THE QUESTION OF THE BOUNDARIES.

Some further correspondence on the knotty question of the Ontario boundaries has been published. The relative p sitions of the two parties chiefly in'erested are unchanged. To the proposal of the House of Commons, to refer the question eit'er to the Supreme Court of Canada or the Judicial Committee of the Privy Council in Great Britain, Mr. Mowat replies by declaring his intention to stand by the award of the arbitrators; and the proposal to manage the lands meanwhile by a joint commission, he declares too vague and indefinite for intellegent consideration. This correspondence does not take us an inch nearer to a final settlement.

The contention of the Dominion Government that only a judicial dec'sion can cut the knot of the difficulty; that a c nventional arbitration cannot set aside the decision of the court which, in the Rei hardt case, declared the western boundary of Upper Canada to be a line drawn due north from the junction of the Ohio with the Mississippi river; nor bind third parties, may be admitted, as a basis of argument, without obliging us to accept the conclusion that that Government had a right to take this line of objection. Where matters of good faith are concerned, the continuity of the Dominion Government must be assumed. It will not do to say that because one party made the submission to arbitrators, when it had the executive power in its hands, the other party, when it succeeds to office, is at liberty to reject the award. The faith of the Government, not the succession of party leaders, must here be the guide. Whether Mr. Alexander Mackenzie or Sir John Macdonald be premier makes no difference; we have to deal with the Government of Canada, irrespective of the individuals of whom it may be composed. That Government has undertaken to do a particular thing; and unless it can show such reasons as would be accepted in the case of an international obligation for not carrying out its undertaking, its refusal to ratify the award cannot be justified.

The history of int rnational treaties furnishes many instances in which the exchange of ratifications has been refused, for cause. According to Vattel a Government is justified in refusing to ratify a treaty which has been signed in its name only for "solid and weighty reasons." The most frequent reason for such refusal has been that the plenipotentiaries have exceeded their powers. In the thousand of cases which a French authority says have occurred, this would be true of more than nine hundred. Formerly the danger of negotiators exceeding their powers was much greater than at present. At the capitulation of Montreal, for instance, the French negotiator could have no means of communicating with his Government; and in such a state of things, the Governments in whose names capitulations or treaties are signed must have some power of revision. When an Austrian marshal, in 1730, signed a treaty in the Turkish camp before Belgrade, the Government of Vienna was held excused by the opinion of Europe for refusing to ratify a treaty which it would not have instructed the negotiator to make in its name. The negotiators of all nations have, in turn, exceeded their instructions. This did Mr. Erskine, when in the character of British plenipotentiary he signed, at Washington, in 1809, a provisional treaty with the United States; and his Government refused to exchange ratifications The American Government, though greatly chagrined, afterwards declared that, if it had been aware that Mr. Erskine was exceeding his powers, the treaty would not, on its part, have been signed. A negotiator may exceed his powers, by omitting something which he ought to have included as well as by admitting something which he ought to have rejected. The treaty signed, in 1804, by Monroe and Pinckney, on behalf of the United States, and Lords Holland and Auckland, on behalf of England, was rejected by the President of the United States, without consulting the Senate, because it did not contain a provision against impressment on the high seas; and the fair conclusion is that, by the act of nullification, Jeffers n meant to declare that the American negotiators had exceeded their powers. Monroe and Pinckney again exceeded their authority (1807) in agreeing to a provision which gave the British a right of unrestricted navigation in the Upper Mississippi.

In all these cases, the "solid and weighty reasons," which Vattel says can alone justify a refusal to ratify a treaty, after it has been signed, appear to have existed. When the north-eastern boundary question was referred to the King of Holland, the United States and England bound themselves to accept the awa d as final and conclusive and carry it into immediate effect. The Senate of the United States refused the necessary ratification; but just before it did so, the British *Chargé-d'-affaires*, at Washington, Mr. Bankhead, informed the United States Secretary of State that "His Majesty's Government might not be indisposed to enter into negotiation with this Government with a view to effect some modification by a reciprocal exchange and concession." It is not at all certain that, in the absence of this intimation from Mr. Bankhead, the Senate would have declined to ratify. The intimation that the British Government might not be indisposed to re- pen the question may reasonably have been considered by the Senate as releasing it from the duty of ratification. Besides refusal to ratify by a legislature is a matter for which the executive Government is not necessarily responsible; and it may have been so in this instance. In 1803, the Senate of the United States did certainly refuse to ratify a treaty with England to which the executive was desirous to give effect. This treaty was signed respectively by Mr. King and Lord Hawskesbury. One object of this instrument was to correct the impossible due west international boundary line from the Lake of the Woods; the fifth article substituted the shortest line which could be drawn from the north-west point of that lake to the nearest source of the Mississippi. Of this treaty the President recommended to the Senate the confirmation; but the Senate, taking its own course, refused. The executive cannot be blamed for what it could not control.

In the first series of these cases, the Governments had good cause for refusing to ratify; in the second, they were excusable for want of controlling power. But can it be said that either of these pleas will avail the Dominion Government in its negative action in the settlement of the western and northern boundaries of Ontario? We think not. If we consider as proved, that the arbitration is properly characterized as conventional, still it remains true that the Dominion Government agreed to that form of procedure; if it be capable of proof that the line drawn by the negotiators, on the north, is a conventional line—one chosen partly for convenience and not because it is certainly the legal line—the Dominion Government cannot object unless it can show that the arbitrators exceeded their powers, under the reference. An officer of the Dominion Government, Col. Dennis, was present, and he concurred in the selection of the northern line. He might, of course, have exceeded his powers, which were limited and advisory; but if he did his action should have been promptly disavowed by his superiors. No such censure fell upon him. The award was not immediately ratified by the Dominion Government. Neither was the award of the King of Holland by Lord Palmerston. What Mr. Mackenzie would have done if he had remained in power cannot alter the duty of his successor. The Dominion Government, of whomsoever composed, is required to fulfil an agreement. It can only object to the award for good and sufficient reasons, and unless it can show that the arbitrators exceeded their authority, it cannot repudiate the award. It cannot now object to the mode of settlement; because to the mode of settlement it consented in advance. The Dominion Government cannot repudiate the award on the ground that the northern line is conventional, and that the decision cannot bind third parties. This, if true, is a grave defect; it is a thing that should have been thought of before, but not having been foreseen, it is now the duty of both Governments to cure the defect. No member of the great council of the nation, present when the act of reference was passed, can now repudiate a mode of settlement which he did not then oppose. The faith of the two Governments was pledged to settlement by arbitrators, who were to be guided by the evidence placed in their hands; and they cannot now repudiate their joint acti n There is but one chance of escape from ratification; and that would consist of proof that the arbitrators exceeded their authority; unless this proof be forthcoming, both Goverments are bound to give effect to the award If the award as it stands, will not secure all the objects required from it, the intervention of the British Parliament to cure the defect and ratify the award can and ought to be invoked.

The Canada Rope Serving Machine Co. limited, was organized last week, at New Glasgow. A. C. Bell, Secretary-Treasurer: provisional directors, Thomas Watson, Pictou; H. E. Austen, Halifax; A. C. Bell, New Glasgow; Alex. Fraser (Downie), New Glasgow; Wm. Esson, Halifax; J. B. Burland, Montreal; R. Simpson, Westville. Capital $25,000, letters patent are being applied for.