

eighty years under the jurisdiction of the French Governors of Canada. This bar to the English title to the country was made still more efficacious by the following cautious reservation in the grant of King James:—

“Si vel ipsa regna cultoribus prius vacua.”

But whatever claims could be asserted under a grant made under such circumstances, they were all necessarily extinguished by the full *restoration*, not *cession*, of the whole country comprehended in the grant of 1621 to its original possessor, by the Treaty of St. Germain in 1632. Under the grant therefore of 1621, the United States can maintain no claim to establish the proprietorship of the country on the part of Massachusetts.

We repeat, that although, in consequence of the restoration by Treaty in 1632, all English title derived from the grant of 1621, is to be considered invalid as against those holding under French titles, nevertheless, the boundary descriptions of the grant are to be taken as valid and binding with the United States, and were admitted to be so by the American Commissioners at the Treaty of 1783. These Gentlemen declared that the eastern boundary of Massachusetts was conterminous with the western boundary of Nova Scotia, indeed if this were not so, the United States would have no acknowledged eastern boundary. Massachusetts then having no claim of property as derived from the grant of 1621, must found any claim she may prefer, upon her Charter from William and Mary in 1691.*

By this document, the territorial rights of the old Charter granted in 1606 to the New Plymouth Company, which had been forfeited, were restored, and other territories annexed, as follows:—

“The Colony of the Massachusetts Bay and Colony of New Plymouth, “the Province of Maine, the territory called Acadia, or Nova Scotia, and “all that *tract of land* lying between the said territories of Nova Scotia “and the said Province of Maine.”

The tract of land here spoken of, and which had been called *Sagadahoc*, had been granted on the 12th of March, 1664, by Charles the Second to his brother the Duke of York, and in that grant it is thus described:—

“Beginning at a certain place called or knowne by the name of Saint “Croix, next adjoining to New Scotland in America, and from thence extending along the sea coast unto a certaine place called Petuaquine or “Pemaquid, and so up the river thereof to the furthest head of same as it “tendeth northwards, and extending from thence to the River Kinebequi, and “so upwards by the *shortest course to the River Canada northward*.”

The Charter of 1691 also contained the following reservation:—

“Provided alwise that the said lands, islelands, or any premises by the “said letters patent, intended or meant to be granted, were not then actually “possessed or inhabited by any other Christian Prince or State.”

But, independent of the defect in this title which the previous occupation of the country by the French created, this charter, like the Grant of 1621, never gave anything more valid than a war title could give; for by the Treaty of Ryswick of 1697, the King of Great Britain agreed to restore to France all her possessions, as follows:—

“Pareillement, le dit Seigneur Roi de la Grande Bretagne *restituera* “au dit Seigneur Roi très-Chrestien tous les pays, isles, forteresses et colonies “en quelque partie du monde qu’ils soient situés, que les Français possédaient “avant la déclaration de la présente Guerre.”

By this act of restitution “the territory called *Accadia*, or Nova Scotia,” annexed by the Charter of William and Mary in 1691, to Massachusetts Bay, was restored to France, being part of her possessions before the declaration of war; and thus the right of Massachusetts to any part of the country north of the ancient limits of *Accadia*, which had occasionally in times of war

* In corroboration of this, we quote the following passage from the pleadings in the “Case of “the Provinces of Massachusetts Bay and New York, respecting the boundary line between the “two Provinces.—Boston, 1764.”

“That the inhabitants of the Massachusetts Bay can claim nothing at present but what is “granted them by their last Charter in 1691, all their other grants and charters being void in “themselves, or declared so in the Chancery of England.”

The description of the boundary of the Grant of 1621, valid as respects Massachusetts.

Charter of Massachusetts from William and Mary, 1691.

Grant of Charles II to the Duke of York, of the Sagadahoc lands, March 12, 1664.

Grant of Sagadahoc annulled by its restoration to France, 1697.