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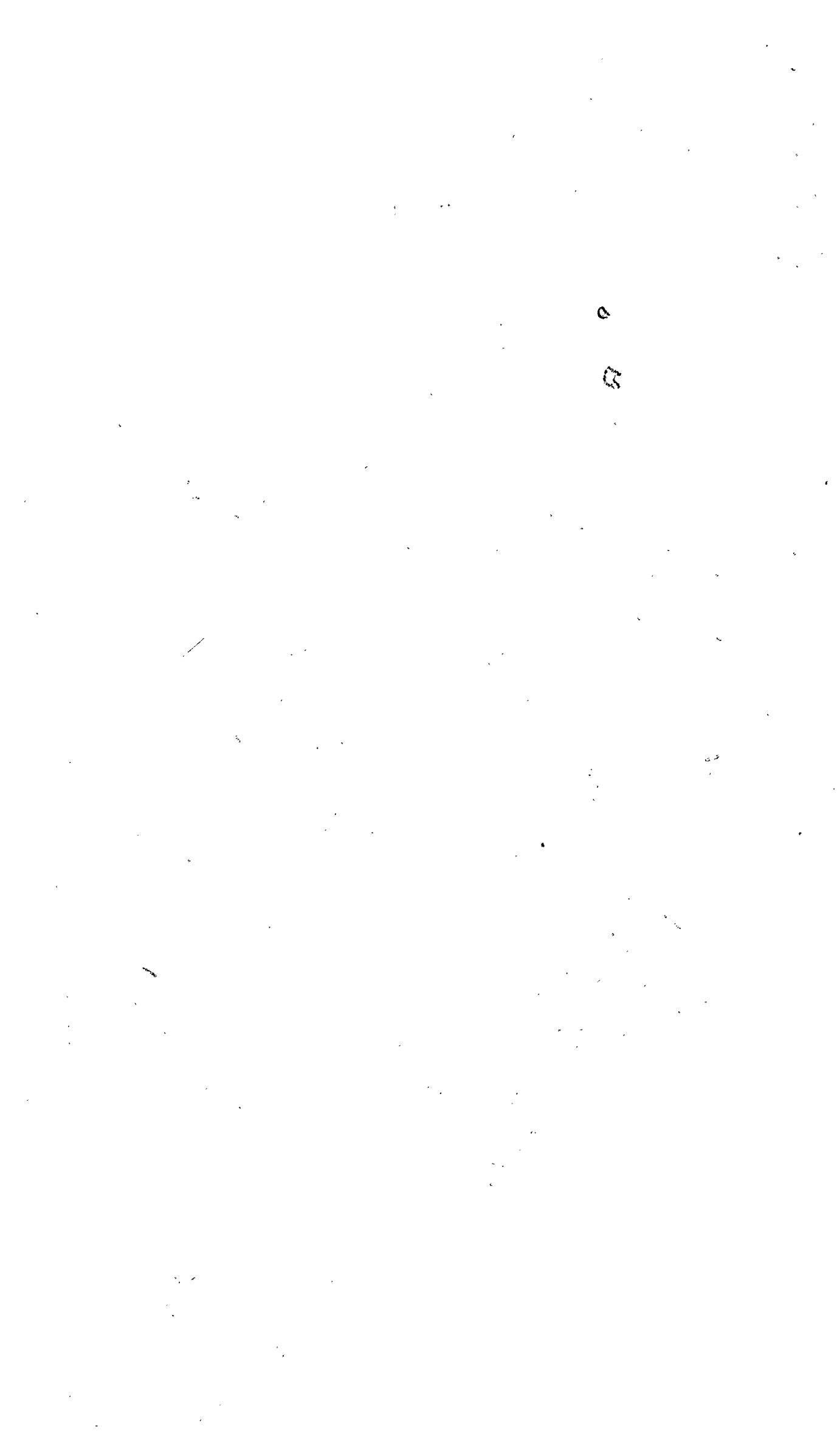
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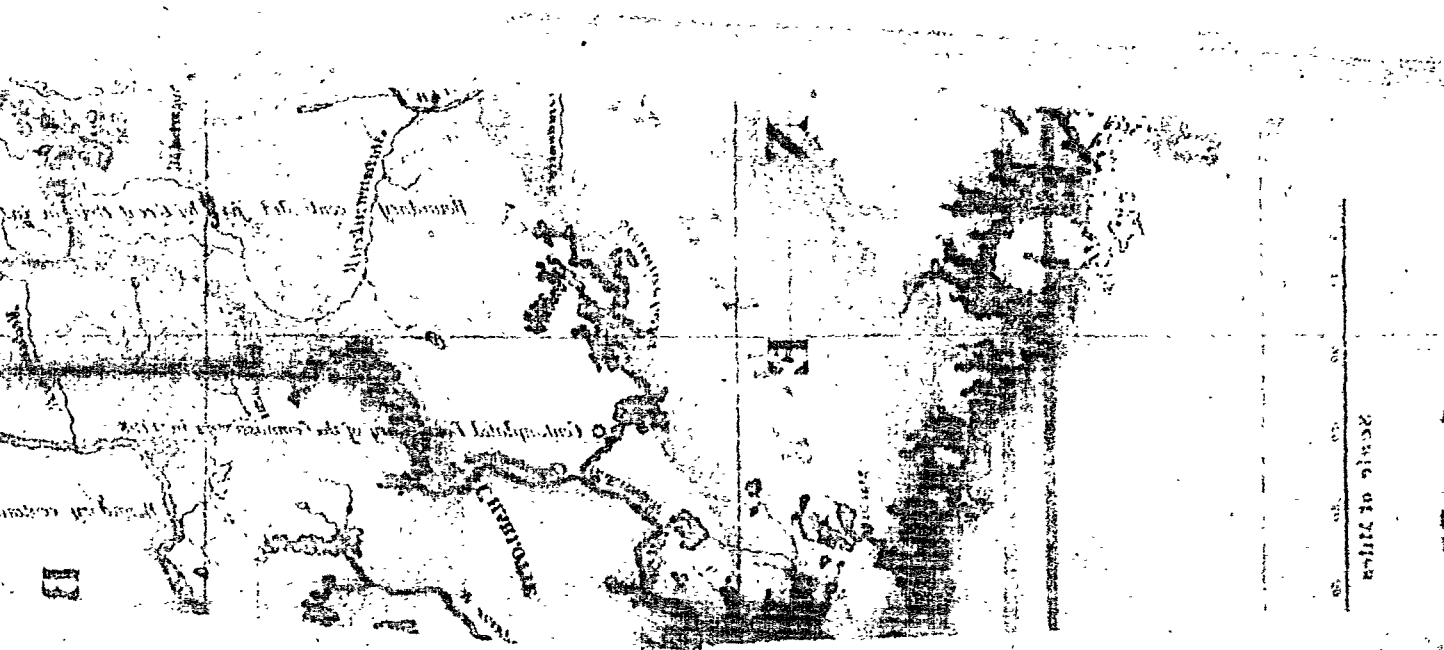
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 of the Eastern Part of the
STATE OF MAINE
 and of the adjacent
BRITISH PROVINCES.

Showing the portions of territory to which Great Britain lays claim.

*Noted from the official Map north
 and south of the Great River by
 the Hon. Mr. Mackenzie in 1780.*

A. The western part of the State reserved for the United States.

B. The western part of the State reserved for Great Britain.

C. The western part of the State reserved for the United States.

D. The western part of the State reserved for the United States.

E. The western part of the State reserved for the United States.

F. The western part of the State reserved for the United States.

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AA. The western part of the State reserved for the United States.

BB. The western part of the State reserved for the United States.

CC. The western part of the State reserved for the United States.

DD. The western part of the State reserved for the United States.

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HH. The western part of the State reserved for the United States.

II. The western part of the State reserved for the United States.

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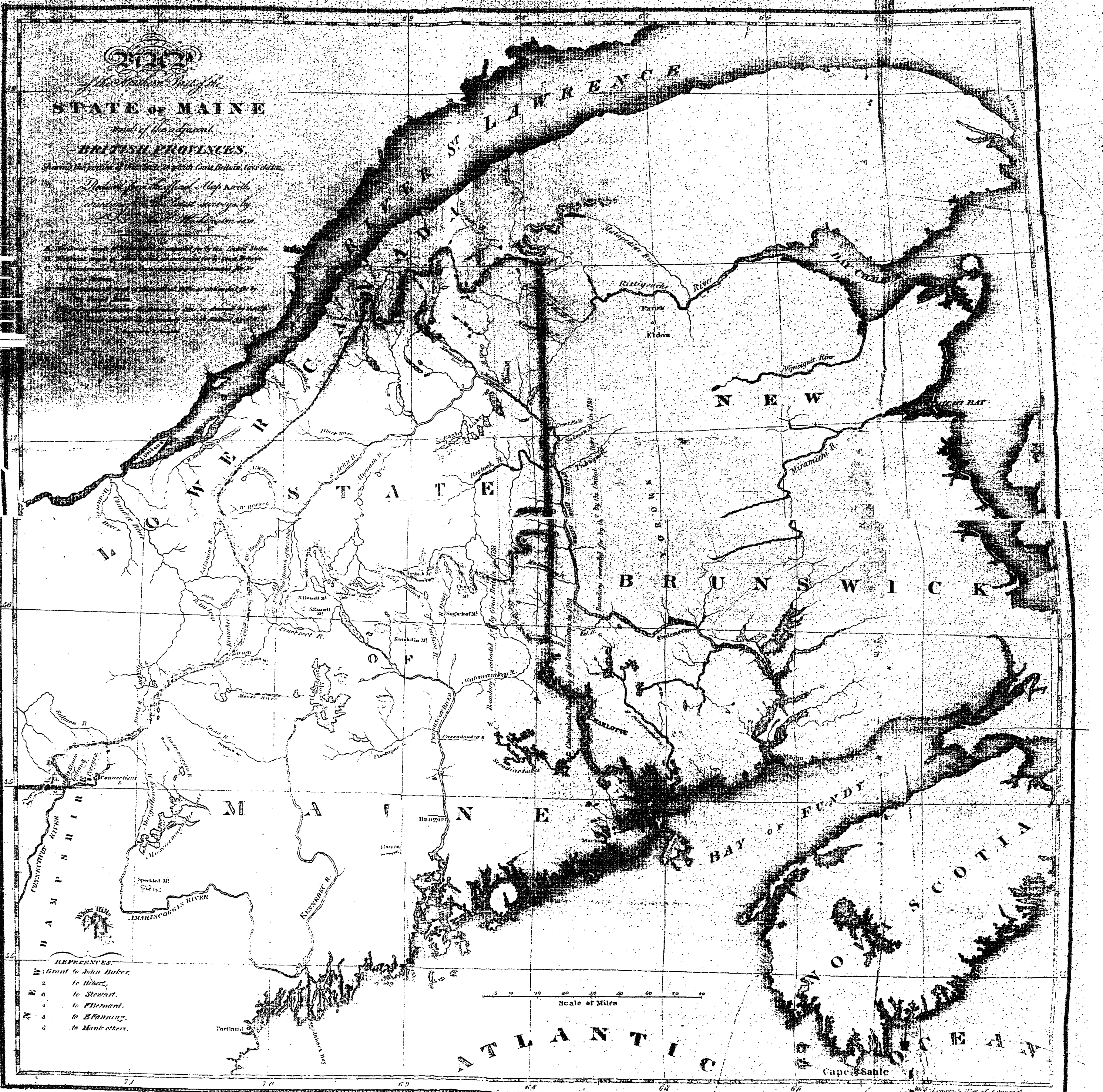
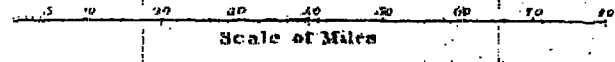
HHH. The western part of the State reserved for the United States.

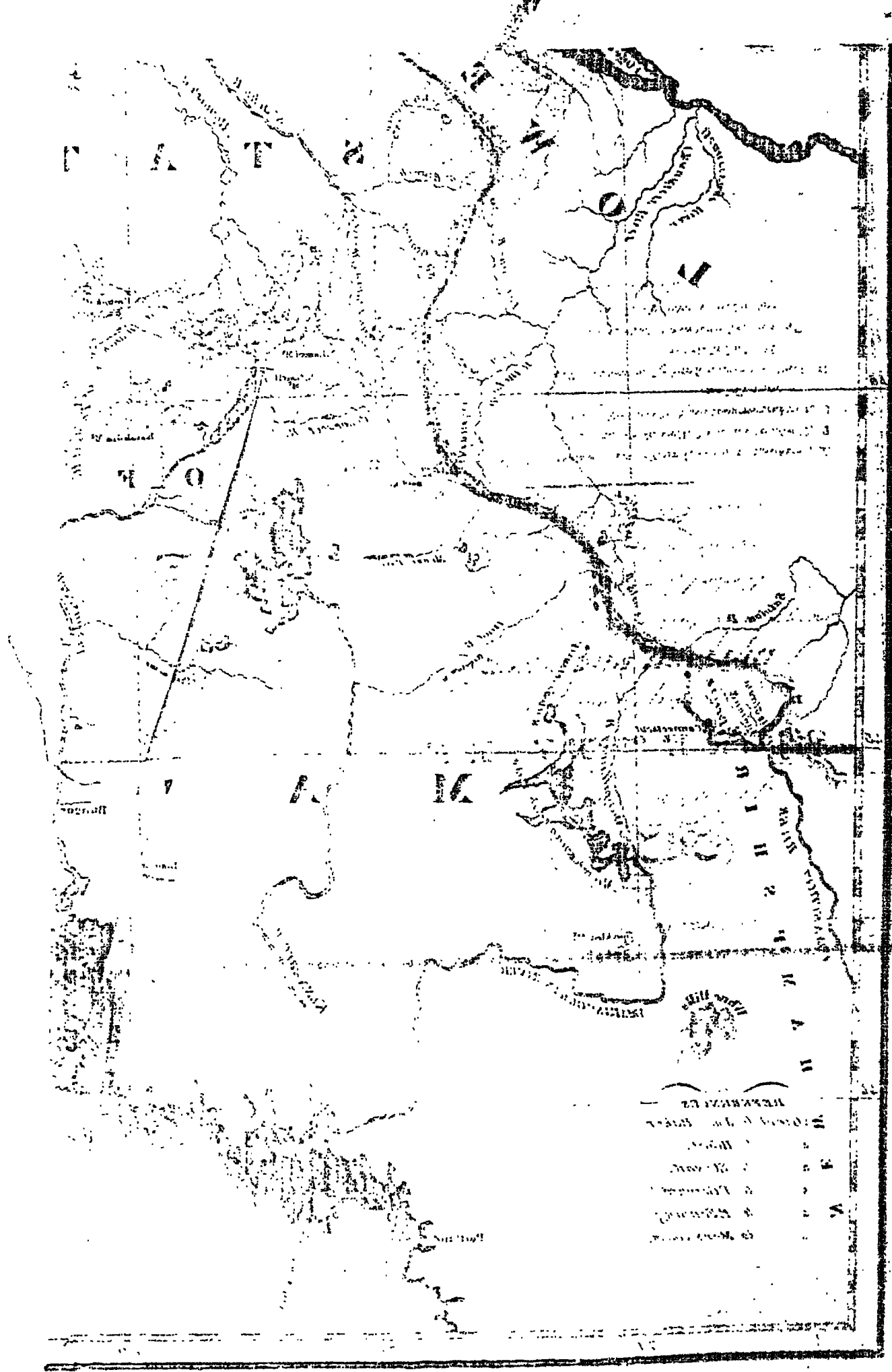
III. The western part of the State reserved for the United States.

JJJ. The western part of the State reserved for the United States.

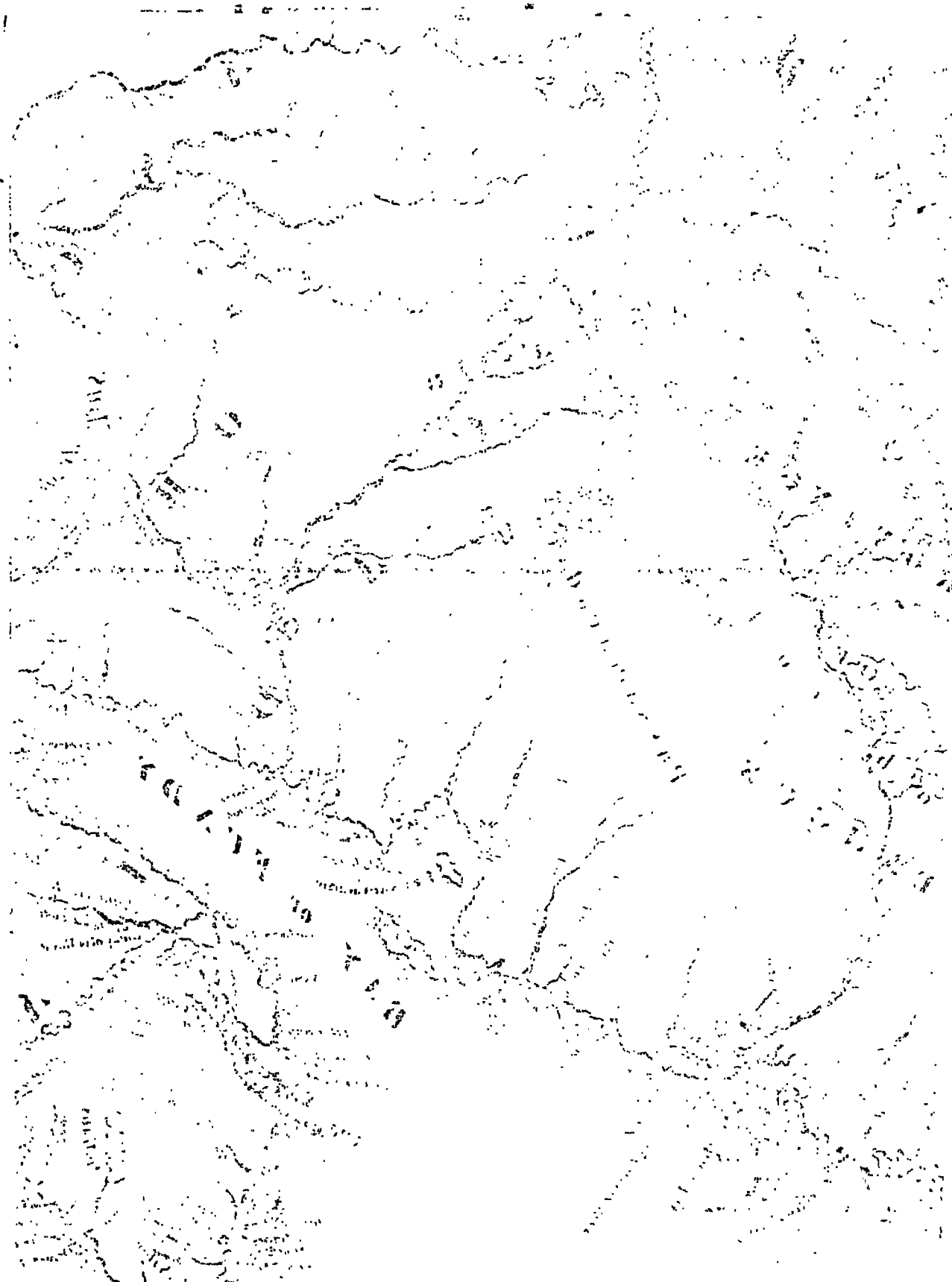
KKK. The western part of the State reserved for the United States.

- REFERENCES.
- W. Grant to John Baker,
 - to Wood,
 - to Stewart,
 - to Bernard,
 - to Blanning,
 - to Mack & others.





MISSOURI RIVER
 1:50,000
 Scale of Feet
 0 1000 2000 3000 4000 5000
 0 1 2 3 4 5 Miles



LEGEND

1. 2. 3. 4. 5. 6. 7. 8. 9. 10.

Scale 1:100,000

EXTRACT FROM

MAP

of the British and French Dominions in
NORTH AMERICA.

BY

Jⁿ Mitchell.

Surveyor General.

This Map was Undertaken with the Approbation and at the Request of the Lords Commissioners for Trade and Plantations; and is chiefly composed from Draughts, Charts and Actual Surveys of different parts of His Majesty's Colonies and Plantations in America: Great Part of which have been lately taken by their Lordships Orders and transmitted to this Office by the Governors of the said Colonies and others.

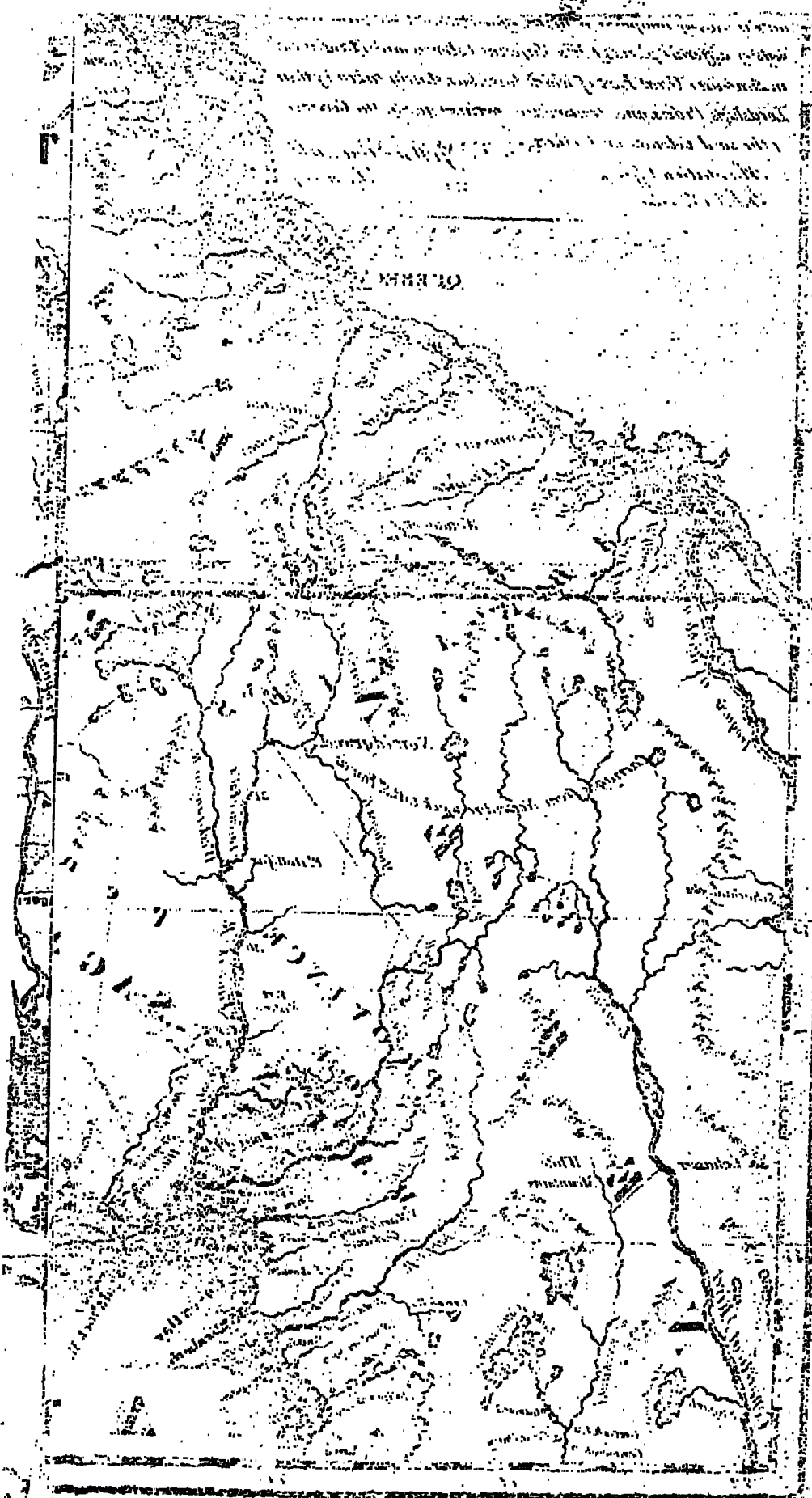
Plantation Office,
Feb^r 13th 1755.

John Warrall
Secretary



THE UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY
WATER RESOURCES DIVISION
SURFACE WATER DIVISION
RIVERS AND STREAMS
OF THE UNITED STATES
OF THE GREAT PLAINS
AND ADJACENT COUNTRIES
1900

OF THE GREAT PLAINS



MISSOURI RIVER
ARIZONA
KANSAS
OKLAHOMA
TEXAS

MISSOURI RIVER
ARIZONA
KANSAS
OKLAHOMA
TEXAS

First Statement on the part of Great Britain, according to the provisions of the Convention concluded between Great Britain and the United States, on the 29th September, 1827, for regulating the reference to Arbitration of the disputed points of Boundary under the 5th Article of the Treaty of Ghent.



(Signed,)

ABERDEEN.

**FOREIGN OFFICE, }
July 2, 1829. }**



FIRST STATEMENT

ON THE PART OF

GREAT BRITAIN,

ACCORDING TO THE PROVISIONS OF

THE CONVENTION

CONCLUDED BETWEEN

GREAT BRITAIN AND THE UNITED STATES,

ON THE 29th SEPTEMBER, 1827.

FOR REGULATING THE

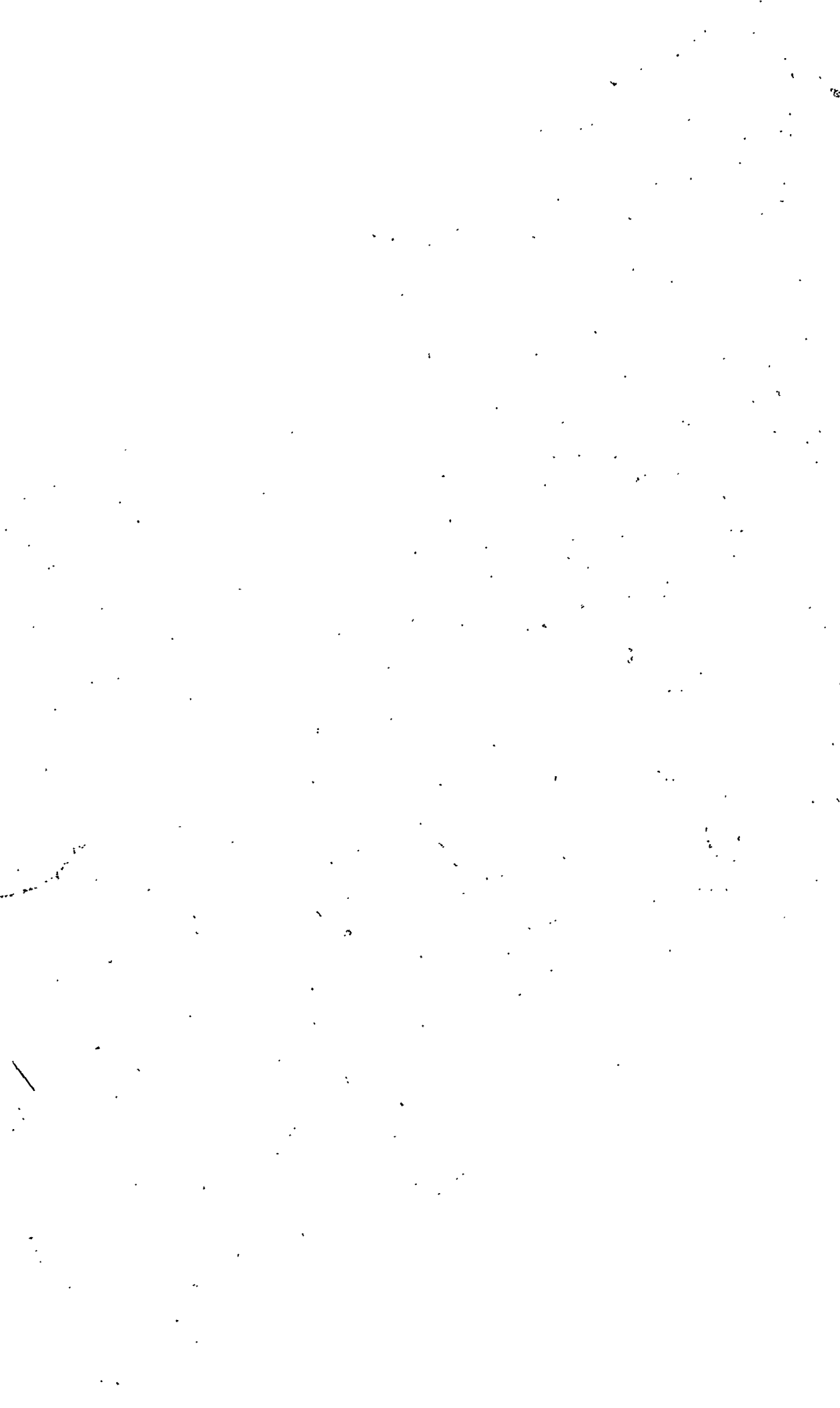
REFERENCE TO ARBITRATION

OF THE

DISPUTED POINTS OF BOUNDARY

UNDER THE

FIFTH ARTICLE OF THE TREATY OF GHENT.



STATEMENT.

WITH a view to the full comprehension of the causes which have given rise to the present reference to foreign arbitration of the differences which exist between Great Britain and the United States, relative to that portion of the boundaries of their respective territories, which lies between the British Provinces of Lower Canada and New Brunswick, and the United States, it will be expedient, before the substance of those differences is entered upon, to give a brief historical sketch of the proceedings which have already taken place between the parties themselves respecting them.

Profound Historical Exposition

Without such preliminary explanation, the references to many portions of those proceedings, which will be occasionally made in the course of this statement, would be scarcely intelligible.

In 1783, Great Britain recognized the independence of the thirteen United States, by a formal treaty, in one article of which the boundaries of the whole country so recognized were intended and believed to be accurately described and defined. In the course of the execution of that article, however, the definition of boundaries therein contained was found, in some essential parts, to be imperfect, and differences accordingly arose as to the real intent of some of the terms employed in it.

Some of these differences were adjusted by means of a subsequent Treaty concluded between the two Powers in 1794; and some at other times. Those respecting the Boundary from the source of the River St. Croix to the intersection of the parallel of 45° north latitude with the River St. Lawrence, were still unsettled at the period of the breaking out of the war between Great Britain and the United States in 1812.

By the Treaty of peace which terminated that war in 1814, new provisions respecting the disputed Boundaries were agreed upon between the parties. By one of those provisions it was stipulated that Commissioners should be respectively appointed by the Contracting Parties, for the purpose of ascertaining, surveying, and finally determining that part of the Boundary above described; and the decision of those Commissioners thereupon, when given, was to be taken as final and conclusive.

In case, however, they were unable to come to such decision between themselves, it was further provided, that they should make reports, either joint or separate, of their proceedings to the two Governments; and that those reports should be referred to the arbitration of some friendly sovereign or State.

Commissioners were accordingly conjointly appointed by the two Powers in 1815-16, who proceeded during several years to survey the disputed country, and to endeavour to arrange the business entrusted to them. Finding themselves, however, after long discussion and consideration of the case, unable to agree upon many essential points, they made, in 1822, separate reports of their proceedings to both Governments, as enjoined by the Treaty.

Profound, Historical Exposition.

Those reports, together with the papers appended to them, being found so voluminous and involved as to afford but little prospect of arriving at a satisfactory issue, if submitted in their actual shape to an arbiter, a new arrangement was entered into by the two Powers, and sanctioned by a Convention concluded between them on the 29th of September, 1827, for regulating that reference to arbitration.

By that Convention it was agreed to substitute for the existing reports of the Commissioners, fresh respective statements of the entire case, and to annex to those statements such of the existing documents or portions thereof, written or topographical, as each party might think fit; and also to adduce such new evidence as was by the said Convention mutually agreed upon.

Appendix No. 1,
p. 1.

The Convention in question is hereto annexed.*

Having thus premised in brief historical outline the general circumstances which, from 1783, down to the present period, have marked the progress of this question, the question itself may now be entered upon.

Provisions of
Treaties.

In stating the matters of difference between Great Britain and the United States, which form the subject of the present reference to arbitration, it will be advisable, in the outset, to recite all those portions of Treaties on which the points for reference hang, or to which they have immediate relation.

Appendix No. 2,
p. 1.

The Treaty of 1783 being the ground-work of the whole question, the preamble, together with the 1st and 2d articles of that Treaty, claim the first mention.

They run and provide as follows:

"It having pleased the Divine Providence to dispose the hearts of the Most Serene and Most Potent Prince George III, by the Grace of God, King of Great Britain, France, and Ireland, Defender of the Faith, Duke of Brunswick and Lunenburgh, Arch-Treasurer and Prince Elector of the Holy Roman Empire, &c., and of the United States of America, to forget all past misunderstandings and differences that have unhappily interrupted the good correspondence and friendship which they mutually wish to restore; and to establish such a beneficial and satisfactory intercourse between the two countries, upon the ground of reciprocal advantages and mutual convenience, as may promote and secure to both perpetual peace and harmony; and having for this desirable end already laid the foundation of peace and reconciliation, by the Provisional Articles signed at Paris, on the 30th of November, 1782, by the Commissioners empowered on each part, which articles were agreed to be inserted in, and to constitute, the Treaty of Peace, proposed to be concluded between the Crown of Great Britain and the said United States, but which Treaty was not to be concluded until terms of peace should be agreed upon between Great Britain and France, and His Britannic Majesty should be ready to conclude such treaty accordingly; and the Treaty between Great Britain and France having since been concluded, His Britannic Majesty and the United States of America, in order to carry into full effect the Provisional Articles above mentioned, according to the tenor thereof, have constituted and appointed, that is to say, His Britannic Majesty, on his part—David Hartley, Esq. Member

* N. B. In addition to the two Maps, namely, the Map A, and Mitchell's Map, officially annexed to the Convention, a separate and detailed transcript of the Map A, (Marked A a.) accurately compiled from the survey made by order of the Commissioners, under the 5th Article of the Treaty of Ghent, is annexed hereto on the part of Great Britain, for purposes of general illustration of the subjects treated of in the British Statements.

“of the Parliament of Great Britain; and the said United States on their part—John Adams, Esq. late a Commissioner of the United States of America at the Court of Versailles, late Delegate in Congress from the State of Massachusetts, and Chief Justice of the said State, and Minister Plenipotentiary of the said United States to their High Mightinesses the States-General of the United Netherlands; Benjamin Franklin, Esq. late Delegate in Congress from the State of Pennsylvania, President of the Convention of the said State, and Minister Plenipotentiary from the United States of America at the Court of Versailles; John Jay, Esq. late President of Congress, and Chief Justice of the State of New York, and Minister Plenipotentiary from the said United States at the Court of Madrid; to be the Plenipotentiaries for the concluding and signing the present definitive Treaty; who, after having reciprocally communicated their respective full powers, have agreed upon and confirmed the following articles:

Provisions of
Treaties

ARTICLE I.

“His Britannic Majesty acknowledges the said United States, viz: New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, to be Free, Sovereign, and Independent States; that He treats with them as such; and for Himself, His Heirs and Successors, relinquishes all claims to the government, propriety and territorial rights of the same, and every part thereof.”

ARTICLE II.

“And that all disputes which might arise in future on the subject of the Boundaries of the said United States may be prevented, it is hereby agreed and declared, that the following are and shall be their Boundaries, viz: from the north-west angle of Nova Scotia, viz: that angle which is formed by a line drawn due north from the source of St. Croix River, to the highlands; along the said highlands which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, to the north-western head of Connecticut River; thence down along the middle of that river to the forty-fifth degree of north latitude; from thence by a line due west on said latitude, until it strikes the River Iroquois or Cataraquy; thence along the middle of said river into Lake Ontario; through the middle of said lake, until it strikes the communication by water, between that lake and Lake Erie; thence along the middle of said communication into Lake Erie; through the middle of said lake, until it arrives at the water communication between that lake and Lake Huron; thence along the middle of said water communication into the Lake Huron; thence through the middle of said lake to the water communication between that lake and Lake Superior; thence through Lake Superior, northward of the Isles Royal and Phelipeaux, to the Long Lake; thence through the middle of said Long Lake and the water communication between it and the Lake of the Woods, to the said Lake of the Woods; thence through the said lake to the most north-western point thereof, and from thence on a due west course to the River Mississippi; thence by a line to be drawn along the middle of the said River Mississippi, until it shall intersect the northernmost part of the thirty-first degree of north latitude; south by a line to be drawn due east from the determination of the line last mentioned, in the latitude of 31° north of the Equator, to the middle of the River Apalachicola or Catahouche, thence along the middle thereof to its junction with the Flint River; thence straight to the

“ head of St. Mary’s River, and thence down along the middle of St. Mary’s River to the Atlantic Ocean :—East by a line to be drawn along the middle of the River St. Croix, from its mouth in the Bay of Fundy to its source ; and from its source directly north to the aforesaid highlands, which divide the rivers that fall into the Atlantic Ocean from those which fall into the River St. Lawrence : comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid Boundaries between Nova Scotia on the one part, and East Florida on the other, shall respectively touch the Bay of Fundy and the Atlantic Ocean ; excepting such islands as now are, or heretofore have been, within the limits of the said Province of Nova Scotia.”

The Preliminary Treaty of 1782 being adverted to in the Preamble to that of 1783, the Preamble to the first mentioned Treaty is likewise here inserted.

“ Whereas reciprocal advantages and mutual convenience are found by experience to form the only permanent foundation of peace and friendship between States, it is agreed to form the Articles of the proposed Treaty on such principles of liberal equity and reciprocity, as that partial advantages (those seeds of discord) being excluded, such a beneficial and satisfactory intercourse between the two countries may be established, as to promise and secure to both perpetual peace and harmony.”

Lastly, the Treaty of Ghent, which with respect to the boundaries in question, grows out of, and is grounded altogether upon, that of 1783, provides thereupon in Article V. as follows :

“ Whereas neither that point of the highlands lying due north from the source of the River St. Croix, 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, have yet been ascertained ; and whereas that part of the Boundary Line, between the dominions of the two Powers, which extends from the source of the River St. Croix, directly north to the above-mentioned north-west angle of Nova Scotia ; thence along the said highlands which divide those 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 45th degree of north latitude ; thence by a line due west on said latitude, until it strikes the River Iroquois or Cataraguy, has not yet been surveyed ; it is agreed that for these several purposes two Commissioners shall be appointed, sworn and authorized, to act exactly in the manner directed with respect to those mentioned in the next preceding article, unless otherwise specified in the present article. The said Commissioners shall meet at St. Andrews, in the Province of New Brunswick, and shall have power to adjourn to such other place, or places, as they shall think fit. The said Commissioners shall have power to ascertain and determine the point above mentioned, in conformity with the provisions of the said Treaty of Peace of 1783 ; and shall cause the Boundary aforesaid, from the source of the River St. Croix to the River Iroquois or Cataraguy, to be surveyed and marked according to the said provisions : the said Commissioners shall make a map of the said Boundary, and annex to it a declaration under their hands and seals, certifying it to be the true map of the said Boundary, and particularizing the latitude and longitude of the north-west angle of Nova Scotia, of the north-westernmost head of Connecticut River, and of such other points of the said Boundary, as they may deem proper. And both parties agree to consider such map and declaration as finally and conclusively fixing the said Boundary. And in the event of the said two Commissioners differing, or both, or either of them, refusing, declining, or wilfully omitting to act, such reports, declarations or statements, shall be made by them, or either of them, and

“such reference to a friendly Sovereign or State shall be made in all respects as in the latter Provisions of Treaty.
 “part of the fourth article is contained, and in as full a manner as if the same was herein
 “repeated.”

The contingent arrangement, relative to the proceedings of the Commissioners, with respect to Boundaries, adverted to in the above cited article, being provided for in the fourth article of the same Treaty, the part of that article relative thereto is also here inserted.

It runs as follows :

“It is further agreed, that in the event of the two Commissioners differing upon all or
 “any of the matters so referred to them, or in the event of both, or either, of the said Com-
 “missioners, refusing or declining, or wilfully omitting to act as such, they shall make,
 “jointly or separately, report or reports, as well to the Government of His Britannic Majesty
 “as to that of the United States, stating in detail the points on which they differ, and the
 “grounds upon which their respective opinions have been formed, or the grounds upon which
 “they or either of them have so refused, declined, or omitted to act. And His Britannic Ma-
 “jesty and the Government of the United States hereby agree to refer the report or reports of
 “the said Commissioners to some friendly Sovereign or State, to be then named for that pur-
 “pose, and who shall be requested to decide on the differences which may be stated in the
 “said report or reports, or upon the report of one Commissioner, together with the grounds
 “upon which the other Commissioner shall have refused, declined, or omitted to act, as the
 “case may be. And if the Commissioner so refusing, declining, or omitting to act, shall also
 “wilfully omit to state the grounds upon which he has so done, in such manner that the said
 “statement may be referred to such friendly Sovereign or State, together with the report of
 “such other Commissioner, then such Sovereign or State shall decide, *ex parte*, upon the
 “said report alone, and his Britannic Majesty and the Government of the United States
 “engage to consider the decision of such friendly Sovereign or State to be final and conclusive
 “on all the matters so referred.”

Before we come to treat of the differences which have arisen under the above Provisions of Treaty.
 cited provisions, it may be advisable to make a few preliminary remarks on the particular
 scope and tendency of those provisions, as it is conceived that such explanatory observa-
 tions may serve much to elucidate the subject of those differences.

By an attentive examination of the stipulations contained in the 2d Article of the Treaty of 1783 above cited, aided by a recollection of the relative position of Great Britain to the United States, we mean as a Mother Country treating with Colonies not yet recognized as independent, it will be clearly perceived, that the main object had in view was not so much to designate the limits of the Territory reserved to the Mother Country, as to assign an appropriate Boundary to the new Power.

It is highly important to bear this circumstance constantly in mind, as it will tend to solve many difficulties attending this complicated question, and to clear up the obscurity in which some of its essential points are involved.

From the period of the cession to Great Britain by France of the Province of Canada, in 1763, to that of the Peace of 1783, the whole of that portion of North America belonged to Great Britain. When She determined to recognize the independence of a part of that Country, the question was what Boundaries to assign to that part. The arrangement respecting them was made in reference to the boundaries of the Provinces relinquished, and not in reference to those which remained under the Sovereignty of the King.

In tracing those Boundaries, it appears from the Treaty, that the first point which was sought to be established, was a point of departure for the general Boundary Line at the north-eastern extremity of the United States, that being taken as it were, as the governing point of the whole Boundary to be traced *west* of the River St. Croix, which river was adopted as the extreme *eastern* limit of those States. That point of departure, which was intended to form the north-east angle of the United States, is in the Treaty designated as the north-west angle of Nova Scotia, and described in the following Clause of the Treaty, viz: "*That angle which is formed by a line drawn due north from the source of St. Croix River to the highlands, along the said highlands which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean.*"

The main difficulty of this part of the case lies in discovering and establishing that point.

The extreme obscurity and confusion in which the whole question of Boundaries in that quarter was involved, both *before* and at the period in question, added to the very imperfect topographical knowledge then had of the interior of the Country, which was in fact but one general wilderness, rendered it absolutely impossible for the framers of the Treaty of 1783, to effect their declared intention of laying down the several points and lines of Boundary with such a degree of accuracy, as to preclude, altogether, doubts on particular parts of it. Accordingly, the very terms of the Treaty, in reference to the point in question, manifest the uncertainty of the negotiators; and they appear to have left to others the task of finding that point, guided by their description of it, rather than to have positively fixed it themselves.

The main object was to trace this part of the northern frontier of the United States in such a manner as to throw certain rivers *entirely* into their territory; and provided that object were accomplished, that is, provided the conditions attached to the highlands, and the point of departure on those highlands, were fulfilled, the relative position of that point of departure, with respect to the dominions of His Majesty, was of no importance. In truth, the provinces of Canada and Nova Scotia being both unsettled in those parts, and there being between them, at the period of the Treaty of 1782-3, no certain and acknowledged Boundary, no man knew where the north-west angle of Nova Scotia really was; and the negotiators of the Treaty proceeded by other modes to describe the intentions of their respective Governments, which were, to give to each Power the entire possession of the great rivers which have their mouths within their dominions, respectively; and thereby, as the preamble of the Treaty expresses it, "to establish such a beneficial and satisfactory intercourse between the two Countries, upon the ground of reciprocal advantages and mutual convenience as may promote and secure to both perpetual peace and harmony."

If the letter of the Treaty therefore be not clear upon the points in question, we must appeal to the spirit and intentions of the framers of it, to elucidate that letter.

"Every Treaty," says Vattel, "must be interpreted by certain fixed rules, calculated to determine its meaning, as naturally understood by the parties concerned, when the Treaty was drawn up and accepted;" and again, "since the sole object of a lawful interpretation of a deed ought to be the *discovery of the thoughts of the authors of that deed, whenever we meet with any obscurity in it, we are to consider what probably were the ideas of those who drew up the deed, and to interpret it accordingly.*" Again, "we must consider the whole discourse together, in order perfectly to conceive the sense of it,

“and to give to each expression not so much the signification, which it may *individually* admit of, as that which it ought to have from the *context and spirit* of the discourse.” Remarks on Provisions of Treaties.

Such is the light and sense in which Great Britain desires that the provisions of the Treaties now under consideration should be viewed and interpreted.

Having now premised such considerations as are calculated to insure a correct conception and understanding of the subject about to be discussed, we proceed to the consideration of that subject.*

The differences now referred to arbitration are three-fold.

1st. The Parties differ respecting the point designated in the Treaties as the north-west angle of Nova Scotia: And respecting the highlands along which the Line of Boundary is to be carried, which is destined to divide the rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean.

2d. The Parties differ respecting the true north-westernmost head of the River Connecticut.

3d. The Parties differ respecting the line to be drawn from the River Connecticut along the parallel of 45° north latitude to the River St. Lawrence, called in the Treaties Iroquois or Cataraguy.

Heads of difference.

FIRST BRANCH OF DIFFERENCE RESPECTING THE POINT DESIGNATED IN THE TREATIES AS THE NORTH-WEST ANGLE OF NOVA SCOTIA, &c.

In treating the first stated branch of difference, the principal question to be determined is this:

“Where is the point designated in the Treaties as the north-west angle of Nova Scotia?” This point can only be determined by first determining the other objects by which, according to the Treaty, that angle is entirely governed, namely, *the highlands and the rivers to be divided by those highlands.*

N. W. Angle of Nova Scotia, Highlands, and Rivers to be divided by those Highlands.

It will be observed that the 2d Article of the Treaty of 1783, after mentioning the north-west angle of Nova Scotia, as the *point of departure*, from whence is to be traced the line of northern boundary for the United States, in this part the Province of Massachusetts Bay, describes that *point* as an angle formed by a line drawn due north from the source of the St. Croix River to the highlands, and the *line*, as running “*along the said highlands which divide those 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.*”

Great Britain contends that the point thus described is found at or near an elevation, called Mars Hill, which is situated in a due north line drawn from the source of the St. Croix River, and south of the River St. John; that the highlands intended by the Treaty are those extending from that point to the Connecticut River; and that the Rivers Penobscot, Kennebec, and Androscoggin, are the rivers falling into the Atlantic Ocean, which are

*As in the course of the investigation of the present question by the Arbitrator, it may be necessary to make occasional reference to the historical circumstances which marked the contest between Great Britain and the Colonies, we have been induced to annex to the present statement the history of the Reign of George III. by an historian of reputation; and for greater convenience, we have inserted in the Appendix that chapter of the work which relates to the period which more immediately preceded the close of the contest. See Appendix No. 4, p. 14.

N. W. Angle of Nova Scotia, Highlands, and Rivers to be divided from the rivers which empty themselves into the River St. Lawrence.

The United States have sought for this point at a spot 145 miles north of the source of the River St. Croix; that is to the north of the River St. John, which falls into the Bay of Fundy, and of the River Restigouche which falls into the Bay of Chaleurs.

Bay of Fundy distinct from Atlantic Ocean.

The first point to be considered in treating this question, is, whether the term "*Atlantic Ocean*," as used in this part of the 2d Article of the Treaty of 1783, is not contra-distinguished from the term "*Bay of Fundy*." This is the cardinal point of the whole of this branch of difference between Great Britain and the United States. With respect to that point, then, Great Britain maintains, that throughout the whole Treaty of 1783, it is demonstrable by the Letter of the Treaty, as well as by collateral and inductive evidence, that the term "*Bay of Fundy*," is used as totally separate and distinct from the term "*Atlantic Ocean*;" and therefore on this as well as on other separate and peculiar grounds, that the River St. John which falls into the Bay of Fundy is taken as distinct from those rivers which are described in the Treaty as falling into the Atlantic Ocean. We proceed, therefore, at once to treat these two essential points, which, although in the closest affinity with each other, must be considered each on its own peculiar merits.

That, in the first place, the Bay of Fundy is not to be considered as comprehended, *under the Treaty*, in the Atlantic Ocean, is clearly demonstrable, it is conceived, from the following considerations:

In the second article of the Treaty of 1783, and in one of its most essential points of designation, viz: that of the extreme eastern and the extreme western sea-coast Boundaries of the United States, the Bay of Fundy and the Atlantic Ocean are *specifically* distinguished the one from the other; the latter or extreme western boundary, being in explicit terms, described as terminating in the Atlantic, *by name*, while the former or extreme eastern boundary is, in equally explicit terms, described as terminating in the Bay of Fundy, *by name*.

The extreme western limit on the sea-coast is described as formed by a line "drawn along the middle of St. Mary's River to the *Atlantic Ocean*." The extreme eastern limit is described as formed by a line "drawn along the middle of the River St. Croix from its "mouth in the *Bay of Fundy*," &c.

That article after describing other parts of the general boundaries concludes thus:

"Where the aforesaid boundaries between Nova Scotia on the one part, and East Florida on the other, shall **RESPECTIVELY** touch the Bay of Fundy **AND** the Atlantic Ocean."

If one of these two terms is to be taken as comprehended in the other, why specify both? The declaration that the boundaries, eastern and western, of the United States, should touch the Atlantic at each extremity of the country, would surely have been amply sufficient for all purposes of delimitation, had not the term "*Bay of Fundy*," been intended as totally distinct from the term "*Atlantic Ocean*."

In one part of the Treaty, then, the terms "*Bay of Fundy*" and "*Atlantic Ocean*" are manifestly intended as distinct and separate the one from the other. But being so taken in one part, they must surely be equally so considered in every other part; for it would be contrary to all reason and consistency to assign one meaning to a term in one clause, and a different meaning to the same term in another clause of the same instrument.

It may, however, be asserted in opposition to this view of the case, that all bays and gulfs are parts of the seas with which they are connected; and that however it may be

argued, that the Bay of Fundy is not a part of the Atlantic Ocean, from that ocean, whether under or independent of the Treaty, no force or ingenuity of argument can ever dis-
Bay of Fundy
distinct from
Atlantic Ocean.
 sever it.

Even setting aside the specific letter and intent of the individual Treaty now under consideration on this point, which we have above shewn to uphold the view taken by Great Britain, the argument above advanced is, we apprehend, altogether fallacious and inapplicable.

That bays and gulfs are, in the nature of things, parts of the sea, there can be no doubt; but it must be a very vague use of language when they are spoken of as component parts of seas of specific denomination, with which they are immediately connected. It cannot be questioned that it is the constant usage of geographers to apply specific names to the various branches or inlets of the sea, with the express purpose of presenting them to view as objects of distinct and separate consideration.

When we speak of the gulfs of Bothnia or Finland, do we not always consider them as distinct from the Baltic? Or of the Adriatic or Archipelago as distinct from the Mediterranean? So Ballin's Bay and Hudson's Bay would be considered as distinct from the Northern Ocean, and the Gulfs of Mexico and Florida, and Chesapeake Bay, from the Atlantic. Would it be correct or consistent with the received use of language to affirm that St. Petersburg is built on the Baltic, Venice on the Mediterranean, Amsterdam on the North Sea, Baltimore and Annapolis on the Atlantic Ocean? Yet all the bays and gulfs on which these places respectively stand, are to the respective seas, with which they are immediately connected, what the Bay of Fundy is to the Atlantic Ocean. Therefore, as all those bays and gulfs are taken as distinct from the seas and oceans with which they are respectively connected, so must the Bay of Fundy be taken as distinct from the Atlantic Ocean.

In the above application of the terms bay and gulf, we refer only to such as are real branches of the sea, into which rivers may or may not discharge themselves. There is another class of bays, so called by geographers, which are merely the expansions of the mouths of rivers, of which they bear the name, such as the Penobscot, the Sagadahock, the Delaware, and others of a similar character, which can be regarded in no other light than as portions of the rivers themselves.

The above reference to universal geographical practice is made, not as the sole, or even the principal, ground on which Great Britain rests the distinction which she claims for the Bay of Fundy, as separate from the Atlantic Ocean, but to shew that geographical practice, so far from being at variance with that claim, most strongly upholds and confirms it.

When the terms used by geographers to designate different portions of the sea are contained in Treaties and other solemn documents, especially when the very object is to define with precision the limits of conterminous States, the appropriate signification of such terms should be still more strictly adhered to.

In further corroboration of the same claim, it can be shown that the distinction between the Bay of Fundy, and the Atlantic Ocean, as well as between other bays and gulfs and the same ocean, has been constantly observed in public documents, having reference to the countries and districts bordering on such bays and gulfs, and the Atlantic Ocean, respectively.

Bay of Fundy
distinct from At-
lantic Ocean.

At the head of these documents must be placed Mitchell's Map,* annexed to the Convention of the 29th September, 1827, as an authentic document of reference.

That Map displays, broadly and clearly, the deeply-indented Bay of Fundy, as well as the Gulf of St. Lawrence, in large and conspicuous characters, each under its proper title, and totally distinct from the *Atlantic Ocean*.

We abstain from citing other maps in confirmation of the same fact, because, although other maps may have been consulted in *private* by the British and American negotiators, it is on record that that of Mitchell alone regulated their *public and joint* proceedings, and is, therefore, *alone* available as authentic evidence.

Appendix No. 5,
p. 32.

2dly. In the grant of Nova Scotia, by James I. to Sir William Alexander, the Bay of Fundy and the Gulf of St. Lawrence are specifically described and distinguished; the former from the adjacent parts of the sea, and the latter, as well from the sea as from the River St. Lawrence.

Appendix No. 6,
p. 33.

3dly. Governor Pownall, in his Topographical Description of the middle British American Colonies, published in 1776, expressly describes the Rivers having their sources in the ridges of highlands, and running southerly, "as falling into the Bay of Fundy, or "into the main ocean."

His description is of peculiar force, and entitled to especial consideration, since, independently of the high reputation of the author, it was published but six years before the opening of the negotiations in 1782, and was consequently most fresh in the minds of persons connected with the countries described.

Appendix No. 7,
p. 34.

4thly. In the Royal Proclamation, issued in 1763, the Gulf of St. Lawrence is designated by its appropriate title, and distinguished from the River St. Lawrence, and from the adjacent parts of the sea. Moreover, in the same document, a broad discrimination is, in other parts, made between the Atlantic and the gulfs and bays along the coast, as terms containing an entirely different sense, the one from the other. Witness the following clause: "The Government of East Florida is bounded to the westward by the *Gulf of Mexico*, * * * and to the east and south by the *Atlantic Ocean and the Gulf of Florida*." Thus, as in the Treaty of 1783, the Boundary Line of the United States is described as respectively touching "the Bay of Fundy and the Atlantic Ocean," so here we find the government of East Florida described as bounded by "the Atlantic Ocean and the Gulf of Florida." What more conclusive proof of the reality of the distinction of terms insisted on by Great Britain can be required?

5thly. As another instance of geographical practice in distinguishing bays and gulfs from the ocean, we refer to the following Article† in "a plan of a Treaty with France, agreed upon by the Congress of the United States on the 17th September, 1776, to be proposed to His Most Christian Majesty:

"Art. IX. The Most Christian King shall never invade, nor, under any pretence, attempt to possess himself of Labrador, New Britain, Nova Scotia, Acadia, Canada, Florida, nor any of the Countries, Cities or Towns on the Continent of North America, nor of the Islands of New Foundland, Cape Breton, St. John's, Anticosti, nor of any other Island lying near to the said Continent, in the *seas*, or in any *gulf, bay, or river*."

It is to be observed, that of the islands above specified, Newfoundland and Cape Breton are bounded on one side by the broad ocean, and in another quarter by the Gulf

* Mitchell's Map B.

† See "Secret Journals of the Old Congress," Vol. II. p. 11.

of St. Lawrence. St. John's, (now Prince Edward's Island) and Anticosti, lie altogether within that gulf.

River St. John, extended under the Treaty from the Atlantic Rivers.

Having now discussed the question respecting the Bay of Fundy, as contradistinguished from the Atlantic Ocean, and having shewn that neither according to the letter of the Treaty of 1783, nor according to generally received geographical practice, can it be taken as comprehended in that ocean, we proceed to treat the other question closely allied to it, namely, "whether the River St. John, which falls into the Bay of Fundy, is intended by the Treaties to be included in that class of rivers which are therein described as falling into the Atlantic Ocean."

That it was not *originally*, and therefore is not *now* so intended, we shall endeavor to shew as well by the *rationale* of the case, as by the clearest evidence, documentary and other, furnished by the United States themselves, of the intentions of the framers of the Treaty of 1783, both before, and at, the period of the negotiations which terminated in that Treaty.

It has been seen that, by that Treaty, the River St. Croix, which is described as having its mouth in the Bay of Fundy, is expressly assigned as the *extreme eastern* limit of the United States. In the meridian of the source of this river is placed the point of departure for the whole line of Boundary, which is to be thence traced *westward*, that point of departure being the point designated in the Treaties as the north-west angle of Nova Scotia.

It was evidently determined, in this very important part of the Boundary, to divide from each other, *at their sources*, the several great rivers assigned to each power. Such intent the expression "*highlands which divide*" plainly denotes; for what could be the object of selecting highlands at all in reference to rivers, if those rivers were to be divided by the Line of Boundary, indiscriminately, either at their sources, or in any part of their course?

Throughout the discussions relating to the limits of the United States in this quarter, both parties clearly directed their attention principally to *rivers*, and, moreover, to rivers in their *whole* extent. This appears distinctly from the proceedings of the Old Congress, and from the accounts of the negotiations in 1782, hereinafter recited.

Now the St. Croix being the *extreme eastern* limit of the United States, the only rivers which could have been intended to have been thus divided, were surely those which empty themselves *between* the meridians of the St. Croix eastward, and of the head of Connecticut River westward, thus securing to the United States the *whole* of each river emptying *within their own territory*, and to Great Britain the whole of each river emptying *within her territory*.

The Preamble to the Preliminary Treaty of 1782 says, that the provisions of that Treaty are founded on the basis of "*reciprocal advantages*" and "*mutual convenience*"—on the principles of "*liberal equity and reciprocity*,"—with the express design of "*excluding partial advantages, (those seeds of discord)*," and the introduction to the very article respecting Boundaries declares, in equally express terms, that those Boundaries are adjusted "*with a view to prevent future disputes*."

Is it credible that, in the very face of these earnest declarations, the framers of the Treaty should have adopted a Line of Boundary, which, in the first place, while it did really secure to the United States the *whole* of each river emptying within *their* territory, would deprive Great Britain of a full half of one, and a portion of another, of the largest rivers emptying within *her's*? and, on the other hand, would give to Great Britain the lower

River St. John,
excepted under
the Treaty
from the Atlantic
Rivers.

half and entire command of the navigation of the largest river in the whole Country, (the St. John) by which alone the whole timber and produce of the territory on the upper half of the same river could be conveyed to the sea, while that upper half was left to the United States?

Such an arrangement would have contained neither *reciprocity* nor *liberal equity*, neither *reciprocal advantage* nor *mutual convenience* in itself, nor would it have tended to prevent disputes; it would, on the contrary, have tended to create a constant source of discord and contention between both parties, which could have been terminated only by one or the other obtaining possession of the whole river so obstructed and mutilated.

We do not dwell on an anomaly which attends the line destined to divide the St. John, if an *Atlantic River*, from the St. Lawrence Rivers; namely, that that line would be absolutely obliged to cross the St. John in the middle of its course, in order to arrive at its source, for the purpose of dividing it from the rivers flowing into the St. Lawrence. We will merely observe, that neither in the Treaty itself, nor in any account extant of the negotiations which led to it, is any mention made of such intersection; a silence, if not fatal, at least very adverse, to the supposition of the intention. Had it been intended that the line of Boundary should cross so marked, and, as it will presently appear, so well known, a feature of the country as the River St. John, there can be no doubt that such a peculiarity would have been *specifically* adverted to.

It is obvious that all the arguments derived from geographical practice and from locality, which have been employed to uphold the claim of Great Britain to exemption for the Bay of Fundy and the River St. John from the conditions of the Treaty, must apply with still greater force to the Bay of Chaleurs and the River Restigouche; first, because that Bay does not even open directly into the Atlantic, but into a second bay, namely, the Gulf of St. Lawrence; and, secondly, because both the bay and the river are still further removed from the extreme eastern limit of the United States. We, therefore, abstain from here alluding more at large to that bay and river.

We now proceed to show, by irrefragible evidence, that both before and at the period of the negotiations in 1782, the authors and conductors of those negotiations, especially the Americans, never had a thought of including the River St. John amongst those rivers which are designated in the Treaty as falling into the Atlantic Ocean.

Appendix No. 8,
p. 58.

In a work annexed to this statement, entitled, "The Secret Journals of the Acts and Proceedings of Congress," published in the United States in 1821, under the authority of Congress, a full account is given of the proceedings of the American Congress relative to the negotiations which preceded and introduced the preliminary articles of 1782, subsequently embodied in the definitive Treaty of 1783. This account throws great light on that most important transaction.

Amongst the documents most worthy of attention contained in that work, are the original instructions given by Congress to their Commissioner appointed to conduct the negotiations, which instructions include the first draft of the Article respecting Boundaries, as adopted in Congress after long and anxious deliberation.

We here insert such extracts from those instructions as more immediately relate to the specific point now under discussion.

"August 14, 1779.

"Congress proceeded in the consideration of the Instructions to the Minister to be appointed for negotiating a Peace, and unanimously agreed to the following draft

“ of Instructions to the Commissioner to be appointed to negotiate a Treaty of Peace with Great Britain.

River St. John, excepted under the Treaty from the Atlantic Rivers

“ Sir,

“ You will herewith receive a commission, giving you full power to negotiate a Treaty of Peace with Great Britain, in doing which, you will conform to the following information and instructions.”

Appendix, p. 39.

After reciting the first and second articles of the instructions, the third is as follows :—

“ 3d. The Boundaries of these States are as follows, viz :—

“ These States are Bounded north, by a line to be drawn from the north-west angle of Nova Scotia along the highlands which divide those rivers which empty themselves into the River St. Lawrence, from those which fall into the Atlantick Ocean, to the north-westernmost head of Connecticut River; thence down along the middle of that river to the 45th degree of north latitude; thence due west in latitude 45° north from the equator, to the north-westernmost side of the River St. Lawrence or Cadaraqui; thence straight to the south end of Nepissing; and thence straight to the source of the River Mississippi: west by a line to be drawn along the middle of the River Mississippi from its source, to where the said line shall intersect the thirty-first degree of north latitude; south, by a line to be drawn due east from the termination of the line last mentioned in the latitude of 31° north from the equator, to the middle of the River Apalachicola, or Catahouchi; thence along the middle thereof to its junction with the Flint River; thence straight to the head of St. Mary's River; and thence down along the middle of St. Mary's River to the Atlantick Ocean: and east by a line to be drawn along the middle of St. John's River, from its source to its mouth in the Bay of Fundy, comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid Boundaries between Nova Scotia on the one part, and East Florida on the other part, shall respectively touch the Bay of Fundy and the Atlantic Ocean. * * *

“ But, notwithstanding the clear right of these States, and the importance of the object, yet they are so much influenced by the dictates of religion and humanity, and so desirous of complying with the earnest request of their Allies, that if the line to be drawn from the mouth of the Lake Nepissing to the head of the Mississippi cannot be obtained without continuing the war for that purpose, you are hereby empowered to agree to some other line between that point and the River Mississippi; provided the same shall in no part thereof be to the southward of latitude 45° north.

“ And in like manner, if the eastern Boundary above described cannot be obtained, you are hereby empowered to agree, that the same shall be afterwards adjusted by Commissioners to be duly appointed for that purpose, according to such line as shall be by them settled and agreed on, as the Boundary between that part of the State of Massachusetts Bay, formerly called the Province of Maine, and the Colony of Nova Scotia, agreeably to their respective rights.”

Subsequently, in the year 1782, after the negotiations had been actually opened, the American Congress again took these matters into their serious consideration, and concurred in a report made to them by a Committee of their House, appointed to investigate the subject of Boundaries with reference to the above cited instructions.

Of that report, which may be seen at length in the above mentioned “ Secret Journals of the Old Congress,” we cite the following extracts :

River St. John,
excepted under
the Treaties
from the Atlantic
Rivers.

The Committee reported "That they had collected facts and observations which they recommend to be referred to the Secretary for Foreign Affairs, to be by him digested, completed, and transmitted to the Ministers Plenipotentiary for negotiating a peace, for their information and use. * * *

"With respect to the Boundaries of the States, * * * * *

Appendix, p. 43. "Massachusetts claims under the charter granted by William and Mary on the 17th October, 1691. * * * * *

"It is incumbent on us to shew that the territorial rights of the thirteen United States, while in the character of British Colonies, were the same with those defined in the instructions given to Mr. J. Adams on the day of August, 1779. * * * * *

Appendix, p. 44. "So fair are our pretensions rendered by the united operation of the grants, charters, Royal commissions, and Indian cessions, * * * that we shall content ourselves with reviewing the objections which will most probably be urged against them, without entering into the direct proofs of our titles.

"*First Objection.* Even upon the supposition that the charter of Massachusetts is valid so as to cover the vacant lands, still it does not follow that St. John's River is part of its eastern Boundary; for that river is contended to be in Nova Scotia, under the expression of the New Charter of Massachusetts in 1691, which conveys the country between the Province of Maine and Nova Scotia. The south-west Boundary of Nova Scotia, therefore, will regulate this claim. But it is well known that in the altercation between France and Great Britain upon this very subject in 1751, Acadia or Nova Scotia was asserted by the latter to be bounded by Pentagoet or Penobscot River.

Answer. "It is to be observed, that when the Boundaries of the United States were declared to be an ultimatum, it was not thought advisable to continue the war merely to obtain territory as far as St. John's River; but that the dividing line of Massachusetts and Nova Scotia was to be consigned to future settlement. It must be confessed, also, that this country, which is said in the New Charter to border on Nova Scotia and the Province of Maine, on opposite sides, and which goes under the name of Sagadahock, cannot be proved to extend to the River St. John as clearly as to that of St. Croix. But there is some reason, notwithstanding, to believe, that Nova Scotia was never supposed by the British King, in any grant to his subjects, to come to the south of St. John's River, although he might have exacted from France a relinquishment of the lands to the River Penobscot, or even Kennebec, as part of Nova Scotia."

The Committee, after further reasoning upon the supposed Boundaries laid down in various old charters affecting that country, in which reasoning the frequent recurrence of the terms "suppose and appear" plainly indicate that they were completely in the dark on a subject so perfectly vague and uncertain, conclude this part of their report by saying:

Appendix, p. 42. "We are obliged to urge probabilities, because, in the early possession of a rough unreclaimed country, accuracy of lines cannot be much attended to. But we wish that the north-eastern Boundary of Massachusetts may be left to future discussion, when other evidences may be obtained, which the war has removed from us."

It must be remarked, that, at the period of this report, all the old charters, grants, and delimitations of provinces, were published and perfectly well known: yet, having all those documents within their reach, the report above recorded was made, and the instructions of 1779 confirmed by the Congress, and acted upon by the American Plenipotentiaries.

Now from the whole body of the above-recited documents, we collect the following important particulars :

1st. That the mouth of the St. John River was, from the first, specifically described as being in the *Bay of Fundy*, while the *Bay of Fundy* was described as distinct from the *Atlantic Ocean*.

2dly. That the north-west angle of Nova Scotia was, after all the consideration which the subject had undergone in Congress from 1779 to 1782, placed deliberately at that time, by the Americans themselves, at the source of the River St. John. For the Boundary of the United States is in that projet described as commencing *north* by the north-west angle of Nova Scotia, and thence running westward ; *east*, by the River St. John from its source to its mouth. But there is no mention made of any connecting line *betwixt* the point of commencement of the northern, and that of the eastern line ; therefore they must be taken as identical.

Silly. We collect that such being the assumed position of the north-west angle of Nova Scotia, the highlands intended to divide the rivers falling into the Atlantic Ocean from those falling into the River St. Lawrence, are described in *the very same terms* which they now retain in the definitive Treaty of 1783.

Hence we deduce, that the highlands designated in the projet being *then* intended to divide the Androscoggin, Kennebec, and Penobscot Rivers *alone*, from those falling into the St. Lawrence, *to the exclusion of the St John*, the highlands so described are *still* intended to divide the same rivers ; and that from those rivers, therefore, the St. John is *still* intended to be excepted.

The position assumed by the United States for the north-west angle of Nova Scotia, it is true, was, as we shall presently see, abandoned by them in the course of the negotiations, and another assumed further east ; but the phraseology respecting the highlands, as dividing certain rivers, having been preserved in its original terms, it is to be inferred that the Negotiators had the same highlands still in view, and that from first to last the River St. John was considered by them as entirely excepted from the class of rivers described as falling into the Atlantic Ocean.

The above-cited instructions were so strictly adhered to, and acted upon by the American Commissioners at Paris, that in the first projet of an article respecting Boundaries, submitted by them to the British Negotiator, scarcely any deviation was made from the projet which has been already described as transmitted with those instructions to the American Commissioners.

In the body of the article so submitted, the eastern Boundary, from the source of the St. John to its mouth, was still retained ; but a note was appended to that article by the American Plenipotentiary, in which, conformably to the contingent instruction above quoted, it was proposed that the whole eastern Boundary should be referred to the decision of Commissioners to be appointed subsequently to the signature of the Treaty. This circumstance seems to prove, that what is termed in the Treaties the north-west angle of Nova Scotia, as well as the limits of Massachusetts Bay, were by the Americans themselves considered as subjects totally unmanageable from their hopeless obscurity and uncertainty.

The article thus drawn up was referred by the British Plenipotentiary at Paris to his Government, who were so dissatisfied with the proposition, that they sent out to Paris one of the under Secretaries of State, for the express purpose of combating it.

In confirmation of the preceding assertions, we again refer to American documents.

River St. John, excepted under the Treaty from the Atlantic Rivers.

River St. John,
excepted under
the Treaties
from the Atlantic
Rivers

In a work, entitled "*The Private Correspondence of Dr. Franklin*," we find the following authentic account, in brief, of what occurred during this important period of the negotiations in 1782. We transcribe the extracts *in extenso*, since they are too important and conclusive to allow the omission of any part of them.

1. Extract of a letter from Dr. Franklin to the Honble. Robert Livingston, dated Passy, 14th October, 1782.

"We have now made several preliminary propositions, which the English Minister, Mr. Oswald, has approved and sent to his Court. He thinks they will be approved there, *but I have some doubts*. In a few days, however, the answer expected will determine. By the first of these articles the King of Great Britain renounces for himself and successors all claim and pretension to dominion or territory, within the thirteen United States; *and the Boundaries are described as in our instructions, except that the line between Nova Scotia and New England is to be settled by Commissioners after the Peace.*"

2. Extract of a letter from Dr. Franklin to the Honble. R. Livingston, dated Passy, December 5, 1782.

"You desire to be very particularly acquainted with every step which tends to a negotiation. I am therefore encouraged to send you the first part of the journal, which accidents and a long severe illness interrupted, but which, from notes I have by me, may be continued if I thought proper. In its present state it is hardly fit for the inspection of Congress, certainly not for public view; I confide it, therefore, to your prudence.

"The arrival of Mr. Jay, Mr. Adams, and Mr. Laurens, relieved me from much anxiety, which must have continued, if I had been left to finish the Treaty alone; and it has given me the more satisfaction, as I am sure the business has profited by their assistance.

"Much of the summer had been taken up in objecting against the Powers given by Great Britain; and in removing those objections, in (*Q. the ?*) using any expressions that might imply an acknowledgment of our independence, seemed at first industriously to be avowed. (*Q. avoided ?*) But our refusing otherwise to treat, at length induced them to get over that difficulty; *and then we came to the point of making propositions. Those made by Mr. Jay and me, before the arrival of the other gentlemen, you will find in the enclosed paper, No. 1, which was sent by the British Plenipotentiaries to London for the King's consideration. After some weeks an Under Secretary, Mr. Strachey arrived, with whom we had much contestation about the Boundaries, and other articles which he proposed; we settled some, which he carried to London, and returned with the propositions, some adopted, others omitted or altered, and new ones added, which you will see, paper No. 2. We spent many days in disputing, and at length agreed on and signed the preliminaries, which you will receive by this conveyance.*"

Paper No. 1, above referred to.

"Articles agreed upon by and between Richard Oswald, Esq. the Commissioner of his Britannic Majesty, for treating of Peace with the Commissioners of the United States of America, on behalf of His said Majesty, on the one part, and Benjamin Franklin and John Jay, two of the Commissioners of the said States for treating of peace with the Commissioners of His said Majesty, on their behalf, on the other part.

“Whereas reciprocal advantages and mutual convenience are found, by experience, River St. John, except what the Treaty from the Atlantic River.
 “to form the only permanent foundation of peace and friendship between States, it is agreed
 “to frame the articles of the proposed Treaty on such principles of liberal equity and reci-
 “procity, as that partial advantages (those seeds of discord) being excluded, such a beneficial
 “and satisfactory intercourse between the two countries may be established, as to promise
 “and secure to both the blessings of perpetual peace and harmony.

1st. “His Britannic Majesty acknowledges the said United States, viz., New Hamp-
 “shire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New
 “York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South
 “Carolina, and Georgia, to be free, sovereign, and independent States; that he treats with
 “them as such; and for Himself, His Heirs and Successors, relinquishes all claims to the
 “government, propriety, and territorial rights of the same, and every part thereof; and that
 “all disputes which might arise in future on the subject of the Boundaries of the said United
 “States, may be prevented, it is hereby agreed and declared that the following are, and
 “shall remain to be, their Boundaries, viz:

“The said States are bounded north by a line to be drawn from the north-west angle
 “of Nova Scotia along the highlands, which divide those rivers that empty themselves into
 “the River St. Lawrence from those which fall into the Atlantic, to the north-westernmost
 “head of Connecticut River; thence down along the middle of that river to the forty-fifth
 “degree of north latitude, and thence due west in the latitude forty-five degrees north from
 “the Equator, to the north-westernmost side of the River St. Lawrence, or Cataraguy;
 “thence straight to the Lake Nipissing, and thence straight to the source of the River Mis-
 “sissippi: west, by a line to be drawn along the middle of the River Mississippi, to where
 “the said line shall intersect the thirty-first degree of north latitude: south, by a line to be
 “drawn due east from the termination of the line last mentioned, in the latitude of thirty-one
 “degrees north of the Equator, to the middle of the River Apalachicola, or Catahouchi;
 “thence along the middle thereof to its junction with the Flint River; thence straight to the
 “head of St. Mary’s River; thence down along the middle of St. Mary’s River to the At-
 “lantic Ocean; and east, by a line to be drawn along the middle of the St. John’s River from
 “its source to its mouth in the Bay of Fundy; comprehending all islands within twenty
 “leagues of any part of the shores of the United States, and lying between lines to be drawn
 “due east from the points where the aforesaid Boundaries, between Nova Scotia on the one
 “part, and East Florida on the other, shall respectively touch the Bay of Fundy AND the
 “Atlantic Ocean.”

“Paris, 8th October, 1762.

“A true copy of which has been agreed on between the American Commissioners
 “and me, to be submitted to his Majesty’s consideration.

“(Signed,) R. OSWALD.”

“Alteration to be made in the Treaty, respecting the Boundaries of Nova Scotia,
 viz:

“East, the true line between which and the United States shall be settled by Commis-
 “sioners, as soon as conveniently may be after the war.”

3. Extract of a letter from Dr. Franklin to the Honble. R. Livingston, Secretary for
 Foreign Affairs, dated Passy, 14th Decr. 1762.

River St. John,
excepted under
the Treaties
from the Atlantic
River.

SIR,

“ We have the honor to congratulate Congress on the signature of the preliminaries of a Peace between the Court of Great Britain and the United States of America, to be inserted in a Definitive Treaty so soon as the terms between the Crowns of France and Great Britain shall be agreed on. A copy of the articles is here enclosed.”—(N. B.—The second article is there described such as it now stands in the Treaty of 1783.)

“ Remarks on Article II. relative to the Boundaries:

“ The Court of Great Britain insisted on retaining all the territories comprehended within the Province of Quebec, by the Act of Parliament respecting it. They contended that *Nova Scotia should extend to the River Kennebec.*”

Here, then, we learn that the projet of the Article above cited respecting boundaries, having been referred to the British Ministry, remained in London *some weeks* under the consideration of that Government; that neither the scheme of settlement contained in the *body* of the article, nor that referred to in the *note* appended to the article, were agreed to by the British Government; that is, that neither the one nor the other “ *could be obtained;*” that on the return of the projet from London “ *there was much contestation about boundaries;*” that some were settled and carried back once more to London by the under Secretary of State, who returned after a time to Paris with the propositions, some adopted, others omitted or altered, and new ones added.* We further learn, that during these disputes, Great Britain “ *insisted on retaining all the territories comprehended within the Province of Quebec by the Act of Parliament of 1774,*” and that “ *she contended that Nova Scotia should extend to the River Kennebec.*” After all this persevering contention, the Preliminary Articles of 1782 at length came out, displaying the provisions respecting boundaries such as they now stand in the Definitive Treaty of 1783. The evidence of Mr. Adams and Mr. Jay, (co-plenipotentiaries with Dr. Franklin in negotiating the Treaty of 1782-3,) relative to the same matters, subsequently taken on oath before the Commissioners appointed under the Treaty of 1794, for ascertaining the true St. Croix, corroborates in every point the information given by Dr. Franklin, and even contains some important disclosures in addition to it.

“ The British Commissioners,” says Mr. Adams, “ first claimed to Piscataqua River, then to Kennebec, then to Penobscot, and at length to St. Croix, as marked on Mitchell’s map.”

That map, Mr. Adams had declared, was the only map or plan which was used by the Commissioners at their *public* conferences.

Mr. Adams proceeds to say, “ one of the American Commissioners at first proposed the River St. John, as marked on Mitchell’s Map; but his colleagues observing, that as the St. Croix was the River mentioned in the charter of Massachusetts Bay, they could not justify insisting on the St. John as an ultimatum, he agreed with them to adhere to the charter of Massachusetts Bay.”

“ The ultimate agreement,” repeats Mr. Adams, in reply to another interrogatory, “ was to adhere to the charter of Massachusetts Bay, and to the St. Croix River, mentioned in it, which was supposed to be delineated in Mitchell’s map.

Now we have already seen in the extracts above given from the “ Secret Journals,”

* The paper in which these alterations were embodied, is not annexed to Dr. Franklin’s letter above cited, in the work from which those extracts are taken.

what were the then generally received notions and intentions of Congress respecting the Boundaries of the thirteen United States, as founded on their adherence to the charter of Massachusetts Bay; and that, consistently with those notions, the line of the St. John River was proposed as throughout its whole course, confining the Province of Massachusetts Bay.

River St. John, accepted under the Treaty from the Atlantic Rivers.

In addition to Mr. Adams's evidence above detailed, Mr. Jay declared on oath, in the same manner, that "in the course of the negotiations, difficulties arose respecting the eastern extent of the United States. That Mitchell's map was before them, and was frequently consulted for geographical information." Further, Mr. Jay declared, "that he doubted there having then been very clear conceptions relative to the just and precise eastern extent of Massachusetts, for he had reason to believe, that respectable opinions in America at that time (1782) considered the River St. John as the proper eastern limit of the United States."

In recapitulation, then, the sum total of all the preceding evidence is, that the whole course of the River St. John was first proposed by the United States as their eastern limit; that that limit not having been obtained, the contingent proposition authorized by the American Instructions above-cited, namely, that for the settlement of boundaries after the war, was resorted to; that that also failed; in fact, that the whole original project of the article respecting the eastern and northern Boundary of the United States was fundamentally changed. Hence, we can come but to one conclusion, and that is, that a new and more contracted line was substituted for the line so rejected and altered.

But it may be asserted that the new line may not necessarily have been a more contracted line than the old; but that in return for the partial contraction of the line at first claimed by the Americans, in the substitution of the St. Croix River for the lower part of the St. John, Great Britain may have agreed to give up to the United States all the lands to the north of the St. John to which they now lay claim.

This would be equivalent to saying, that Great Britain, having vehemently contested the whole Line of Boundary proposed by the United States, from the source to the mouth of the St. John, and having moreover herself gradually receded from her original claims to the Piscataqua, Kennebec, and Penobscot, gave up to the United States as an appropriate result of that contest, and those concessions, the entire upper half of that great and important river, together with 700 square miles* of territory to the north of it, beyond the utmost extent of territory demanded in the first instance by the United States to the south of that river, and negatived by Great Britain; and, as if this was but an insufficient equivalent, that she consented to place the United States in entire possession of the only practicable line of communication between her two Provinces of Canada and Nova Scotia: and all this in the face of the preamble contained in the very Treaty by which these arrangements are sanctioned, which preamble, as we have seen, expressly declares that these arrangements are made in order to prevent future disputes.

Appendix, No 3, p. 47

Such an assertion would carry its own refutation. Besides, not a word of evidence can be adduced in support of it. For in the whole of the evidence above-cited, we have seen that no claim was ever, from first to last, advanced on the part of the United States, either in virtue of their adherence to the Charter of Massachusetts Bay, or on any other ground, to any territory to the north of the St. John. And from the account above given

* Calculation by Dr. Tiarks of the comparative loss which would accrue to Great Britain by the adoption of the Line of Boundary now claimed by the United States, in lieu of that originally proposed by them in 1782.

River St. John,
excepted under
the Treaty
from the Atlantic
Rivers.

of the proceedings relative to the Treaty, as well in, as out of Congress, it is clearly deducible, that not a thought was ever seriously entertained, on the part of the United States, of claiming such extension of Boundary.

Every thing that we have seen, relative to the Negotiations in 1782, tends, in fact, to one irresistible conclusion, which is, that the United States, in the first instance, laid claim to a Boundary which they afterwards found that they could not support; and as Great Britain positively refused to accede to it, they were compelled to *contract* it to a line within that originally claimed; namely, to the St. Croix, on the extreme east; and westward, along a continuation of the same highlands which, in the original projet, were taken to divide the Kennebec and the Penobscot from the rivers falling into the St. Lawrence.

In reference then to the two essential points which we have above discussed, namely, whether the Bay of Fundy is contra-distinguished under the Treaty from the Atlantic Ocean; and whether the River St. John is excepted from that class of Rivers which are described in the Treaty as falling into the Atlantic Ocean, we conceive ourselves to have conclusively established both these facts in the affirmative; and to have demonstrated that it was the intention of the parties to the Treaty of 1783 that the point which is designated in that Treaty as the north-west angle of Nova Scotia, should be found on highlands to the south of the river St. John. Such is the position of the Highlands and the point of departure claimed on the part of Great Britain. Having now, therefore, as we believe, shewn, *affirmatively*, that the highlands now claimed by Great Britain as the Boundary Line of the United States, are really those intended by the Treaty of 1783, we shall endeavor, by arguments and evidence equally conclusive, to demonstrate, *negatively*, that the line of Boundary claimed by the United States, cannot, even on their own shewing, and treating the question by their own arguments, be along the highlands intended by that Treaty.

We have seen, by the evidence adduced respecting the proceedings in the American Congress, as well as by the testimony of the American Commissioners, that the *only* ground of claim *originally* advanced by the United States to territory on and about the River St. John, was in virtue of the rights which *they* held to accrue to them under the Charter of Massachusetts Bay.* No extension of territory in that quarter *beyond* the limits of that

* Two very singular assertions on the subject of the claim of the United States to the territory in question, in reference to the Charter of Massachusetts Bay, have been made by a very high authority, being no less a person than Mr. Gallatin, one of the Plenipotentiaries of the United States for negotiating the Treaty of Ghent, in a letter addressed by him from Ghent to the American Secretary of State, immediately subsequent to the signature of that Treaty.

In that letter, of which a fuller extract will be found in the Appendix No. 39, p. 171, there is this remarkable clause:

"That northern Territory is of no importance to us, and belongs to the United States and not to Massachusetts, which has not the shadow of a claim to any land north of 45 degrees to the eastward of Penobscot River, as you may easily convince yourself of by recurring to her Charters."

The singularity of one of the assertions contained in this clause consists in the supposition on which it is founded, that the United States have a claim to the district in question by some title, separate from that conferred by the Charter of Massachusetts Bay, which a reference to the Secret Journals of the Old Congress already cited by us, proves most conclusively it at they never asserted.

The singularity of the other assertion respecting from this quarter, consists in the denial to Massachusetts of any right or pretence to that district. In the justice of that denial Great Britain most fully concurs, but she affirms that if it is admitted as valid with respect to Massachusetts, it must necessarily equally embrace the United States in general, since in all the discussions anterior to the conclusion of the Treaty of 1783, relative to the territory in question, they uniformly professed to adhere to the Charter of Massachusetts Bay.

It will not escape observation that in the preceding extract one of the most distinguished Statesmen in the United States expresses his deliberate opinion that the northern Territory, that is, precisely the district now in dispute, "is of no importance to the United States."

province was pretended to by them. The ultimate agreement of the American Commissioners, was "to adhere to the Charter of Massachusetts Bay." We have seen that their conception of the limits of that province never extended *beyond* the River St. John.

The United States now lay claim to territory far to the north of that river. The ground of this claim, however, must necessarily be still the same as in 1783, since the provisions of the Treaty of 1783, signed by the American Commissioners under their *ultimate agreement* above mentioned, form the sole basis of the present reference to arbitration. We shall, however, shew by documentary evidence of the most positive nature, that the limits of the Province of Massachusetts Bay never did, and never could, extend to the line now claimed by the United States.

In the British separate transcript (A a) of the map annexed to the convention under the denomination of the map A, there will be perceived, marked in green, a tract of country situated on the Madawaska River, and the Lake Temisquata, at a short distance from the River St. John. That district, laid down according to the most accurate measurement founded on the documentary authority hereinafter specified and annexed, represents a portion of territory denominated "*the Fief of Madawaska,*" which was originally granted in the year 1683, (that is, *eight years prior* to the Charter of Massachusetts Bay,) to a French subject by the Governor of Canada, which was then a French province.

That province remained subject to France from that period down to the year 1763, at which time the whole of the French possessions in that part of North America were definitively ceded by Treaty to Great Britain. During that entire period, however, and down to the present day, the Fief of Madawaska, in spite of all transfers, whether of the Province generally from nation to nation, or of itself individually from hand to hand, has preserved its individuality *under the original grant*, and has constantly been, and is at this moment, subject to the jurisdiction of *Canada*.

In proof of the accuracy of this assertion, we refer to the annexed papers, numbered from 13 to 25, inclusive.

Appendix No. 13 to 25, inclusive, p. 172 to 177.

The first of these papers, marked 13, contains the original grant of that territory in 1683. The others display the successive deeds of transfer and acts of jurisdiction exercised over it in Canada, from that period to the year 1802; since which time the fief has remained in possession of the same occupant.

Here, therefore, exists an extensive Possession incontestably *Canadian*, held by virtue of the rights derived to Great Britain, from the cession to her of Canada by France, *far within* the Line of Boundary claimed by the United States, as *having formed part of the Province of Massachusetts Bay*.

Now, on what possible ground can the United States, who, in preferring their claim in 1782 to territory in this quarter, professed to adhere to the Charter of Massachusetts Bay, now lay claim to Territory which was granted to a French subject by a French Governor of Canada, *before the existence of the Charter of Massachusetts Bay*, and which has *always* formed an integral portion of Canada, whether held by France or Great Britain?

But not only does this interposition of territory, *unquestionably Canadian*, invalidate the claim of the United States, as founded on the Charter of Massachusetts Bay, but it also, when considered under another point of view, totally breaks down their argument respecting the line of highlands claimed by them; for it disables those highlands from fulfilling the distinctive condition required of them by the Treaty of 1783, namely, that they shall divide the rivers falling into the St. Lawrence from those which fall into the Atlantic Ocean. Amongst these latter we have seen that the *United States* include the River St. John.

Fief of Madawaska.

On consulting again the British transcript of the map A, it will be seen that the Fief of Madawaska extends from near the sources of the River Madawaska to within a few miles of the River St. John, of which it is the principal tributary in that quarter.

We conceive that it will hardly be pretended, that the Seigniorship of Madawaska could have been considered, at the period of the original grant, as an insulated portion of Canada, totally disunited from that Province. We therefore assume that the Province of Canada extended, at the period of the original grant of the Fief of Madawaska, *uninterruptedly*, from beyond the Line of Boundary now claimed by the United States, along the Madawaska River, to the entire extent of that Seigniorship. But assuming this to be the case, it is manifest that the American Line must, at the point towards the source of the Madawaska, experience an absolute chasm,—a complete interception,—by the interposition of that portion of Canada.

But how would such a line fulfil the conditions of the Treaty? It would certainly, in that case, neither run along highlands, nor would it divide rivers falling into the St. Lawrence from rivers falling into the Atlantic; since the upper part of the Madawaska would undoubtedly be on the same side of the line with all the rivers which fall into the St. Lawrence.

But without entering into arguments which might be derived from other sources, to shew what the *general* Boundary Line of Canada was, we may fairly assert, that the simple fact of the Fief of Madawaska having been originally granted and invariably held under the jurisdiction of Canada, whether French or English, goes far to warrant the conclusion that the *whole tract of Country* in which that Fief lies, was always considered and treated by the Authorities of Canada as an integral portion of that Province.

Canadian Jurisdiction: Disputed Territory.

Upon such assumption or assertion alone, however, whatever may be its justice or strength, we do not propose to rest our argument. That the Country has been so considered and treated is demonstrable from documentary evidence of an equally conclusive character with that already adduced on behalf of the Fief of Madawaska. To that evidence we accordingly appeal.

Appendix, No. 25, p. 223.

On the 24th of January, 1765, a public notice, hereunto annexed, was issued by the Office of the Provincial Secretary in Canada, and published by authority, according to custom, in the Quebec Gazette, by which notice all *Canadian* inhabitants were prohibited from interfering with the hunting ground of the Indians *down to the Great Falls of the River St. John*.

Appendix, No. 26, p. 229,
No. 27, p. 229,
No. 28, p. 233.

Again, on the 11th of November, 1784, that is, but one year subsequent to the Treaty of 1783, an Indian was condemned by the Courts of Canada, and executed for a murder committed at Madawaska. The documents containing an account of this proceeding are hereto annexed.

Appendix, No. 29, p. 238.

Again, in the year 1789, proceedings were commenced in a Court at Quebec, and continued to the 20th of January, 1791, in an action for damages brought against Augustine Dubé and Pierre Duperé, residing at Madawaska, in which the defendants put in a plea against the jurisdiction of the Court of Quebec, alleging that they resided within that of New Brunswick. The plea was rejected on various grounds; amongst others, absence of proof on the part of the defendants that Madawaska was not within the jurisdiction of Canada; and the defendants were cast accordingly.

Again, on the 10th of November, 1791, a Sheriff's notice was published in the Quebec Gazette for the sale of lands of the said Pierre Dupéré at Madawaska, apparently in execution of the judgment in the last-mentioned case. Canadian jurisdiction in dispute of Territory.

Again, in 1785, the Council of Quebec took into consideration the expediency of making a road from Kanouraska on the St. Lawrence, to Lake Temisquata, along that district called the Temisquata Portage, in order, as it is stated, to obtain an easy and speedy communication between the Provinces of Canada and New Brunswick, "particularly in time of war, when an easy and speedy communication, independent of the States of America, becomes absolutely necessary; and when, in times of peace, from the inconvenience of sending Government and other Despatches by way of New York, which is every day more apparent, the American Postmaster having lately refused the Postmaster-General here (at Quebec) to allow the Couriers from this Province to pass through their territories, insisting that all letters shall go by their mails only." Appendix, No. 29, p. 220; Appendix, No. 31, p. 231.

Again, in 1787—1792, the question of the respective Boundaries of Canada and the then newly-erected Province of New Brunswick* was brought before the Council at Quebec. The paper which contains an account of the proceedings thereupon is highly valuable and important, especially as proving that whatever disputes may have existed between the respective British Provinces as to their several limits, not the smallest doubt seems to have been ever entertained by them as to the right of Great Britain to the whole territory thus contested between the Provinces. Appendix, No. 31, p. 231; Appendix, No. 32, p. 232.

In this document it is shewn, that for several years prior to 1792 the Government of Canada had established a militia at Madawaska, and that the Courts of Quebec had exercised jurisdiction in various cases within that settlement. It will also be seen therein, that, in opposition to the claim set up at that time by New Brunswick to a Boundary north of Lake Temisquata, the Committee of the Council of Quebec contended that such Boundary would interfere with "the seigneuries under Canadian grants as far back as the years 1623 and 1683, besides the Acadians settled above the Great Falls of St. John's River." Appendix, p. 230.

The report of the Committee proceeds thus:—

"The Committee most humbly submit to your Lordship, whether it would not be for the advantage of both Governments that the Province of Quebec be separated from that of New Brunswick by a line running along the highlands which extend from the head of Chaleurs Bay to the foot of the Great Fall of St. John's River, and from thence crossing the river (so as to include the whole of the portage or carrying place) and continuing in a straight line towards the sources of the River Chaudière, which rise on the highlands that commence at the said head of the Bay of Chaleurs, and extend all the way to the north-westernmost head of Connecticut river." This opinion clearly shews what conception was at that time entertained by the Canadian authorities respecting the Boundaries of Canada and Nova Scotia. In a subsequent part of the same document, it is distinctly stated that at that time (in 1792) "the line between the two Provinces of Canada and New Brunswick had not been ascertained;" and it was then

* Subsequently to the Treaty of 1783, the British Province of Nova Scotia was divided into two separate Provinces, of which the one retained its former name; and the other, embracing the British Territory in the vicinity of the due north line, and the adjacent parts of the old Province of Nova Scotia, received the name of New Brunswick.

Canadian juris-
dictio in the
Territory.

the declared object of the Canadian Government, "to call the attention of His Majesty's Ministers to the adjustment of the limits necessary for preserving the public tranquillity of both Provinces."

Appendix No. 33,
p. 244.

Again, in 1791, an official list was made out of the Parishes in the Province of Quebec, in which list the Parish of Madawaska is included, and a description given of the species of tenure by which the settlers held their land; and a census of the male population, above 19 years of age, is also thereto annexed.

The above-cited series of documents clearly establishes Canadian jurisdiction, as far as the Great Falls of the St. John, for a long period, both before and since the Treaty of 1783, and thereby further negatives the American claim to this Country, as founded on the supposed limits of Massachusetts Bay.

Appendix No. 33,
p. 244.

Furthermore, there can be shewn, from *American* testimony, a *de facto* possession by Great Britain of the district, called the Madawaska Settlement, on the River St. John, beginning a few miles above the Great Falls, and extending beyond the confluence of the River Madawaska with the St. John, which possession was never called in question by the United States until the termination of the war between Great Britain and the United States, in 1814.

Madawaska Set-
tlement.

We think it necessary, in order to prevent mistakes from the similarity of the names, to state here that the "*Madawaska Settlement*," and the "*Fief of Madawaska*," are two totally different things, and not in any way connected with each other. The former is a modern colony, planted subsequently to the Treaty of 1783: the latter is, as we have shewn, an hereditary seigniory, granted by the Government of Canada a century antecedent to the Treaty of 1783, and from that period to this, subject to the jurisdiction of Canada.

We prefer giving the account of the Settlement of Madawaska in the very words of the Special American Agent, who was sent by order of the American Government to inquire into its origin, history and actual condition.

"This settlement," says Mr. Barrell in his report, "derives its name from the River Madawaska, which empties itself into the River St. John, about thirty-six miles above the Great Falls, and about one hundred and sixty miles above Fredericton. The first settlers arrived soon after the Treaty of 1783, and the first grant, which was of fifty-one several lots or plantations of land, was made to Joseph Muzeroll and fifty-one other French settlers, in the month of October, 1790, by Thomas Carleton, Esq. then Lieutenant-Governor of the Province of New Brunswick. The land granted lay at intervals between the River Verte and the Madawaska River, nine miles distant from each other, and on both sides of the River St. John. The second grant was of 5,253 acres of land lying below the River Verte, and was made to Joseph Soucer and others by Lieutenant-Governor Carleton, in August, 1794. These are the only grants ever made by the British Government within the settlement, excepting one to Limo Hibert* of 250 acres of land opposite to, and upon the River Madawaska, in May, 1825.

"The laws of the Province of New Brunswick appear to have been always in force since the origin of that settlement. The settlers have acquiesced in the exercise of British authority, both civil and military, among them, and have for many years had an organized militia in the settlement. * * * * The population of Madawaska amounts to about 2,000, and is almost exclusively French."

* Simon Hebert.

In confirmation of the above statement, copies of the original grants of land in that settlement, made in 1790 and 1794, are hereto annexed. In further corroboration of the same statement, we also quote the deposition of one of the first settlers, Simon Hebert, which was taken on oath, on the occasion of the trial, before the Tribunals of New Brunswick, of one John Baker, mentioned in the report above-cited.

Madawaska Settlement.

Appendix No. 35, p. 254.
No. 36, p. 258.
No. 37, p. 253.

That deposition establishes clearly the fact stated in that Report, of the settlers having, from the very commencement, considered themselves as subject to British jurisdiction. "Simon Hebert, being sworn, deposed as follows: I live two miles below Madawaska River. I have lived there forty years next month; I moved there from the French village about ten miles above Fredericton. I have a grant of my land from this Province. It is the first grant in the Madawaska, and was made about two or three years after I moved up. I live under this Government, and have always lived under it. All the Madawaska settlers live under the same Government. I vote at elections. The first time was about eight years ago."

Appendix, No. 36, p. 256.

This last-cited evidence proves an actual jurisdiction over this Territory, since the Treaty of 1783, by the British Province of New Brunswick. The claims of this Province and Canada, with respect to this and other parts of the territory in this quarter are conflicting *inter se*, and shew the uncertainty of their respective Boundaries, which in fact have never been settled, and may require the interference of the Mother Country to adjust: but these conflicting intercolonial claims, which have arisen since the Treaty of 1783, are altogether irrelevant to the present controversy between Great Britain and the United States, as a Foreign Power, and under that Treaty. Whether under the one Province or the other, the possession is British.

The right to that possession was first called in question by the United States, and that only constructively, at the period of the negotiations at Ghent in 1814.

A reference to the two annexed official decennial censuses of the United States, and, specifically, of the State of Maine, will shew that in 1810 no mention was made of the Madawaska Settlement; whereas in 1820 that Settlement was included in the general estimate of the population of the United States; it being, however, stated in this Census of 1820, that the inhabitants of this settlement "*supposed they were in Canada.*"

Appendix, No. 33, p. 377.

Under all these circumstances, Great Britain conceives herself to have a fair right to assume that this settlement and territory have been, from the earliest period, considered a part of the British Dominions.

We now believe ourselves to have demonstrated, from all the considerations and evidence above adduced, that the line claimed by the United States as their boundary, cannot possibly, in point of position, be the line intended by the Treaty of 1783.

We have already demonstrated, on the other hand, that the line claimed by Great Britain is in strict accordance with the intentions of the framers of the Treaty, and does in every respect, in point of position, fulfil the conditions imposed on it by the Treaty.

There is a separate ground, namely, that of the specific meaning and character attached to the term "highlands," on which we shall briefly consider the question before we close this part of our argument; and we propose to shew, in the first instance, that in this more contracted view of the question, as well as on the broader and higher grounds already discussed, the highlands claimed by Great Britain have a just title to be considered as fulfilling the conditions of the Treaty. We will then consider the character of the line claimed by the United States in this respect.

Highlands

Great Britain then maintains that the term *highlands* employed in the Treaty

These highlands connect themselves with a mountainous tract of country, well ^{highlands.} known at the period of the formation of the Treaty of 1783, and long before, by the distinctive appellation of "The Height of Land." That height of land had been described in many public documents as dividing the waters that fall into the Atlantic Ocean, from those which fall into the River St. Lawrence to the west of the sources of the River St. John, and the western head of the Penobscot; that is, the same waters which we have shewn that the American Congress and Plenipotentiaries contemplated in their first proposition before cited, and must still have contemplated at the period of the signature of the Definitive Treaty, because the same designation of the dividing highlands is still preserved therein. Appendix, No 6, p. 33.

That the connexion above noticed exists between the western and eastern section of the *highlands* forming that "*height of land*," to the south of the River St. John, we affirm not only on the authority of the Surveyors employed under the Boundary Commission, but also on that of an American topographer of repute, Mr. Greenleaf, who published in 1816, a "Statistical View of the State of Maine," illustrated by a map of the same State, delineated by himself.

With reference to the highlands in question he says, "with the exception of a *small tract* at the eastern extremity, and *some detached elevations* along the central part of the "north-western Boundary, the mountainous part of the district may be included within an "irregular line drawn from the line of New Hampshire, not far from Saco River; thence "proceeding north-easterly, and crossing Androscoggin River near Dixfield, Sandy River "above Farmington, Kennebec River above Bingham, the west branch of the Penobscot "at the Lake Pennidumpkok, and to the EAST BRANCH OF THE PENOBSCOT near the mouth "of the *Wassattaquoik*; thence north so far as to include the heads of the Aroostook; "thence south-westerly to the head of Moose-head Lake, and thence westerly to the Boundary of the district near the sources of the Du Loup. The greatest length of this section "is from south-west to north-east, about 160 miles; its greatest breadth about 60 miles; and "it comprises about one-seventh part of the district. No observations have been made to "ascertain and compare the height of the different elevations in this section; but from estimates which have been made on the falls of the rivers, proceeding from different parts of "it, and from the much greater distance at which the mountains in the western part are "visible, it is evident that the western, and particularly the north-western part, is much "higher than the eastern; and the section in its whole extent may be considered as presenting the highest points of land between the Atlantic and the St. Lawrence."

The preceding description is extracted from the Report of the British Commissioner under the 5th Article of the Treaty of Ghent, who adds, "that in the map accompanying "Mr. Greenleaf's work, and which that work was intended to explain, there is not a vestige "of any highlands in that tract of Country through which the Boundary is claimed on the "part of the United States, except the Timiscouata Portage, which, it is contended on the "part of His Majesty, is proved also to be the case from the result of the exploring surveys "in that quarter. And it is here to be observed that the Agent of the United States has "not attempted to call in question the correctness of the above statement of Mr. Greenleaf."*

* See copy of Greenleaf's Map, exhibiting the mountainous tract here described, in collection of Maps and Surveys D annexed. D. 37

Highlands.

Throughout the whole extract from Greenleaf above-cited, it will be perceived that it is a question not of lands dividing rivers, but of *elevations*: and it is shewn that those *elevations* extend to the *eastern branch of the Penobscot*, which river we have demonstrated that the framers of the Treaty of 1783 clearly intended to divide from the River St. John. The surveys above referred to shew that the general character of the district between the eastern branch of the Penobscot and *Mars Hill* is mountainous. Great Britain, therefore, on *this ground*, as well as on the others already expounded, conceives herself fairly entitled to assert that *Mars Hill*, and the line of boundary of the United States, as claimed by her from *Mars Hill* to Connecticut River, answer the intent of the Treaty, in which it is declared that the point designated therein as the north-west angle of Nova Scotia shall be placed on the *highlands*, and that the line of boundary shall be traced from that point along the said *highlands* which divide the rivers which empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean.

Appendix,
No. 10, c, p. 121.
" " p. 124.
" " p. 132.
" " p. 135.
D. 17, 14, 15,
19, 20, 23, 24.

With regard to the line claimed by the United States as their Boundary, a reference to the official surveys and reports made by the Surveyors appointed by the Commissioners under the 5th Article of the Treaty of Ghent will fully confirm the assertion which we here confidently make, that not one-third of that line can be shewn to run along any lands which, according to the just definition of the term, are entitled to the appellation of "*high-lands*."

By an attentive examination of those reports and surveys, we shall find that with the exception of one spot on the Temisquata Portage, no eminences like those which are found in the vicinity of the British line have been observed, from which the country and its various elevations could have been viewed; and from the only place, where highlands undoubtedly exist on the Temisquata Portage, no ranges of any extent running in the direction of the Line of Boundary claimed by the United States have been seen on either side, east or west.

Setting aside the Survey and Report* of the American Surveyor, Johnson, as, with respect to the particular country now under consideration, altogether ideal and unfounded in fact, we proceed to examine cursorily, according to descriptions better worthy of attention, the individual spots of the American line which have been visited by the Surveyors.

Appendix, No. 10,
c, p. 74.

The north line, as described by the United States, terminates at a place where there are no highlands agreeing with the definition above given. It appears from Mr. Odell's report, that from the high bank of the Grand Fourche of the Restigouche the land declines gradually all the way towards Beaver Stream, and especially from the place where the line intersects the last waters of the Restigouche until its intersection with Beaver Stream. This district is therefore no better entitled to the appellation of highlands than the whole of the surrounding country.

Appendix,
No. 10, c, p. 122.
" " p. 136.
n, 13, 15.

The next spot along the line, proceeding westerly, which has been visited, is the division of the waters of the second fork of the Lakes of Green River from those of the Rimousky. There, indeed, there are highlands; but they do not divide, but rather run parallel to the waters to be divided.

From the reports and surveys of Mr. Burnham the American, and Dr. Tiarks

* See Appendix, No. 11. p. 143, and No. 44, p. 200.

the English Surveyor, it appears that the dividing land between the waters is a swamp hav- ^{Highlands.}
ing all the features, the appearance, and vegetation of *low* land.

The highlands lie in unbroken ridges parallel to both waters, running south and north, so that those waters take their opposite courses in a valley between two ridges.

The low swampy spot, in which the waters divide, is an insulated point, without any continuity or connexion with other similar spots; so that, in fact, it is impossible to divine which way the Line of Boundary ought to run from that point, since there are no highlands to direct its course as required by Treaty, and it is necessitated to find its way arbitrarily from one detached point to another, for want of such highlands.

The next spot visited by the Surveyors, is that of the division between the northern branch of Tuladi River and a branch of the same River Rimousky before mentioned.

Appendix,
No. 10, c, p. 123.
" " " " p. 137.
D, 14, 15.

It appears that the features of this district were precisely the same as those at the preceding spot; and the same remarks apply therefore with equal force to this place.

This is all we know certainly, as collected from actual survey of the country along the line claimed by the United States, east of Temisquata Portage. Therefore in that country it cannot be affirmed that there are any highlands answering to the demand of the Treaty.

On the Temisquata Portage there are highlands between the waters of Green River and those of the River St. Francis; but those waters were never traced up to their sources, so that it is not known what appearance the country may there present.

At the next spot visited by the Surveyors, westward of Temisquata Portage, namely, the division of the waters of the River Ouelle from those of the Little St. John, we again find the same absence of dividing highlands in the immediate vicinity of the division of those waters. Whatever highlands are found in that quarter run parallel to the river, at some distance from the point of division.

Appendix,
No. 10, c, p. 133
D, 23, 24
" " " " p. 138.

It does not appear that there are any eminent highlands on the line claimed by the United States near the head waters of the numerous branches of the River St. John, nor have we any description of ridges of highlands dividing any of these heads from the contiguous waters of the Rivers emptying into the St. Lawrence.

The Surveyors ascended several of these branches; and it does not appear that any highlands, really entitled to that designation, were any where observed.

No other spot further westward in the line claimed by the United States was visited by the Surveyors, except the point where the British and American lines meet at the "*Height of Land*," heretofore treated of.

In the American transcript of the map A, as in some of the original American Surveys, a line of what appears to be mountains, is represented as extending continuously from the point which the United States claim to be the north-west angle of Nova Scotia, to that point near the source of the St. John where the British and American lines meet. If the line so delineated is intended to represent real elevations, we must affirm that representation to be altogether unsupported by evidence, as a reference to the aforesaid surveys and reports will abundantly prove. If, on the other hand, those highlands are intended merely to represent lands which divide, here and there, waters flowing in opposite directions, we repeat our appeal to the true meaning of the term "*highlands*."

Appendix, No.
11, p. 148, and
No. 44, p. 306.

It has now been shewn, on the part of Great Britain, and in support of her claim, in reference to the first branch of difference between her and the United States, relative to the point designated in the Treaties as the north-west angle of Nova Scotia.

Summary of Ar-
guments

Summary of Arguments.

1st, That the Bay of Fundy, as mentioned in the Treaty of 1783, is intended to be separate and distinct from the Atlantic Ocean ; and that the River St. John, which falls into the Bay of Fundy, is intended, on that as well as on separate grounds, to be excepted from that class of rivers which are described in the Treaty as falling into the Atlantic Ocean ; consequently, that the highlands described in the Treaty *must* lie to the southward of that river.

2dly, It has been shewn that *at the period of the negotiations in 1782*, the only ground assumed on the part of the United States for their claims to territory in the quarter now contested was that of the limits of the Province of Massachusetts Bay ; that the *utmost claim so founded extended only to the line of the River St. John* ; and that in the course of the negotiations that line was materially contracted, under which contraction the Treaty of 1783 was concluded.

3dly, It has been shewn that *far within* the line of boundary now claimed by the United States, *necessarily* on the same ground of having formed part of the Province of Massachusetts Bay, Great Britain holds an extensive hereditary Seignior, indisputably *Canadian*, as having been granted by the Government of Canada, and having continued *uninterruptedly* subject to the jurisdiction of Canada from the year 1683 to the present day.

4thly, It has been shewn that Great Britain constantly exercised *an actual and unquestioned* jurisdiction in the country now claimed by the United States from the period of the Peace of 1783 to that of 1814 ; and held during that period uncontested *de facto* possession of other parts of that country besides the hereditary Seignior above mentioned.

5thly, It has been shewn that the highlands claimed on the part of Great Britain as those designated in the Treaty of 1783 conform, in every particular, to the conditions imposed on them by that Treaty ; and, on the other hand, that the highlands claimed on the part of the United States conform neither in position nor character to those conditions.

Claim of Great Britain.

On all these grounds, Great Britain claims that the point designated in the Treaty of 1783, as the north-west angle of Nova Scotia, be established at or near the elevation above referred to, called *Mars Hill* ; and that from that point the line of boundary of the United States be traced south of the River St. John to the north-westernmost head of Connecticut River, at the heads of the Rivers Penobscot, Kennebec, and Androscoggin ; which rivers Great Britain maintains to be those intended by the Treaty as the rivers falling into the Atlantic Ocean, which are to be divided from those which empty themselves into the River St. Lawrence ; such, or nearly such, as that line is described on the official map, denominated the map A, which is annexed to the Convention of the 29th of September, 1827.

SECOND BRANCH OF DIFFERENCE RESPECTING THE NORTH-WESTERNMOST HEAD OF CONNECTICUT RIVER.

We now turn to the consideration of the second branch of difference between Great Britain and the United States, as above-stated, namely, the designation of the true north-westernmost head of Connecticut River, as intended by the Treaties of 1783 and 1814.

North-westernmost Head of Connecticut River.

In reference to this point Great Britain maintains, that the north-westernmost head, intended by the Treaty, must be that head of the River Connecticut, which, of all the heads of all its waters *above the highest point, where it assumes the distinguishing title of Connecticut, or main Connecticut*, shall be found to lie in the most north-westerly direction relative to the main river.

Towards the upper part of the River Connecticut, several waters flow into it from various quarters. Of these, two, namely, *Hall's Stream* and *Indian Stream*, both coming from the north-west, join the main river a little above the true parallel of 45° N. lat., which is the extreme southern point of the Boundary of the British possessions assigned by the Treaties on that river.

The main River Connecticut, however, retains its name and comparative volume far above the junction of these two streams with it; as far indeed as a lake of some magnitude, denominated *Connecticut Lake*, which is succeeded, still higher up, by other lakes of smaller dimensions. The river which issues from *Connecticut Lake*, now bears, and always has been known by, the sole appellation of Connecticut River.

Great Britain therefore claims the spring head of the most north-western water, which finds its way into Connecticut Lake, as the "north-westernmost head of Connecticut River," intended by the Treaty of 1783, from whence the Boundary is to be traced down along the middle of that river to the 45th degree of N. latitude.

Great Britain maintains, that no stream which joins the Connecticut River *below* any point where the river is known by that distinctive appellation, can, with any propriety, or consistently with geographical practice, be assumed to be *the* River Connecticut; nor, consequently, can the head of such stream be taken as a head of the river itself, being merely the head of a subordinate branch of the river, which branch is known under a separate denomination.

If "*Hall's Stream*" or "*Indian Stream*" are, either of them, to be assumed as containing the true north-westernmost head of the River Connecticut, according to the definition employed in the Treaties, then, by a parity of reasoning, might the Moselle be considered as containing the south-westernmost head of the Rhine, and the Maine its most south-easterly head, and so on; for those rivers join the Rhine in the same relative manner, and are as completely the true Rhine, as the tributary waters "*Hall's Stream*" and "*Indian Stream*" join, and are the true Connecticut.

We adduce the example of the Rhine alone for simplicity's sake. But it is obvious that the same rule which applies to one river must apply to all; and if the American doctrine be admitted, instead of seeking for the northern, southern, eastern, or western, head of any given river, at the point where the highest sources of the river so *denominated* are placed by geographers, and universally admitted to be, we must look all round the compass for the particular head of such river according to the specific magnetical bearing of it, which we may be in want of.

Thus the heads of the Rhine, if designated by such magnetical bearing, must

North western-
most Head of
Connecticut
River.

be searched for in different parts of Europe, instead of in the range of the St. Gothard mountains, where they have hitherto been taken to be situated.

Yet we believe that no person will deny that in those mountains both the south-western, south-eastern, and all other *heads* of that river, are to be found. So, likewise, are the various *heads* of Connecticut River to be found in the same relative position to each other, and to the river of which they are the sources.

This point, however it may be involved in plausible argumentation, is deemed by Great Britain too evident to require further elucidation or argument.

For a confirmation of the several facts above alleged, however, with reference to the position and specific denomination of the River Connecticut and its tributaries, as well as with a view to illustrate the Line of Boundary in that quarter respectively claimed by Great Britain and the United States, we refer to the following documents hereto annexed.

Appendix, No.
10, p. 130, and
Survey D, 11.

1st. The Report and Survey of the British Astronomer, who was appointed by the Commissioners under the 5th Article of the Treaty of Ghent to survey the district at the extreme head of the River Connecticut.

The accuracy of that Report and Survey has been acknowledged by the Americans themselves.

Map A a, annexed.

2dly. The British transcript of the map A, already adduced in evidence. In that transcript, the whole tract in dispute will be found laid down exactly according to the survey above mentioned, together with the adjoining parts of the Line of Boundary.

Appendix, No.
40, p. 288.

3dly. A grant of land made in the year 1789 by the State of New Hampshire to Dartmouth College, in which the land granted is expressly described as being wholly "bounded by Connecticut River" on one side. The said land extends, however, along the river, above the mouth of Indian Stream. Therefore this document proves, by American authority, that this river is distinguished by the name of Connecticut in that part of its course, and considerably above the mouth of Hall's stream, which, as we have seen, is claimed by the United States, as containing the true north-westernmost head of Connecticut River.

Map C annexed.

To elucidate the precise position of this grant, we offer in evidence a map of New England, published in 1826, by Nathan Hale, an American citizen, in which the limits of the grant are laid down.

We must observe, however, that we adduce this map, simply in illustration of that individual point, and by no means in support of the general claim of Great Britain in that quarter, however powerfully it might, in various particulars, be found to corroborate that claim; for we hold map evidence, on either side, to be altogether incompetent to enter into the decision of any question of contested Boundary, such maps alone excepted, as have been admitted as fit to be annexed to the Convention of the 29th of September, 1827, for the purposes therein specially declared.

Appendix, No.
11, p. 292.

Before we quit this branch of difference, we think it not inexpedient to mention, that the American Commissioner and Agent under the 5th article of the Treaty of Ghent, were actually at variance, as to the precise point at which the north-westernmost head of Connecticut River ought to be established; the latter having declared for "Hall's Stream," the former for "Indian Stream." In proof of that variance, an Extract from the Report of the Commissioner of the United States is hereto annexed.

It will be seen, by inspecting the map A, that the American Government have

adopted the views of their Agent, in preference to those of their Commissioner, by adhering to "Hall's Stream" as their Boundary now claimed.

North-westernmost Head of Connecticut River.

It may also be expedient to invite particular attention to the circumstance of the old parallel of 45° north latitude having been discovered to be erroneously laid down half a mile to the north of the true latitude on the River Connecticut.

We advert to this fact more particularly, because the *old* parallel, in its course from the west, crosses Hall's Stream *above* its junction with the Connecticut River, and strikes the latter at a spot where a land mark was placed in 1772, as evidence of the Boundary between the then British Provinces of Quebec and New York.

We shall see hereafter, in discussing the third branch of difference between Great Britain and the United States, that the United States object to the *general* rectification of the Boundary Line along the parallel of 45° north latitude from the Connecticut to the St. Lawrence.

If, however, they apply that objection to the point of departure of that parallel on the River Connecticut, yet still maintain their claim to "*Hull's Stream*," as containing the north-westernmost head of the Connecticut, it is manifest that the Line of Boundary claimed by them can *never* strike the real Connecticut at all, but must stop short at Hall's Stream; since it is only by adopting the rectified parallel of latitude, that the mouth of Hall's Stream can be made to join the Connecticut *above* that latitude. A reference to the Map A will at once elucidate this point.

On all the grounds above adduced Great Britain claims that the north-westernmost head of Connecticut River, as designated in the Treaties, be established at the source of the north-westernmost stream, which flows into the uppermost of the lakes, which are above Connecticut Lake, that point being the north-westernmost head of waters tributary to the said Connecticut Lake, up to which the Connecticut River is known by that distinctive title: and that from thence the line of boundary be traced "down along the middle of that River" "to the 45th degree of North Latitude:" such as it is exhibited on the official map A.

THIRD BRANCH OF DIFFERENCE RESPECTING THE LINE OF BOUNDARY ALONG THE PARALLEL OF 45° N. LATITUDE FROM THE RIVER CONNECTICUT TO THE RIVER ST. LAWRENCE.

We now come to the third and last branch of difference respecting the Boundaries between Great Britain and the United States. That branch, as before stated, embraces the Line of Boundary along the parallel of 45° north latitude from the River Connecticut to the River St. Lawrence.

Boundary Line from the River Connecticut to the River St. Lawrence along the parallel of 45° N. latitude.

We recite here such portions of the provisions of the Treaty of 1814 as have reference to this point.

"Whereas that part of the Boundary Line between the dominions of the two Powers, which extends from the source of the River St. Croix * * * * to the north-westernmost head of Connecticut River, thence down along the middle of that river, to the 45th degree of north latitude; thence by a line due west on said latitude, until it strikes the River Iroquois, or Cataraugy, HAS NOT YET BEEN SURVEYED * * * * The said

Appendix, No. 3, p. 32.

Boundary Line
from the River
Connecticut to
the River St.
Lawrence along
the parallel of
45° N. latitude.

“ Commissioners * * * * shall cause the *Boundary aforesaid, from the source of the River St. Croix to the River Iroquois, or Cataraguy, to be surveyed and marked according to the said provisions.*”

The Treaty of 1783, already cited above, provides, with reference to the point now under consideration, that the line between the British and American Possessions shall be described by a line drawn from the *45th degree of north latitude on Connecticut River, due west on said latitude, until it strikes the River Iroquois or Cataraguy (St. Lawrence.)*” Of these plain and explicit stipulations Great Britain simply desires the strict and faithful execution.

As it may appear singular that upon a provision so clear and intelligible any question should have arisen, it will be necessary to explain the proceedings which have already taken place relative to this matter between the British and American Commissioners who were appointed under the 5th Article of the Treaty of Ghent to carry that provision into effect.

In the year 1818 the Commissioners under the 5th Article of the Treaty of Ghent, having already executed some portion of the general task assigned to them, in the direction of the River St. Croix, proceeded to order their respective astronomers to ascertain in concert various points of that part of the Boundary Line which is provided by Treaty to extend along the parallel of 45° north latitude, from the River Connecticut to the River St. Lawrence.

In the expediency, as well as in the mode, of executing that service, both the Commissioners fully concurred; and an instruction to the astronomers was accordingly drawn up to the following effect:

“ That* on the arrival of Mr. Hassler, (the American astronomer) the astronomers of the respective Governments should proceed with the least possible delay to ascertain the point where the parallel of 45° of north latitude continued due west from Connecticut River, will strike the River Iroquois or Cataraguy (St. Lawrence); and after that should be done, that they should proceed to ascertain the *said parallel of latitude* at such other places between the River Iroquois or Cataraguy and Connecticut River, as should be necessary to an accurate survey of the Boundary Line upon that parallel of latitude, in conformity with the provisions of the 5th Article of the Treaty of Ghent, and of the 2d Article of the Treaty of 1783: and that the Agents of the respective Governments should furnish to the Astronomers such further instructions, not inconsistent with that order, and also such assistants and laborers, and provisions, and other articles, as might be necessary to carry that order into execution.”

This instruction proves that *at that time*, at least, that is, prior to the commencement of the astronomical operations above mentioned, there existed no doubt in the mind of the American Commissioner as to the propriety of instituting such operations.

The Astronomers appointed for that service, both of them men of first rate scientific acquirements, entered accordingly on the task assigned to them, and had actually accomplished no inconsiderable portion of that task, by fixing the points of the *true parallel of 45° north latitude* on the St. Lawrence, and at several intermediate spots between that river and the Connecticut, when doubts appear to have entered into the minds of the American Commissioner and Agent as to the expediency of continuing those operations;

Appendix,
No. 10, c, p. 62.
“ d, p. 64.
“ A, p. 63.

* Extracted from the Report of the British Commissioner under the 5th Article of the Treaty of Ghent.

and the effectual prosecution of this survey, notwithstanding the repeated representations of the British Commissioner, was from that time suspended.

Boundary Line
from the River
Connecticut to
the River St.
Lawrence, along
the parallel of
45° N. latitude.

A cursory explanation of the circumstances which occurred relative to the *actual* operations in the interval between their commencement and the period to which we have brought them down, will be highly necessary in order to clear up this proceeding.

From the reports of the Astronomers it appeared that the old line had been found by them to be in many places more or less defective, being laid down sometimes to the south, and sometimes to the north of the true latitude; and at a certain spot called "*Rouse's Point*," near the outlet of Lake Champlain, where the old parallel was found to be unusually inaccurate, there happened to be an important American Fort which had been erected not long before at considerable expense, as a defence for that frontier. That fort, by the rectification of the Boundary Line, was clearly discovered to stand on British territory, that is to the north of the true parallel of 45° north latitude.

Under these circumstances the American Agent put forth a proposition to the following effect.

In an argument delivered by that gentleman before the Board of Commissioners in 1821, he contended that no *fresh* survey of such parts of the Line of Boundary as had been already heretofore laid down as a Boundary between the Provinces of Quebec and New York, while yet both British, was contemplated by the provisions of the Treaties above cited, those parts being considered as already sufficiently ascertained; but he asserted, that in those parts alone, where the line had not been already marked, a new survey was intended. The American Agent declared, at the same time, that if his view were not acquiesced in by the Commissioners, and if the question were still considered as unsettled, he should in that case be compelled to require that the parallel of 45° north latitude should be laid down according to what he termed the principles of "*geocentric* latitude;" as contradistinguished from the generally received, or "*observed* latitude."*

Thus the whole preceding part of the astronomical observations having been performed according to the universally adopted rules of geographical latitude, the American Agent threatened to require that it should all be executed over again according to a scheme never heard of as applied to practical geography.

It may be sufficient to state cursorily in this place, that the practical effect of the substitution of *geocentric* for *observed* latitude, as demanded by the American Agent, would be to throw the parallel of 45° north latitude about thirteen miles farther to the north than the *true* parallel. In proof of the accuracy of the above statement, we annex hereto the account of this proceeding, such as it is stated in the Report of the British Commissioner.

Appendix, No.
42, p. 273.

An explanatory letter, written by the British Astronomer, is also annexed, in order to elucidate scientifically the question of *geocentric* latitude.

Appendix, No.
43, p. 273.

With regard to the argument adduced on the part of the United States in support of the *partial*, instead of the *total*, rectification of the Boundary Line on the parallel of 45° north latitude, which is asserted by them to have been intended by the Treaties, it will be sufficient to observe, that however practicable the *partial* rectification of a Boundary Line described in *general terms* may be, that of a Boundary Line traced along a *parallel of lati-*

* It is not a little singular, that the American Commissioner has not thought fit in his Report to enter upon the subject above discussed.

The contingent claim, however, to the adjustment of the Boundary Line in question, on the principle of *Geocentric Latitude*, which was put forth, *ex officio*, by the American Agent, never having been disavowed, or retracted, must be considered as still advanced, and in force.

Boundary Line
from the River
Connecticut to
the River St.
Lawrence along
the parallel of
45° N. latitude.

tude is impossible. The rectification of *such* a line can be effected only by reducing all the defective portions thereof into the line which forms the true parallel of latitude. If, therefore, the parts already laid down are to be abided by, *being defective*, that rectification cannot be effected so as to produce one continuous Boundary Line. The following illustration, assisted by an inspection of the map, will put this matter in a clear light.

At the point at which the Line of Boundary along the parallel of 45° north latitude sets out from the Connecticut River, the old parallel is erroneous. At St. Regis, on the St. Lawrence, it is correct. If, therefore, these two parts of the line be prolonged indefinitely in opposite directions, they can never meet; and a chasm must exist between the two where they ought to join. But in the Treaties there is no provision for filling up this chasm. They simply provide for one continuous line; consequently, if the American construction of the intent of the Treaties were adopted, there would be no means of connecting some portions of the line with the others,—the rectified with the unrectified; and the general Line of Boundary from the Connecticut to the St. Lawrence, instead of presenting one continuous line, would be but a series of unconnected links of a chain, which, as far as existing Treaties are concerned, must ever remain dissevered.

Upon all the grounds above stated, Great Britain founds her present claim relative to this branch of difference between her and the United States, which is—

That the Line of Boundary along the parallel of 45° north latitude between the River Connecticut and the St. Lawrence, be, as provided by Treaty, now surveyed and marked out, and, having been so laid down *afresh*, that it henceforward form the true Boundary Line between the British and American Possessions in that quarter.

APPENDIX TO BRITISH STATEMENT.

TOPOGRAPHICAL EVIDENCE.

- A. Official Map, entitled the Map A, annexed to the Convention of 29th September, 1827.
- A a. British unofficial transcript of the said map A.
- B. Mitchell's Map of North America, annexed to the Convention of 29th September, 1827.
- C. Hale's Map of New England.
- D. Atlas annexed to the Report of the British Commissioner, under the 5th article of the Treaty of 24th December, 1814.
 1. Mr. Johnson's North Line—1.
 2. Col. Bouchette's North Line—1.
 3. Mr. Johnson's North Line—2.
 4. Mr. Odell's North Line—2.
 5.

}	Captain Partridge's Section of Madawaska River.
	Ditto from Point Levi to Hallowell.
	Ditto of the Grand Portage.
	Ditto of Mars Hill.
 6. Ditto Survey of the Restook River.
 7. Mr. Odell's Survey of the Restook, with a Sketch of the country, as viewed from Mars Hill and the vicinity of Houlton.
 8. Mr. Hunter's Survey of the Aliguash River.
 9. Ditto Penobscot. 1st Part.
 10. Ditto Penobscot. 2d Part.
 11. Streams tributary to Connecticut River, by Mr. Burnham.
 12. Map of Connecticut River, by Dr. Tiarks.
 13. Mr. Burnham's Survey of the Source of Beaver Stream.
 14. Ditto Tuladi River.
 15. Dr. Tiarks' Sources of Green and Tuladi Rivers.
 16. Mr. Loring's Penobscot River.
 17. Ditto Moose River.
 18. Mr. Campbell's Sketch of the Height of Land annexed to Mr. Odell's Report of the Survey of 1819.
 19. Mr. Hunter's Survey of the river St. John.
 20. Mr. Loss's Ditto Ditto
 21. Mr. Partridge's Ditto Chaudiere River.
 22. Mr. Carlile's Ditto Ditto
 23. Mr. Burnham's Ditto Ouelle.
 24. Mr. Carlile's Ditto Ditto
 25. Mr. Burnham's Ditto Du Loup.
 26. Mr. Carlile's Ditto Ditto
 27. Extract from Carrigan's Map of New Hampshire.
 28. Extract from Mitchell's Map.
 29. Colonel Bouchette's Plan, shewing the different Lines considered as the Parallel of 45 Degrees, north Latitude.
 30. General corrected Copy from Mitchell's Map.
 31. Greenleaf's Map of the District of Maine.
 32. Colonel Bouchette's Barometrical Section.
 33. Mr. Collins' Plan of Line on the Latitude of 45 Degrees N., run between the Provinces of Quebec and New York.

WRITTEN AND PRINTED EVIDENCE.

1. Convention of 29th September, 1827, between Great Britain and the United States.
2. Treaty of 3d September, 1783, between Great Britain and the United States.
3. Treaty of 24th December, 1814, between Great Britain and the United States.
4. Adolphus' History of the Reign of George III. Chap. 43.
5. Grant of Nova Scotia by James I. to Sir W. Alexander in 1621.
6. Extracts from Pownall's Topographical Description of the middle British American Colonies.
7. Royal Proclamation of 1763.
8. Extracts from the "Secret Journals of the Acts and Proceedings of Congress, &c." published in 1821, under the direction of the President of the United States conformably to resolution of Congress.
9. Calculation by Dr. Tiarks, the British Astronomer, of the loss which would accrue to Great Britain by the adoption of the Line of Boundary now claimed by the United States, as compared with that originally proposed by them in 1782.
10. Reports of the Surveyors and Astronomers under the 5th Article of the Treaty of Ghent.
11. Extracts from the reports of the British and American Commissioners respecting the line of Highlands claimed by the United States as their Line of Boundary, and also relative to certain propositions made on the part of Great Britain for a re-survey of some parts of the disputed Territory and for taking the depositions, on oath, of the persons who were employed in surveying that country, as to the accuracy of their respective Surveys.
12. Extract from a letter addressed by Mr. Gallatin, one of the Plenipotentiaries of the United States for negotiating the Treaty of Ghent, to the American Secretary of State, dated Ghent, 25th December, 1814; extracted from some papers relative to that negotiation submitted to Congress by the President of the United States, on the 21st February, 1822.
13. Concession of the *Fief of Madawaska* to the Children of the *Sieur de la Chenaye*, 25th November, 1683; and concession to the said *Sieur de la Chenaye*, and to the *Sieur de Ville-ray*, of land lying between their former possessions, 5th April, 1689.
14. Adjudication of the *Fiefs of riviere du Loup and Madawaska* to *Joseph Blondeau, dit la Franchise*, 29th October, 1709.
15. Act of "*Foi et Hommage*" by *Joseph Blondeau* for the *Fiefs of Riviere du Loup and Madawaska*, 13th February, 1723.
16. *Aveu et Denombrement* by *Joseph Blondeau*, 15th February, 1723.
17. Adjudication of the *Fiefs of Riviere du Loup and Madawaska*, to *Pierre Claverie*, 29th July, 1755.
18. Act of "*Foi et Hommage*" by *Pierre Claverie* for the *Fiefs of Riviere du Loup, and Madawaska*, 19th March, 1756.
19. Receipt for the *Domanial Dues* for the *Fiefs of Riviere du Loup and Madawaska*, 8th May, 1756.
20. Deed of Sale by *J. A. N. Dandamme Dansville*, and his wife, (the widow of *Pierre Claverie*), to *James Murray*, 20th July, 1763.
21. Deed of Assignment dated 2d August, 1768, by *Richard Murray* to *Malcolm Fraser*, of an Indenture of Lease, dated 10th May, 1766, made by *James Murray* to the said *Richard Murray* and *Malcolm Fraser*; and an Indenture of Lease of the said *General James Murray* to *Henry Caldwell*, dated 7th April, 1774.
22. Lease from *Henry Caldwell*, to *Malcolm Fraser*, 24th September, 1782.
23. Confirmation before a Notary, 27th December, 1786, of Lease from *Henry Caldwell* to *Malcolm Fraser*, 24th September, 1782.
24. Deed of Sale, from the Trustees and Executors of *James Murray*, to *Henry Caldwell*, 21st June, 1802.
25. Deed of sale by *Henry Caldwell* to *Alexander Fraser*, 2d August, 1802.
26. Indictment of *Charles Nichau Noite*, a native Indian, for a Murder committed at *Madawaska*, in the Court of King's Bench at *Quebec*, 2d November, 1784.
27. Extract from the minutes of the Executive Council of the Province of *Quebec*, relating to the mode of executing *Charles Nichau Noite*, 3d November, 1784.
28. Extracts from the *Quebec Gazette*, viz:
 - 1st. From the Gazette of 10th November, 1791; of a Sheriff's Notice of the Sale of Lands of *Pierre Duperré*, at *Madawaska*, at the suit of *Anselme and Michael Robichaud*.
 - 2d. From the Gazette of 24th of January, 1765; of a Notice from the Provincial Secretary's Office, dated 19th January, 1765, forbidding the Canadian Inhabitants from interfering with the Hunting Grounds of the Indians, down to the Great Falls of the River *St. John*.

- 3d. From the Gazette of 11th November, 1784; of the account of the execution of Charles Nichau Noite, the Indian condemned for a Murder at Madawaska.
29. Proceedings in the Court of Common Pleas at Quebec, commencing 14th September, 1789, and ending 20th January, 1791.
 30. Extract from the Minutes of the Executive Council of the Province of Quebec, relative to the Temisquata Road, 7th July, 1785.
 31. Extracts from the minutes of the Executive Council of the province of Quebec, 9th July, 1787.
 32. Extract from the Minutes of the Executive Council of the Province of Quebec, 4th August, 1792.
 33. Extract from a List of the Parishes in the Province of Quebec, contained in the minutes of the Executive Council of that Province for the year 1791.
 34. Report of Mr. Barrell (the special American Agent) relative to the settlement of Madawaska, &c. communicated to Congress in a Message from the President of the United States, on 4th March, 1828.
 35. Grant to Joseph Muzeroll and forty-eight others, of Lands in the Madawaska Settlement, by the Government of New Brunswick, dated 1st October, 1790.
 36. Grant to Pierre Duperré, dated 11th June, 1790.
 37. Grant to Joseph Souci and twenty-six others, dated 2d August, 1794.
 38. Report of the trial of John Baker at the Bar of the Supreme Court of the Province of New Brunswick, on Thursday, 8th May, 1828, for conspiracy.
 39. Extracts from the Census of the United States, for the years 1810 and 1820, published by authority of an Act of Congress.
 40. Grant of Land to Dartmouth College.
 41. Extract of the Report of the Commissioner of the United States, under the 5th Article of the Treaty of December 24, 1814, relative to the difference of opinion between him and the American Agent, with regard to fixing the Boundary of the United States on Hills or Indian Stream.
 42. Extracts from the Reports of the British and American Commissioners, under the 5th Article of the Treaty of 24th December, 1814, relative to the Survey of the parallel of 45° north latitude, from the River Connecticut to the River St. Lawrence.
 43. Letter from Dr Tiarks in explanation of Geocentric Latitude.
 44. Observations on the part of Great Britain, on the American separate Transcript of the map, A, and on the engraved maps communicated as evidence on the part of the United States, made in conformity with the 4th Article of the Convention of the 29th September, 1827.