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Proceedings of  
the Legislature of  
Maine, on the re-  
sult of the Arbitra-  
tion.

boundaries of their possessions from the source of the River St. Croix to the northwesternmost head of Connecticut River, and that the nature of the difference, and the vague and not sufficiently determinate stipulations of the Treaty of 1783, do not permit to adjudge either of these lines to one of the said parties, without wounding the principles of law and equity with regard to the other."

And again, "the question results itself into a selection to be made of a *ground dividing* the rivers that empty themselves into the River St. Lawrence from those that fall into the Atlantic Ocean: that the high interested parties are agreed with regard to the courses of the stream delineated by common accord on the map A. and affording the only basis of a decision; and that therefore the circumstances upon which such a decision could not be further elucidated by fresh topographical investigation, nor by the productions of additional documents." Then follows—

"We are of opinion, that it will be *suitable* to adopt as the boundary of the two States, a line drawn due north from the source of the river St. Croix to the point where it intersects the middle of the deepest channel of the river St. John, thence the middle of the deepest channel of that river ascending, &c." This is the language of recommendation or advice to the parties, of the course to be adopted by them, rather than a decision of the point submitted; whether the meaning is to be ascertained from the language used, or from the preceding arguments the conclusion is the same, the Arbiter did not pretend to decide, and declared he could not decide the point in controversy between the parties, but only intended to suggest a mode, by which, in his opinion, it might be decided. The Arbiter seems to have been impressed with the limitation of his powers, and that he had no authority to decide contrary to the question submitted, and that he was bound to decide, if he decided at all, in favor of one, of the two lines claimed by the parties.

If the deductions from the afore-recited arguments of the Arbiter need any further elucidation, it will be found in an examination of the second point submitted to him, and his decision upon it. The second point of difference is, "Which is the north-westernmost head of Connecticut River?"—One party claimed one branch, and the other party another, and after the examination of the evidence and arguments adduced by both parties, the Arbiter, instead of using the same language and form of expression, says, "We are of opinion that the stream situated farthest to the north-west among those which fall into the northernmost of the three lakes, the last of which bears the name of Connecticut, must be considered as the northwesternmost head of Connecticut River." This seems to be, from the arguments which precede, and the language employed by the Arbiter, the only point decided of the three submitted.

The Government of the United States cannot feel themselves bound to adopt or be governed by the advice of the Arbiter, particularly when his advice was not sought or asked by them, and was given at a time when his situation gave him peculiar inducements for favoring Great Britain.

If it were to be considered that the Arbiter had made a decision with an intention of deciding the first point of difference between the parties, the question arises, has the Arbiter decided in pursuance of the authority given him?

The authority under which he acted has been before stated, and here it will be only necessary to repeat, if he has not decided the points of difference which had risen in the settlement of the boundary between the American and British Dominions, as described in the fifth Article of the Treaty of Ghent, according to the Treaties and Conventions appertaining to the same subject, the Government of the United States will have no hesitation in rejecting the decision. If the Arbiter has not performed his duties in good faith, or has violated or transcended the powers given him; it does appear to your committee impossible that the Government of the United States will consider their faith pledged as far as to consider themselves bound by the decision.

It is proper to examine the subject of dispute. The Arbiter in stating the claims made by the parties in relation to the first point in dispute, says, "The high interested parties respectively claim that line of boundary at the *south* and at the *north* of the river St. John, and have each indicated upon the map A. the line which they claim." The line indicated on the map by Great Britain south of the St. John, extended from the sources of that river, and between it and its tributaries, and the Penobscot River and its tributaries in a part of its course, and in the residue of its course between tributaries of the St. Johns to Mars-hill. The line indicated by the United States on the north of the St. John, extending along the ridge of land which limit the sources of the streams which fall into the River St. Lawrence to the point upon that ridge, which terminates a due north line from the source of the River St. Croix. It is very manifest the Arbiter fully understood the respective claim and differences of the parties.

Great Britain and the United States equally contended that the boundary was on the land, a boundary of highlands, which divided waters; they could not have contended for any other, because the Treaty of 1783, describes no other than one on the "highlands which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, nor did the Proclamation of 1763, the Quebec Act of 1774, the Commissions to the Governors of the Province of Quebec, or the Commissions to the Governors of Nova Scotia or New Brunswick describe any other boundary than a boundary on the land, and as it was ascribed to the Treaty.

From an examination of the Treaty and documents above named, one fact appears clear and manifest: they all divide the streams and rivers into two, and but two classes for any purpose connected with the boundaries, to wit: the river St. Lawrence, and all the