

That the nature of the tract of country to the east of the angle referred to, not having been described in the Treaty of 1783, no argument can thence be drawn for laying it down in one place rather than in another :

That, besides, if it were thought necessary to bring it nearer to the source of the River St. Croix, and to look for it, for instance, at Mars Hill, it would be by so much the more possible that the Boundary of New Brunswick, drawn from thence to the north-east, would give to that Province several north-west angles, situate more to the north and to the east, according to their greater distance from Mars Hill, since the number of degrees of the angle mentioned in the Treaty has been passed over in silence :

That, consequently, the north-west angle of Nova Scotia, which is here in question, having been unknown in 1783, and the Treaty of Ghent having declared it to be still uncertain, the mention of this angle in the Treaty of 1783, as a known point, is to be considered as an assumption of a fact which does not afford any ground for decision ; whilst, if it be considered as a topographical point, with reference to the definition, viz. "that angle which is formed by a line drawn due north from the source of the St. Croix River to the Highlands," it merely forms the extreme point of the line "along the said Highlands, which divide those rivers which empty themselves into the River St. Lawrence from those which fall into the Atlantic," an extreme point, which the mention of the north-west angle of Nova Scotia does not contribute to establish, since that angle being itself to be found, cannot lead to the discovery of the line which it terminates :

Finally, that the arguments drawn from the exercise of the rights of Sovereignty over the Fief of Madawaska, and over the Madawaska Settlement, even admitting that exercise to be sufficiently proved, cannot decide the question, because those two establishments comprise only a portion of the territory in dispute ; because the High Parties concerned have recognized the country situate between the lines respectively claimed by them as constituting an object of controversy ; and because in this view possession cannot be considered as detracting from right ; and because, if the ancient Boundary line of the Provinces adduced in favour of the line claimed to the north of the River St. John, and especially that mentioned in the Proclamation of 1763, and in the Quebec Act of 1774, be set aside, there cannot be admitted, in support of the line claimed to the south of the River St. John, arguments tending to prove that such or such portion of the disputed territory belongs to Canada or to New Brunswick :

Considering,—

That the question, stripped of the inconclusive arguments derived from the more or less hilly character of the tract of country, from the ancient Boundary line of the Provinces, from the north-west angle of Nova Scotia, and from the state of possession, is reduced at last to these questions, Which is the line drawn due north from the source of the River St. Croix, and which is the tract of country, no matter whether it be hilly and elevated or not, which, from that line to the north-west head of the Connecticut River, divides the rivers emptying themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean ; that the High Parties concerned are only agreed as to the circumstance that the Boundary to be found is to be settled by some such line and by some such tract of country ; that they have further agreed, since the Declaration of 1798, as to the answer to be given to the first question, except with regard to the latitude at which the line drawn due north from the source of the River St. Croix is to terminate ; that this latitude coincides with the extremity of the tract of country which, from that line to the north-west head of the Connecticut River, divides the rivers emptying themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, and that, consequently, it only remains to determine which is that tract of country :

That on entering upon this operation, it is found on the one hand,—

First, That if by the adoption of the line claimed to the north of the River St. John, Great Britain could not be deemed to obtain a tract of country of less value than if she had accepted in 1783 the River St. John for a Boundary, regard being had to the situation of the country between the Rivers St. John and St. Croix in the vicinity of the sea, and to the possession of both banks of the River St. John in the latter part of its course ; that compensation would nevertheless be destroyed by the interruption of the communication between Lower Canada and New Brunswick, especially between Quebec and Fredericton, and that the motives would in vain be sought for which could have determined the Court of London to consent to such an interruption :

That, in the second place, if, according to the language usually employed in geography, the generic term of rivers falling into the Atlantic Ocean, could with propriety be applied to the rivers falling into the Bays of Fundy and Chaleurs, as well as to those which discharge themselves directly into the Atlantic Ocean, still it would be hazardous to class under this denomination the Rivers St. John and Ristigouche, which the line claimed to the north of the River St. John divides immediately from the rivers discharging themselves into the St. Lawrence, not in company with other rivers flowing into the Atlantic Ocean, but by themselves alone ; and thus in interpreting a definition of Boundary fixed by Treaty, in which every expression ought to be taken into account, to apply to two cases which are exclusively specific, and which there is no question as to genus, a generic expression which would give to them a wider signification, or which, if extended to the Scondiac Lakes, the Penobscott and the Kennebec which discharge themselves directly into the

Appendix.

IV.

Decision of the
King of the
Netherlands.