involving Mr. Greenhow's accuracy and my credibility.

Still, sir, as this question is thus brought before us, I shall proceed to give a brief synopsis of it, and leave honorable Senators to judge for themselves. The Senator from Missouri has brought forward three principal facts, to prove that the parallel of 49 was established by commissioners under the treaty of Utrecht. The first is a despatch from Mr. Madison to Mr. Monroe; the second, a statement submitted by Mr. Monroe to Lord Harrowby; the third—I put them together, for the honorable gentleman has joined them—Postlethwayt's Dictionary and D'Anville's maps.

Before proceeding further, sir, I beg to remark, that the honorable Senator, in quite a taunting tone, contrasts my investigation of this matter with his own. He goes to the fountain-head, the authentic documents, and there finds the truth; while I go to the turbid stream, and am thence "led astray," and thus have wandered into the enemy's camp, and have become a prisoner. And what are those authentic documents which the honorable Senator has sought and found, and pored over with the midnight lamp, to educe the truth? Why, Postlethwayt's Commercial Dictionary, containing a map! This is all, literally all!—a work long since referred to by Mr. Greenhow in his book, and examined by him.

Now, sir, the first reflection which strikes a man is this, that if this line were thus established, the

proof of it might have been got forty years ago from the archives of Paris or London. That would be positive and undeniable evidence, and all short of it is inconclusive, and such as no tribunal of justice would receive as final.

Before any man assumes the existence of such a line as a barrier to his country's claims he ought to prove it, not by loose deductions from loose historical notices, but by an authentic copy of the act of the commissioners.

But what says Mr. Madison? The honorable Senator from Missouri says, "the fact of commissioners having acted, was assumed for certain." The language of Mr. Madison reads far otherwise to me. As I stated the other day, he speaks doubtfully upon the subject; and I repeat the assertion, notwithstanding the contrary avowal of the Senator from Missouri. "*There is reason to believe,*" said Mr. Madison to Monroe, "that the boundary between Louisiana and the British territories north of it was actually fixed by commissaries appointed under the treaty of Utrecht."

He then adds, that he sends a paper, containing the authority respecting this alleged decision; but he adds cautiously: "*But you will perceive the necessity of recurring to the proceedings of the commissaries as the source of authentic information.*" These "are not within our reach here, and it must be left to your own researches and judgment to determine the proper use to be made of them." If this is certainty, I should like to know what uncertainty is. The honorable Senator regrets, that I had not looked into the original documents, instead of depending on Greenhow, and thus becoming "his dupe and his victim"—not very courteous words these, by-the-by—and that if I had done so, I would not have said that Mr. Monroe had not added anything to Mr. Madison's statement, and had left the question as doubtful as he had found it. "In point of fact," says the Senator, "Mr. Monroe added the particulars, of which Mr. Madison declared his ignorance—added the beginning, the courses and the ending of the line, and stated the whole with the precision of a man, who had taken his information from the proceedings of the commissioners."

This is to me a strange view of the matter, sir. I cannot find that Mr. Madison refers to any particulars. He certainly does not use the word. It is the authenticity of the notice, enclosed by him, which he desires Mr. Monroe to ascertain. What the particulars were, contained in the notice, we do not know, as the paper itself cannot be found. That notice, as I shall show, or rather Greenhow has shown, there is every reason to believe, was an extract from Douglas's History of America.

Before I proceed to examine these particulars, I may be allowed to remark, that Mr. Madison doubted with precisely the same facts, which we have before us—the map and book referred to by the honorable gentleman. And to this day, not one single circumstance has been added, which could remove those doubts. Where, then, that illustrious man felt uncertainty, I may be permitted to feel a greater degree of it, in consequence of the direct and circumstantial evidence since discovered, leading to the presumption, that no such line was established. But I repeat, sir, that in this investigation I do not profess to come to any absolute conclusion. It is a subject, on which men

may differ. The result of my examination impresses me with the conviction, that no such line was established. Mr. Monroe presented a memoir to Lord Harrowby, the Secretary of State, and I will now quote from the gentleman's speech that part of it, upon which he dwells, as showing "the beginning, courses, and end of the line, &c., with the precision of a man, who had taken his information from the proceedings of the commissioners." I will quote, also, the statement of Douglas, the historian of North America; and no doubt can exist on the mind of any man, that Mr. Monroe resorted to that authority for his statement, and not to the original archives:

"Commissaries were accordingly appointed by each Power, who executed the stipulations of the treaty in establishing the boundaries proposed by it." "They fixed the northern boundary of Canada and Louisiana by a line beginning in the Atlantic, at a cape or promontory in 58° 30' north latitude, thence, further south-west, to the latitude of 49° north, from the equator, and along that line indefinitely." Douglas says, page 7: "By the treaty, however, the Canada, or French line, with the stipulations of the treaty in Great Britain, was ascertained from a certain promontory upon the Atlantic ocean in 58° 30' of north latitude, to run south-west to Lake Mississin, thence, further south-west, to the 49th degree, and from thence due west indefinitely."

Now, sir, the honorable Senator from Missouri says that Mr. Monroe must have taken his information from the proceedings of the commissaries. No man can doubt but that Mr. Monroe quoted from Douglas's book. The language is so nearly identical as to render such a coincidence impossible, if it were accidental.

The suggestion that Mr. Monroe went to the archives to procure the particulars, of which "Mr. Madison had declared his ignorance," but of which declaration I cannot find a trace, seems to me very extraordinary, when we advert to Mr. Monroe's report. The proceedings in such a case as this, establishing a boundary between two great nations, extending over so large a portion of the surface of the globe, were never recorded in the language of Mr. Monroe. Who were the commissioners? Where did they sit? What was the date of their action? Where was the confirmation of their award by their Governments? What, in fact, were the points indicated? "Beginning in the Atlantic, at a cape or promontory in 58° 30' north latitude!" A cape or promontory not named, but to be ascertained by its latitude! And if the latitude were not correctly stated, what then? Suppose where that parallel struck the Atlantic, there was no cape or promontory? And would any commissioners assume such an absolute knowledge of the topography of a remote and barren coast, as to make that fact the basis of their whole action! Valid, if it were so; invalid, if it were not.

But this loose language is not confined to the place of commencement. After leaving this "cape or promontory," this *terra incognita*, the line is to run south-westwardly to Lake Mississin, an indefinite course, as will be seen, and not rendered definite by indicating what part of the lake it was to strike.

No reasonable doubt can exist, but that as Mr. Monroe employed the language of Douglas, he took the statement from that historian.

Mr. Monroe, however, presented the fact to

Lord Harrowby, and it was not contradicted by him, so far as we know.

From this negative circumstance the gentleman from Missouri draws the important conclusion, that the fact must have been so. I shall not enter into this matter, as it is not at all important.

Mr. Monroe stated a fact, that had occurred, if it occurred at all, a century before. It had in reality little, if any, bearing upon the subject he was urging, which was the right of the United States to "possess the territory lying between the lakes and the Mississippi, south of the parallel of the 49th degree of latitude."

It was to the treaty of 1783, that he was referring, and to Mitchell's map, by which it was formed. He adverts to the treaty of Utrecht by saying that "by running due west from the northwestern point of the Lake of the Woods to the Mississippi, according to the treaty of 1783, it must have been intended, according to the lights before them, to take the parallel of the 49th degree of latitude, as established under the treaty of Utrecht."

Now, sir, it might well be that Lord Harrowby never considered it necessary to look into this alleged fact, as it had no real bearing on the subject, being alluded to merely as giving reasons, which may have influenced the commissioners in fixing the boundaries of 1783.

Most certainly his silence, under such circumstances, furnishes no solid proof—scarcely, I may say, a light presumption—in favor of this parallel of 49°.

The next proof of the establishment of this line given by the Senator was Postlethwayt's Commercial Dictionary, with D'Anville's map. There is no quotation from the dictionary, and the matter, therefore, rests on the map alone.

The Senator then pointed out the line established under the treaty of Utrecht, and read the account of it as given in a note on the upper left-hand corner of the map. The description was in these words:

"The line that parts French Canada from British Canada was settled by commissaries after the peace of Utrecht, making a course from Davis's Inlet, on the Atlantic sea, down to the 49th degree, through the Lake Abitibis, to the Northwest Ocean; therefore Mr. D'Anville's dotted line east of James's Bay is false."

The Senator then states that this map was "made by D'Anville, the great French geographer of his age, and dedicated to the Duke of Orleans," &c., &c.; and he adds, it is the "authentic French testimony in favor of the line of Utrecht."

Now, sir, it is not a little curious, that this map, thus authoritatively pronounced to be authentic, is upon the very face of it stated to be false in one important particular. What, then, becomes of the correctness of the assertion of the honorable Senator, and of the certainty of this testimony?

If wrong in one respect, it may be so in others, and at any rate our faith in its pretensions is entirely shaken. But I do not understand by whom this note was written: evidently not by D'Anville, for it impugns his own work. We have not, therefore, D'Anville's authority for this line, as being established under the treaty of Utrecht. He marks the line upon his map, but whence his authority for it is left to conjecture.*

* Such were the results suggested to me at the moment, naturally arising from the circumstances. Taking the map

One other point, sir. The honorable Senator states, that in an attempted negotiation with the British Government, during Mr. Jefferson's Administration, two articles were proposed—one by the American commissioners, and one by the British—for the establishment of a boundary between our country and Canada, from the northwestern point of the Lake of the Woods. The articles are substantially the same, but with the difference which an examination of them will show.

The American *projet* provided:

"That a line drawn due north or south (as the case may require) from the northwestern point of the Lake of the Woods, until it shall intersect the 49th parallel of north latitude, and with the said parallel shall be the southern boundary of his Majesty's territories, and the northern boundary of the said territories of the United States."

The British *projet*, after providing for the running of a line north or south, as might be, from the northwestern point of the Lake of the Woods to the parallel of 49°, provides that the "said parallel shall be the dividing line between his Majesty's territories and those of the United States to the westward of the said lake, as far as their respective territories extend in that quarter; and that the said line shall to that extent form the southern boundary of his Majesty's said territories, and the northern boundary of the said territories of the United States."

Each of these *projets* contains the same proviso, "That nothing in the present article shall be construed to extend to the northwest coast of America, or to the territories belonging to, or claimed by, either party on the continent of America west of the Stony Mountains."

The Senator exclaimed triumphantly, "Here is concurrence in the proceedings of commissaries under the treaty of Utrecht." "Here is submission to that treaty on the part of the British," &c.

In the first place, sir, allow me to remark that this was a mere *projet*, and that no treaty was made

to be D'Anville's, as I understood the honorable Senator from Missouri to state, I could not comprehend by whom it was discredited; as surely the French geographer would not have impugned his own work. From the existence of an acknowledged error, I deduced the conclusion that the map was not entitled to be considered "as the authentic French testimony in favor of the treaty of Utrecht."

What, however, I did not understand then, I understand now. In conversation with Colonel Benton since, he has informed me that this map is not the original work of D'Anville, but an English edition of it, by Bolton, with alterations.

This fact, of course, destroys the entire value of the map as authentic testimony. Bolton, in the above note, does not state that the parallel of 49° as a boundary was marked upon D'Anville's map. This English edition was published in London in 1752, as *greatly improved by John Bolton*. Mr. Greenhow, who has examined D'Anville's original work, states, in an article published in the Union, April 3, 1846, that neither the parallel of 49° as a boundary between Canada and the Hudson's Bay territories, nor any other line passing through the same portion of the continent, is to be found on the real map of D'Anville.

He states that the French geographer upon his map carried the boundary of the French and British possessions to the dividing land between the waters of the ocean and those of the lakes and of the Mississippi; giving to France the whole country west of the mountains, including that situated upon the Alabama and its tributaries. He says Bolton improved upon this boundary, by carrying the British line to the 49th parallel; and if so, then what becomes of this "authentic French testimony, in favor of the line of Utrecht—that line upon which the Senator from Michigan has staked the reversal of his Oregon position?"

on the subject till eleven years afterwards, in 1818. Now, what is meant by "concurrence" here? If accidental coincidence, the matter is not worthy of further inquiry. But if by "concurrence" is meant that this line was actually established by the treaty of Utrecht, and thus binding on the parties, no other convention was necessary. Both nations, upon this assumption, mistook their own rights and their duties. The boundary had been established a century before, and they were carrying on a useless and barren negotiation, which was thus blindly and unnecessarily ripened into a treaty in 1718. But, sir, the Senator proceeds to ask what Mr. Jefferson did with this *projet*, and adds, that he rejected it. And why, sir? The letter from Mr. Madison to Messrs. Monroe and Pinkney, dated July 30, 1807, states:

"The modification of the fifth article (noted as one which the British commissioners would have agreed to) may be admitted in case that proposed by you to them be not attainable. But it is much to be wished and pressed, though not made an ultimatum, that the *proviso* to both should be omitted. This is, in no view whatever, necessary, and can have little other effect than as an offensive intimation to Spain that our claims extend to the Pacific ocean. However reasonable such claims may be, compared with those of others, it is impolitic, especially at the present moment, to strengthen Spanish jealousies of the United States, which it is probably an object with Great Britain to excite by the clause in question."

Now, sir, Mr. Jefferson's object was not to offend Spain, and therefore he rejects a proviso, which expressly limits our claim to the Rocky Mountains, in order not to excite the jealousy of a most jealous nation, by even the appearance of interfering with her rights; and yet the honorable Senator supposes that this very treaty, without the proviso, was to run to the Pacific, claiming for us and England the whole country. And which would excite the jealousy of Spain most? To say expressly the American Government will make no arrangement with that of England for pushing the American title west of the Rocky Mountains, or to form a treaty actually carrying this claim there without regard to Spanish rights? It is obvious to me, that Mr. Jefferson did not believe in the English title west of the Rocky Mountains as far as the Pacific; and, therefore, making a treaty with that Power for the establishment of a boundary between her and the United States would not justly give offence to Spain, as it would not call in question Spanish rights.

The honorable gentleman has not said one word of Mr. Jefferson, in which I do not heartily concur. An abler or a purer statesman is rarely to be found in history. Time, which tries the fame of all men, and reduces the fame of most men, is rendering his brighter and brighter; and we have scarcely a name in history—certainly but one—which is more revered by the American people, as that of a pure patriot and a consummate statesman. The honorable Senator will please to recollect, that this *projet* of Mr. Jefferson, under any circumstances, proves nothing, because—

1. It was never carried into effect;
2. It was before the Florida treaty, by which we acquired the Spanish title;

3. It was formed under the impression, now shown to be an erroneous one, that the parallel of 49° had been established, under the treaty of Utrecht, as the northern boundary of Louisiana, extending to the Rocky Mountains.

But after all, our rights remain as they were; and the opinions of such able and honest men as Mr. Jefferson, Mr. Madison, and Mr. Monroe, whatever those opinions may have been, though entitled to very grave consideration, still leave the Government perfectly free and unembarrassed by a *projet* proposed by them, but finally abandoned. Though, upon the assumption that the northern boundary of Louisiana was fixed by commissaries under the parallel of 49°, I cannot understand why the parties negotiated at all; and though I see no evidence, that the line proposed was intended as the recognition of an English title west of the Rocky Mountains, to the exclusion of Spain, but the contrary; yet I have such an abiding confidence in each of those statesmen, that I am fully satisfied the apparent facts within their reach justified their course, whatever that was intended to be.

But, sir, what are the circumstances which render doubtful—I might say discredit—the establishment of this parallel of 49° under the treaty of Utrecht? I will refer here to a portion of an article published in the Union, February 24, 1846, and written by Mr. Greenhow:

"On the other hand, Mitchell's large map of America, published in 1755, under the patronage of the Colonial Department of Great Britain, which was consulted and adopted as authority by the British and American Plenipotentiaries in regulating the limits of the United States, in the treaty of 1783, presents a line drawn along the highlands separating the waters flowing into Hudson's Bay from those of the St. Lawrence and the lakes, as the boundary of Hudson's Bay by the treaty of Utrecht; and the same line appears on the map of America, in Smollett's History of England, published in 1760; on that of Bennett, in 1770; on that of Faden in 1777; and on some other maps of that time.

"In contradiction of all these opinions, no line of separation whatsoever between the Hudson's Bay territories and the French possessions, is to be found on the large and beautiful map of America, by Popple, published in 1738, (also under the patronage of the Colonial Department,) and bearing the certificate of Dr. Halley to its correctness; nor on any map in the Atlas of Maxwell and Senex, published in 1721; in Boyer's Political State, 1721; in the History of Hudson's Bay by Dobbs, the Governor of that territory, 1744; in the Histoire de la Nouvelle France, by Charlevoix, 1744; in the System of Geography, by Bowen, 1747; in the American Traveller, 1763; in the American Atlas, by Jeffries, 1778; in the History of the French Dominions in America, by Jeffries, 1760; nor in the Map of America, from the materials by Governor Pownall, in 1794; nor is there any allusion to such a line in the works to which these maps are attached, or in any other work or map of reputation published during the last century, save those above mentioned.

"None of the works above-mentioned are authorities on the subject, proceeding, as they all do,

‘ from persons unconnected with the transactions of the Utrecht treaty, and possessing no better means, so far as known, of information respecting them than other people; they, indeed, only show that the boundary was supposed by some persons to have been so settled at the time when they were written.

‘ Of the works, which may be considered as authorities, the following, comprising, it is believed, all in which a record or notice of such a transaction, if it had taken place, should be found, are entirely silent with regard to any decision or other act of commissaries appointed under the treaty of Utrecht, to settle the line of separation between the Hudson Bay territories and the French possessions, viz: the Collections of Treaties by Dumont, Boyer, Martens, Jenkinson, Herstlet, and others; Actes, Mémoires, &c., concernant la Paix d’Utrecht, 1716, and Actes, Négociations, &c., depuis la Paix d’Utrecht, 1745, two voluminous works, containing, it may be supposed, every public document, and notice of every act connected with the negotiation of the treaty of Utrecht, and the consequent proceedings; Collection des Edits, Ordonnances, &c., concernant le Canada, Quebec, 1803, apparently a complete assemblage of all the most important public documents relative to Canada and the fur trade; Mémoires des Commissaires Français et Anglais, sur les Possessions des deux Couronnes en Amérique, 1754 to 1757, which could not have thus omitted to notice this settlement of boundaries, if it had taken place; the Histoire de la Diplomatie Française, by Flassan, 1811, and the Histoire des Traités de Paix, by Koch and Schoell, 1817. To these authorities may be added, as equally silent on the subject, the Histories of England by Tindall, Smollett, Belsham, Hughes, Mahon, Wade, the Parliamentary History, and the Pictorial History; the Histories of France, by Sismondi, Anquetil, and Lacretelle; Lord John Russell’s Affairs of Europe since the Peace of Utrecht; the Histories of, and Memoirs on, Louisiana, by Dumont, Dupraix, Vergennes, and Marbois; the political works of Swift, Bolingbroke, and Voltaire; and many other works relating to the history of the period at which this settlement of the northern limit of Louisiana is said to have been made.

‘ This is all negative evidence, indeed; but it is the only evidence of which the case admits, and is equivalent to a positive contradiction of the supposition that any settlement of boundaries between the Hudson Bay territory and the French possessions was made under the treaty of Utrecht; as such a transaction could not have escaped notice in all, or indeed in any, of the works mentioned in the preceding paragraph, if it had taken place, and especially if it had been so notorious as the knowledge of it by those who asserted it would seem to indicate. It will be said that there must have been some foundation for the assertion; and possibly such a line may have been proposed, and made the subject of discussion between the two Governments in 1718, as a part of it was, a hundred years after, between one of them and the United States. That commissaries were appointed to settle boundaries, under the treaty of Utrecht, is most probable; and, in proof not only of their

‘ meeting, but also of their separation without effecting any of the objects proposed, the following passage appears in the Histoire de la Nouvelle France, by Charlevoix: ‘ France took no part in this dispute, (between the British and Indians in Nova Scotia, in 1722,) in order to avoid giving the slightest pretext for interrupting the good understanding between the two nations, which had been restored with so much difficulty; even the negotiations between the two Courts for the settlement of boundaries ceased, although commissaries had been appointed on both sides, for that object, since 1719.’ Anderson, in his History of Commerce, and Macpherson, in his Annals of Commerce, both positively deny that any boundaries were settled under the treaty of Utrecht.”

‘ In addition to the facts above stated, I will add another short paragraph, which was handed to me by my friend [Mr. HANNEGAN] since I came here to-day. I have not had time to advert to the original, but I presume it is correct.

‘ In De Moiras’s book, the official exposition by the French Government of the grounds of the English claims to the Oregon territory, and its own former pretensions to that region, it is said, vol. ii. p. 158:

‘ “ It was agreed, at the peace of 1713, and by the treaty of Utrecht, that commissioners should meet to trace with precision, to the north and the west, the limits between the Hudson Bay country and New France, and to the south, the boundaries between that province and the English possessions. Nevertheless, there does not exist in any written record, nor in any maps or charts, a single document showing that these frontiers ever were definitively established. And, in 1722, all proceedings on this subject had been abandoned, according to Father Charlevoix, that not the least pretext might be given to violate the good understanding, which it had been found so difficult to establish between the two crowns of France and England. The archives of the office of Foreign Affairs contain no chart or memoir relating to the treaty of Utrecht, regarding these frontiers, nor do those of the Department of Marine; and thus the assertion of Charlevoix is fully sustained.”

‘ The reference is to Charlevoix’s New France, vol. iv. p. 124, and the top of the page.”*

‘ Now, sir, I shall pursue this investigation no further. I have already observed that, whether this line was established or not east of the Rocky Mountains, is not of the slightest importance. The position that I occupied in my speech, and that I occupy now, is this: It is contended in the Senate, and out of it, that the parallel of 49 is our northern boundary in the territory of Oregon, and that it

* The following is the remark of Father Charlevoix, referred to above:

‘ France took no part in this quarrel,” (speaking of some disputes between the English and the Indians.) “ so as not to give the least pretext to break the good understanding, which it had cost so much to establish, between the two Crowns. The negotiations between the two courts for the establishment of boundaries ceased; although commissaries had been appointed on both sides ever since the year 1719.”

‘ This was written in 1743. The author was the well known traveller sent out by the French Government to explore and describe their possessions in North America: a task which he executed with equal judgment and accuracy. Great weight is due to his authority.

was assumed as such by our Government in the early part of the controversy, and so maintained for some years; and that we are, therefore, concluded against the assertion of any other boundary. Now, sir, my object was to show, that no such line was ever established by the treaty of Utrecht in the Oregon country, and that we were, therefore, free to urge our pretensions, without regard to this statement, or to the acts of our Government, founded upon an erroneous impression, that the line of 49° did extend to the Pacific ocean. This is what I undertook to disprove, and nothing but this. And I will now ask the honorable Senator from Missouri if he believes that the parallel of 49 was ever established by commissaries under the treaty of Utrecht, as a boundary west of the Rocky Mountains? I will wait for the honorable gentleman's reply.

[Here Mr. Cass paused for a short time; but Mr. Benton not answering, he continued.]

Well, the honorable gentleman does not answer me. If he believed the line run there, I am sure he would say so; for, if it did run there, we are forever foreclosed from any claim under the Louisiana treaty, and the force of the honorable gentleman's attack upon me would be greatly strengthened. As he does not answer, I shall take it for granted that he believes no such line was ever established there. And if the fact is so, my object is answered, and we are relieved from the embarrassments arising out of the repeated assertions that the line of 49° is our northern boundary in the territory of Oregon. I will now read to the honorable Senator what I said the other day on this subject, and he will perceive how much he has misapprehended me, and that all my allusion to the parallel of 49° east of the Rocky Mountains was a mere incidental topic, having no bearing upon my actual position. What I did say is this: "The treaty of Utrecht never refers to the parallel of 49°, and the boundaries it proposed to establish were those between the French and English colonies, including the Hudson Bay Company in Canada. The charter of the Hudson Bay Company granted to the proprietors all the lands, countries, and territories, upon the waters discharging themselves into Hudson's Bay.

"At the date of the treaty of Utrecht, which was in 1713, Great Britain claimed nothing west of those lands, countries, and territories, and of course there was nothing to divide between France and England west of that line. Again, in 1713, the northwestern coast was almost a *terra incognita*, a blank upon the map of the world. England then neither knew a foot of it, nor claimed a foot of it. By adverting to the letter of Messrs. Gallatin and Rush, communicating an account of their interview with Messrs. Goulburn and Robinson, British commissioners, dated October 20th, 1818, and to the letter of Mr. Pakenham to Mr. Buchanan, dated September 12th, 1814, it will be seen, that the commencement of the British claim is effectively limited to the discoveries of Captain Cook in 1778. How, then, could a boundary have been established fifty years before, in a region where no Englishman had ever penetrated, and to which England had never asserted a pretension? And yet the assumption that the parallel of 49 degrees was established by the

treaty of Utrecht as a line between France and England, in those unknown regions, necessarily involves these inconsistent conclusions. But besides, if England, as a party to the treaty of Utrecht, established this line, running to the Western ocean, as the northern boundary of Louisiana, what possible claim has she now south of that line? The very fact of her existing pretensions, however unfounded these may be, shows that she considers herself no party to such a line of division. It shows, in fact, that no line was run, for if it had been, the evidence of it would be in the English archives, and, in truth, would be known to the world without contradiction." This is what I said; and this was followed by the synopsis of my views upon the subject, which I read, and which I will read again:

1. It is not shown that any line was established on the parallel of 49 to the Pacific ocean.

2. The country on the northwestern coast was then unknown, and I believe unclaimed; or, at any rate, no circumstances had arisen to call in question any claim to it.

3. The British negotiators in 1818, and their Minister here in 1844, fixed upon the voyage of Captain Cook, in 1778, as the commencement of the British title in what is now called Oregon.

4. The treaty of Utrecht provides for the establishment of a line between the French and British colonies, including the Hudson Bay Company. The British held nothing west of the company's possessions, which, by the charter, included only the "lands, countries, and territories," on the waters running into Hudson's Bay.

5. If England established this line to the Pacific ocean, she can have no claim south of it; and this kind of argument, *ad hominem*, becomes conclusive. And let me add, that I owe this argument to my friend from Missouri, [Mr. Atchison,] to whose remarks upon Oregon the Senate listened with pleasure and with profit some days since.

6. How could France and England claim the country to the Pacific, so as to divide it between them in 1713, when, as late as 1790, the British Government, by the Nootka convention, expressly recognised the Spanish title to that country, and claimed only the use of it for its own subjects, in common with those of Spain.

I am now, sir, brought to the annunciation, which I made, and which the honorable Senator has so strangely misunderstood. What I said was this—I will repeat it in the very words I used upon the former occasion: "I now ask, sir, what right has any American statesman, or what right has any British statesman, to contend that our claim, whatever it may be, is not just as good north of this line as it is south of it? When this question is answered to my satisfaction, I, for one, will consent to stop there. But until then, I am among those who mean to march, if we can, to the Russian boundary."

This, sir, is my position. How different it is from the position assigned to me by the honorable Senator, I need not say. I trust I have redeemed myself, and that I can again enter into the contest, a free man, battling for the full rights of his country even to 54° 40'.

There is one point to which I beg leave to advert. The honorable Senator has given me a fair

hit, and I award him the credit due to it. In my remarks the other day, alluding to the effect that improper persons, "minions, and favorites, and mistresses," had produced upon the destinies of nations by the exercise of an injurious influence, I adverted to the fact of the offence taken by Mrs. Masham at having a cup of tea spilt upon her silk gown. The incident I remembered, and its influence I remembered, but I thought it had been exerted to produce a war, whereas the honorable Senator has corrected me, and has shown that it was exerted to produce peace. It is a long time since I have looked into the English history. I presume the honorable gentleman from Missouri refreshed his recollection last evening.

Mr. BENTON. I have not looked at it for forty years.

Mr. CASS. The honorable gentleman's memory is then better than mine. I will remark, however, that the incident, even as it happened, is illustrative of the general position I assumed, because the favorite of Queen Anne would as soon have brought about a war as a peace, had the former, instead of the latter, been necessary to enable her to vent her spleen upon the Duchess of Marlborough. I repeat, the correction was a fair hit, and the manner entirely unobjectionable. I shall testify my acknowledgment by putting the fact right in my printed speech.





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