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KENT NEWS.

Agriculture, Literature, Politics and General News.

Frustra laborat, qui omnibus placere studet.—"He labours vainly, who endeavours to please every one."

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PROSPECTUS.

THE WESTERN CONTINENT,

A WEEKLY NEWSPAPER OF LITERATURE AND ART.

Independent in Politics, Just in Criticism.

EDITED BY PARK BENJAMIN,

Late editor of the New World, and W. S. Thompson, late editor of the Augusta Mirror, and author of "Major Jones' Courtship," "Chronicles of Pineville," &c.

The favorable auspices under which this journal is commenced, and the warm encouragement with which it has been welcomed in all parts of the country, are positive assurances of its success. The fullest arrangements have been made to carry it on with spirit, energy, and effect. Editors, whose reputations are established, have been permanently engaged; the most able and popular writers have been enlisted; the abundant treasures of European literature will be brought hither and profusely lavished—indeed the whole world of letters, wherever genius flourishes and learning spreads, will be put under contribution to give strength, beauty and variety to "The Western Continent."

It presents a weekly compend of news, culled with care from every foreign and domestic source, and a digest of all kinds of information, literary, scientific, political, religious—interesting alike to the scholar and the man of business

It is devoted to Southern and Western interests, not as opposed to those of the North and East but as consonant with right and justice—interests bestowed by the Constitution, and indespensable to the maintenance of the Union of the States. It seeks to subdue sectional jealousies, cherish sentiments of amity, expand the affections as well as the intellect of men, and build upon the neutral ground of letters, a new temple to Concord, where all parties may meet and be brothers. Conciliation is its aim; Truth its guide.

It shall be worthy its name—"The Western Continent," our country, our whole country, our whole country, new states and old states new territories and old territories, ours, by position, ours by occupation—however ours, if ours by right—shall be contended for, defended and maintained according to a humble ability, but with a fearless spirit.

A great deal more than this might be said; but "brevity is the soul of wit" and much can be expressed in a few words.—We shall promise little and perform much. Try us reader and judge for yourself—Without another thought on the subject, pray forward the very insignificant sum of TWO DOLLARS—it could not be better expended—and your name and address directed to

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To all editors of papers, who will copy the foregoing brief Prospectus (with this notice,) we will send the Continent in exchange. We hope our old friends will remember us, and that we shall be so happy as to find many new ones who will say a good word for the Western Continent.

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May 17, 1845.

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City Block, Baltimore

August 2, 1845. 1y

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AGRICULTURE, POLITICS AND GENERAL NEWS.

Terms:

$2.50, payable at the end of the first six months.

☞For PROSPECTUS, see fourth page.

POETRY.

OH WHO WOULD REMAIN.

Oh who would remain in this prison of clay,
When friends and companions are hasting away,
Away to the climes of the blessed and free,
Where death never comes, and where pure spirits be.

Oh! could we but go with the friends that we love,
And taste their enjoyments in glory above;
No more would we fancy this desert below,
Where tears of deep anguish so frequently flow.

How many are there in white garments arrayed,
Who once with us here in this wilderness strayed;
How happy are they with their pilgrimage done,
As pure as the angels—as bright as the sun.

Methinks in their songs, as they circle the throne,
They think of the past and the friends they have known;
And when old companions come home to the skies,
What greetings are there and what raptures arise!

Ye comrades of youth and ye friends of ripe years,
Oh! when shall I join you? when banish my tears?
When shall the dull days of mortality cease,
Oh! when shall I live with my Saviour in peace.

HUMILITY.

BY MONTGOMERY.

The bird that sings on highest wing
Builds on the ground her lowly nest,
And she that doth most sweetly sing,
Sings in the shade when all things rest;
In lark and nightingale we see
What honor hath humility.

The saint that wears heaven's brightest crown,
In deepest adoration bends,
The weight of glory bends him down
The most when high his soul ascends.
Nearest the throne itself must be
The footstool of humility.

From the National Intelligencer.

MR. GALLATIN ON THE OREGON QUESTION.

THE OREGON QUESTION.—No. II.

NEW YORK, JANUARY 13, 1846.

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

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

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

The old British charters extending from sea to sea have already been mentioned.—They were founded, beyond the sources of the rivers emptying into the Atlantic, on no other principle than that of contiguity.—The grant in 1621 of Nova Scotia, by James the First, is bounded on the north by the river St. Lawrence, though Cartier had more than eighty-five years before discovered the mouth of that river, and ascended it as high up as the present site of Montreal, and the French under Champlain had several years before 1821 been settled at Quebec. But there is another case more important, and still more in point.

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

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

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

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

It is not intended to enter into the merits of the question, which has been completely discussed, since the object of this paper is only to show that there remain on both sides certain debatable questions; and that therefore both Governments may, if so disposed, recede from some of their pretensions, without any abandonment of positive rights, and without impairing national honor and dignity.

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

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

It was expressly stipulated that nothing contained in the conventions of 1818 and 1827 should be construed to impair, *or in any manner affect*, the claims which either of the contracting parties may have to any part of the country westward of the Stony or Rocky Mountains. After the most cool and impartial investigation of which I am capable, I have not been able to perceive any claim on the part of Great Britain, or debatable question, respecting the territory south of Fuca's Straits, but the species of occupancy by the British Fur companies between the year 1813 and October 20th, 1818; and this must be considered in connexion with the restoration of "all territory, places, and possessions whatsoever, taken by either party from the other during the war," provided for by the treaty of Ghent. To this branch of the subject belongs also the question whether the establishment of trading factories with Indians may eventually give a right to sovereignty. My own opinion was expressed in the American counter-statement of the case, dated 19th December, 1826: "It is believed that mere factories, established solely for the purpose of trafficking with the natives, and without any view to cultivation and permanent settlement, cannot, of themselves, and unsupported by any other consideration, give any better title to dominion and absolute sovereignty than similar establishments made in a civilized country." However true this may be in an abstract proposition, it must be admitted that, practically, the modest British factory at Calcutta has gradually grown up into absolute and undisputed sovereignty over a population of eighty millions of people.

The questions which, as it appears to me, may be allowed by the United States to be debatable, and therefore to make it questionable whether they have a complete right to the whole Oregon territory, are:

1st. The Nootka convention, which applies to the whole, and which, though not of primary importance, is nevertheless a fact, and the inferences drawn from it a matter of argument.

2dly. The discovery of the Straits of Fuca.

3dly. North of those straits; along the sea shores, the discoveries of the British contrasted with those of the American and Spanish navigators; in the interior, the question whether the discovery of the mouth and the navigation of one of its principal branches, from its source to the mouth of the river, implies without exception a complete right to the whole country drained by all the tributaries of such river; and also the British claim to the whole territory drained by Frazer's river—its sources having been discovered in 1792 by Sir Alexander Mackenzie, factories having been established upon it by the British as early as the year 1805, and the whole river thence to its mouth having been for a number of years exclusively navigated by British subjects.

It appears to me sufficient generally to suggest the controverted points. That which relates to Fuca's Straits is the most important, and deserves particular consideration.

If Fuca's voyage in 1592 could be proved to be an authentic document, this would settle at once the question in favor of the United States; but the voyage was denied in the introduction to the voyage of the Sutil and Mexicano. This was an official document, published under the auspices of the Spanish Government, and intended to vindicate Spain against the charges that she had contributed nothing to the advancement of geography in these quarters.—This negative evidence was confirmed by Humboldt, who says that no trace of such voyage can be found in the archieves of Mexico. Unwilling to adduce any doubtful fact, I abstained from alluding to it in the statement of the American case in 1826. Later researches show that, although recorded evidences remain of the voyage of Gali from Macao to Acapulco in 1581, of the Santa Anna (on board of which was, as he says, Fuca himself) from Manilla to the coast of California, where she was captured in 1587 by Cavendish, and of Vizcaino in 1602–1603, and even of Maldonado's fictitious voyage in 1588, yet no trace has been found in Spain or Mexico of Fuca's, or any other similar voyage, in 1692 or thereabouts.

On reading with attention the brief account published by Purchas, I will say that the voyage itself has much internal evidence of its truth, but that the inference or conclusion throws much discredit on the whole. The only known account of the voyage is that given verbally at Venice in 1596, by Fuca, a Greek pilot, to Mr. Lock, a respectable English merchant, who transmitted it to Purchas.

Fuca says that he had been sent by the Viceroy of Mexico to discover the straits of Anian and the passage thereof into the sea, which they called the North Sea, which is *our Northwest Sea;* that between 47 and 48 degrees of latitude he entered in to a broad inlet, through which he sailed more than twenty days; and, being then come into the North Sea already, and not being sufficiently armed, he returned again to Acapulco. He offered then to Mr. Lock to go into England and serve her Majesty in a voyage for the discovery perfectly of the Northwest passage into the South Sea. If it be granted that the inlet through which he had sailed was really the straits which now bear his name, that sea into which he emerged, and which he says to be *our Northwest Sea*, must have been that which is now called Queen Charlotte's Sound, north of Quadra and Vancouver's Island, in about 51 degrees of latitude. *Our Northwest Sea* was that which washes the shores of Newfoundland and Labrador, then universally known as far north as the vicinity of the 60th degree of latitude. Hudson's Straits had not yet been discovered, and the discovery of Davis's Straits might not be known to Fuca. But no navigator at that time, who, like he, had sailed across both the Atlantic and the Pacific oceans, could be ignorant that the northern extremity of Newfoundland, which lies nearly in the same latitude as the northern entrance of Fuca's Straits, is situated sixty or seventy degrees of longitude west of that entrance. The only way to reconcile the account with itself is, to suppose that Fuca believed that the continent of America did not, on the side of the Atlantic, extend further north than about the 60th degree, and was bounded northwardly by an open sea, which extended as far west as the northern extremity of the inlet through which he had sailed. It is true nevertheless that, between the years 1774 and 1790 there was a prevailing opinion amongst the navigators that Fuca had actually discovered an inlet leading towards the Atlantic. Prior to the year 1787 they were engaged in seeking for it and the Spaniards had for that purpose explored in vain the seacoast lying south of the 48th degree; for it is well known that Fuca's entrance lies between the 48th and 49th, and not between the 47th and 48th degrees of latitude, as he had announced.

The modern discovery of that inlet is due to Captain Barclay, an Englishman, commanding the Imperial Eagle, a vessel owned by British merchants, but which was equipped at and took its departure from Ostend, and which sailed under the flag of the Austrian East India Company. The British Government, which has objected to the American claim derived from Captain Gray's discovery of the mouth of the river Columbia, on the ground that he was a private individual, and that his vessel was not a public ship, cannot claim anything in virtue of a discovery by a private Englishman, sailing under Austrian colors. In that case, and rejecting Fuca's voyage, neither the United States nor England can lay any claim on account of the discovery of the straits.

Subsequently, the Englishman, Meares, sailing under the Portuguese flag, penetrated, in 1788, about ten miles into the inlet, and the American, Gray, in 1789, about fifty miles. The pretended voyage of the sloop Washington throughout the straits, under the command either of Gray or Kendrick, has no other foundation than an assertion of Meares, on which no reliance can be placed.

In the year 1790 (1791 according to Vancouver) the Spaniards Elisa and Quimper explored the straits more than one hundred miles, discovering the Port Discovery, the entrance of Admiralty Inlet, the Deception Passage, and the Canal de Haro. In 1792 Vancouver explored and surveyed the straits throughout, together with their various bays and harbors. Even there he had been preceded in part by the Sutil and Mexicano; and he expresses his regret that they had advanced before him as far as the Canal del Rosario.

Under all the circumstances of the case, it cannot be doubted that the United States must admit that the discovery of the straits, and the various inferences which may be drawn from it, are doubtful and debatable questions.

That which relates to a presumed agreement of Commissioners appointed under the treaty of Utrecht, by which the northern boundary of Canada was, from a certain point north of Lake Superior, declared to extend westwardly along the 49th parallel of latitude, does not appear to me definitively settled. As this had been assumed, many years before, as a positive fact, and had never been contradicted, I also assumed it as such, and did not thoroughly investigate the subject. Yet I had before me at least one map, (name of publisher not recollected,) of which I have a vivid recollection, on which the dividing lines were distinctly marked and expressly designated, as being in conformity with the agreement of the Commissioners under the treaty of Utrecht. The evidence against the fact, though in some respect strong, is purely negative. The line, according to the map, extended from a certain point near the source of the river Saguenay, in a westerly direction, to another designated point on another river emptying either into the St. Lawrence or James's Bay; and there were, in that way, four or five lines following each other, all tending westwardly, but with different inclinations northwardly or southwardly, and all extending, from some apparently known point on a designated river, to another similar point on another river; the rivers themselves emptying themselves, some into the river St. Lawrence and others into James's Bay or Hudson's Bay, until, from a certain point lying north of Lake Superior, the line was declared to extend along the 49th degree of latitude, as above stated. It was with that map before me that the following paragraph was inserted in the American statement of December, 1826:

"The limits between the possessions of Great Britain in North America, and those of France in the same quarter, namely, Canada and Louisiana, were determined by commissioners appointed in pursuance of the treaty of Utrecht. From the coast of Labrador to a certain point north of Lake Superior those limits were fixed according to certain metes and bounds, and from that point the line of demarcation was agreed to extend indefinitely due west, along the forty-ninth parallel of north latitude. It was in conformity with that arrangement that the United States did claim that parallel as the northern boundary of Louisiana. It has been accordingly thus settled, as far as the Stony Mountains, by the convention of 1818 between the United States and Great Britain; and no adequate reason can be given why the same boundary should not be continued as far as the claims of the United States do extend that is to say, as far as the Pacific Ocean."

It appears very extraordinary that any geographer or map maker should have invented a dividing line, with such specific details, without having sufficient grounds for believing that it had been thus determined by the Commissioners under the treaty of Utrecht. It is also believed that Douglass's Summary (not at this moment within my reach) adverts to the portion of the line from the coast of Labrador to the Saguenay. Finally, the allusion to the 49th parallel, as a boundary fixed in consequence of the treaty of Utrecht, had been repeatedly made in the course of preceding negotiations, as well as in the conferences of that of the year 1826, and there is no apparent motive, if the assertion was known by the British negotiators not to be founded in fact, why they should not have at once denied it. It may be, however, that, the question having ceased to be of any interest to Great Britain since the acquisition of Canada, they had not investigated the subject. It is of some importance, because, if authenticated, the discussion would be converted from questions respecting undefined claims into one concerning the construction of a positive treaty or convention.

It is sufficiently clear that, under all the circumstances of the case, an amicable division of the territory, if at all practicable, must be founded in a great degree on ex-

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