

been considered as not affording any basis of a decision in relation to the points submitted. If the facts in relation to Mitchell's map are considered, the conclusion of the Arbitrator is not warranted. That a map of North America published while the British and French were contending for empire in North America, from the means furnished by the office of the Board of Trade and Plantations in England, and while also the question, which had arisen under the Treaty of Utrecht, by which the French ceded Nova Scotia or Acadie to the British, as to the limits of Nova Scotia, was unsettled. It was not therefore the policy of the British Government to designate the boundaries of the provinces on her maps, which the compiler very well understood, and therefore the boundaries were not drawn. It is not true as supposed by the Arbitrator, that Mitchell's map regulated the boundaries, but the negotiators regulated the boundaries by pencil-marks upon the map, according to their agreement of adopting the boundaries of the province, as they were, and had been established before the Revolution.

Another of the reasons urged as not affording a basis of a decision is, "that the Treaty of Ghent stipulated for a new examination on the spot, which could not be made applicable to an historical or administrative boundary." This, like the other instances, is begging the question. Facts are better than hypothesis. The fifth Article of the Treaty of Ghent provides—"Whereas neither the point of the highlands lying due north from the source of the River St. Croix, and designated in the former Treaty of Peace between the two Powers as the north-west angle of Nova Scotia, nor the north-westernmost head of Connecticut River, has yet been ascertained; and whereas that part of the boundary line between the two Powers which extends from the source of the River St. Croix directly north to the abovementioned north-west angle of Nova Scotia, thence along the said highlands which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River, thence down along the middle of that river to the forty-fifth degree of north latitude, thence by a line due west on said latitude, until it strikes the River Iroquois or Cateraguy *has not yet been surveyed.*" If the statement of the Arbitrator has any meaning, it appears to us to mean, that inasmuch as the monument had not been erected at the angle, the stipulation of the parties in the Treaty afforded him no means of deciding where the angle should be. This avoids the very object of the Treaty, which was to have the lines surveyed, and the angle marked. If the lines had been surveyed and marked, the parties would have had no occasion for his services. If the plain objects, clearly set forth in the Article, could not furnish to the mind of the Arbitrator any basis for a decision, we cannot conceive what could. He has in this, as in other instances, shown more of ingenuity than of soundness of judgment. No surveyor who had a competent knowledge of his business, would with such rules as the Treaties furnish, find any difficulty in ascertaining the lines and the angles. The Arbitrator says, the first instructions of Congress, at the time of the negotiations which resulted in the Treaty of 1783, locate the said angle at the source of the River St. John. We are aware that this may be a British argument, but we are not aware that the instructions said any thing about, or had any allusion to, the north-west angle of Nova Scotia. The design of the instructions was to form a new boundary, not conforming to the ancient line of the provinces, but as another and different line was adopted by the Treaty, the instructions have nothing to do with the boundaries. If the St. John had been adopted as the boundary, an inspection of the map shows that Nova Scotia would not have had a north-west, but a south-west angle, if it had retained the territory to the head of the river, on the left bank of it. We are aware the British had made as much as they could of the fact, which had ceased to have any bearing on the question of boundary, after the adoption of the Treaty of 1783. But yet this argument has been adopted by the Arbitrator.

He again, in a subsequent part of his argument, recurs to the instructions and says, "that if by adopting the line claimed as the north of the River St. John, Great Britain cannot be considered as obtaining a territory of less value, than if she had accepted in 1783 the River St. John as her frontier, taking into view the situation of the country situated between the River St. John and St. Croix in the vicinity of the sea, and the possession of both banks of the River St. John in the lower part of its course, said equivalent would nevertheless be destroyed by the interruption of the communication between *Lower Canada* and *New Brunswick*, especially between *Quebec* and *Fredericton*; and one would vainly seek to discover what motives could have determined the Court of London to consent to such an interpretation."

We are aware it has been admitted by the British within a few years past, that the country was included within the limits of the Treaty, but they have said they never intended to give it up. The reason of their giving it up by the stipulations in the Treaty of 1783, is a plain one—they had struggled, but in vain, to hold the people of the United States in subjection to their power, and had been compelled to acknowledge their independence, and had failed in limiting the United States to the Piscataqua, or Kennebec, or Penobscot Rivers, and to settle the dispute agreed to adopt the ancient boundaries of the provinces. This being a part of the territory which belonged to one of the States whose independence she acknowledged, she could not in justice withhold from the State any part of it.

The Arbitrator has seen fit to introduce a class of geographical and grammatical arguments. These, like other arguments, are not original with him, but are of British manufacture. A full and sufficient answer to all his *immediate* and *mediate* divisions of waters, and his supposition that the verb "divide" requires the contiguity of the objects to be divided, as used

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