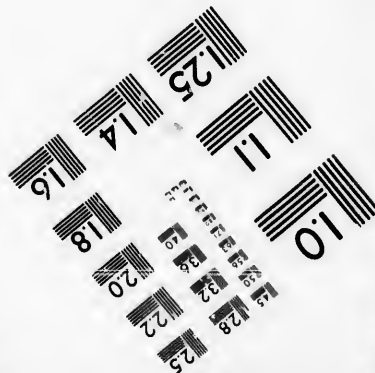
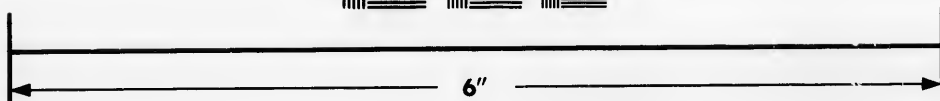
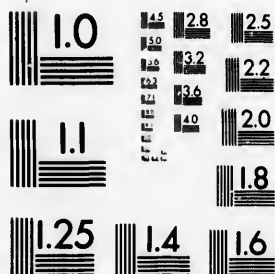


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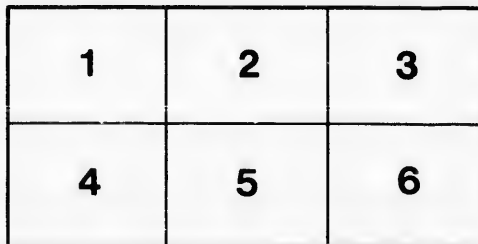
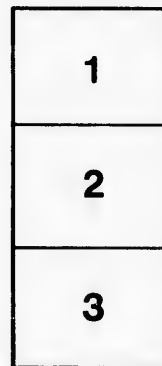
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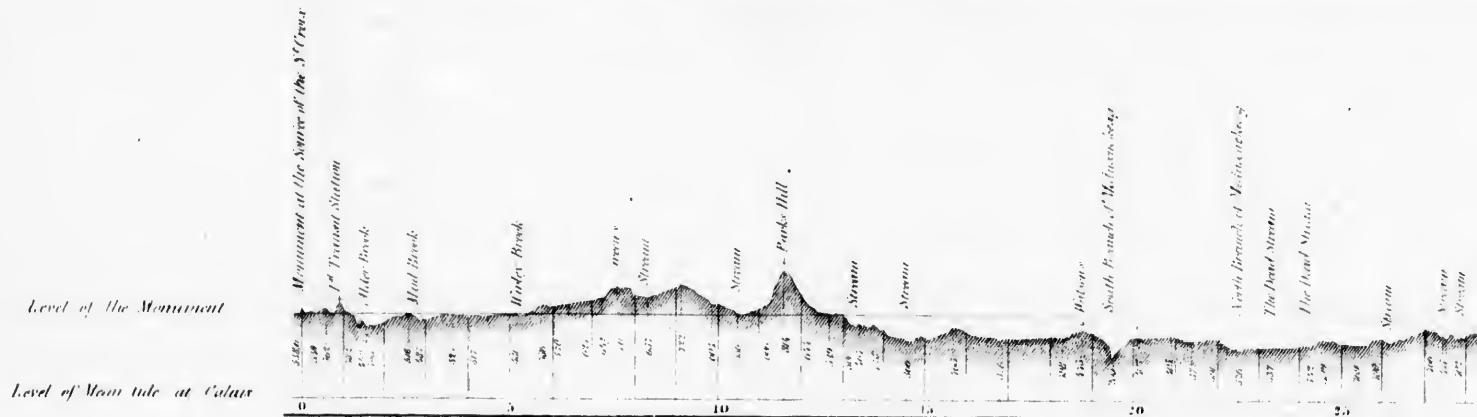
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3. A portion of drawings intended for the same purpose.

PROFILE WITH THE SPIRIT LEVEL, OF THE DUE NORTH

Surveyed in 1840 & 1841 under the direction of Major J. D. Graham U.S. Top:



The meridian direction was determined astronomically with the Transit by Major Silliman, was corrected by Messrs Wilson, McCarty, and H. L. Dearborn. The Leveling from which the

Distances between the successive Astronomical Stations occupied by the Transit in determining the Meridian

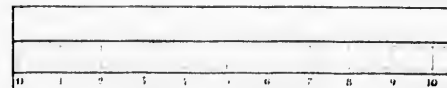
From the Monument to the 1st Astronomical Station

1st Astronomical Station to 2nd Do. on Park's Hill	0 367
2nd Do. Do. 3rd Do. Blue Hill	10 754
3rd Do. Do. 4th Do. Arrowbuck Hill	45 052
4th Do. Do. 5th Do. Peck's Hill	10 719
5th Do. Do. a point determined in position upon the Meridian 13 1/2 miles North of the River St. John	15 379
	19 000

Total

Miles & Decimals	0 367
	10 754
	45 052
	10 719
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Total	97 071

To accompany the A. S. House of Reps 22nd Congress 1st Session.

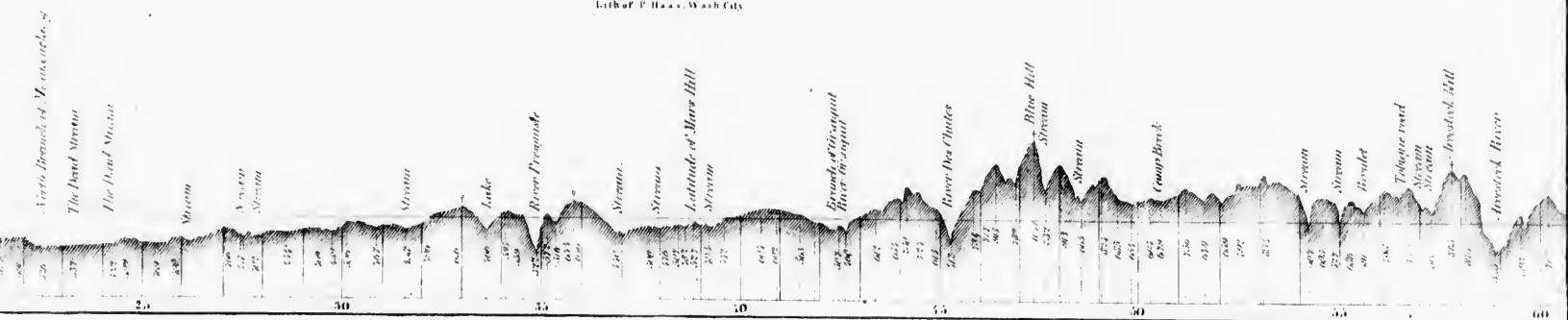


OF THE DUE NORTH LINE FROM THE MONUMENT AT THE SOURCE OF THE RIVER ST CROIX TO THE

D. Graham U.S. Top. Engineers one of the Commissioners for Surveying and exploring the N.E. Boundary of the U.S. under t

Drawn by
Wilson M.C. Fairfax

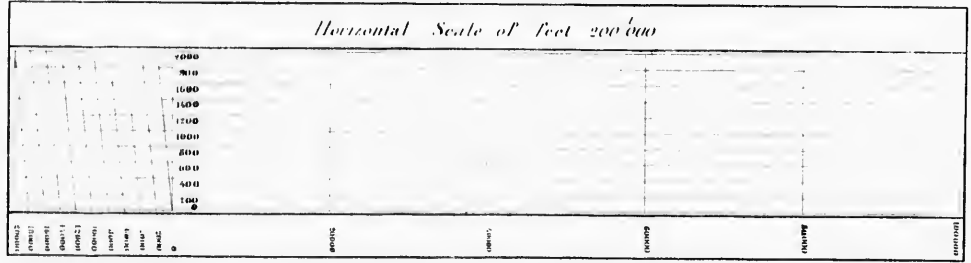
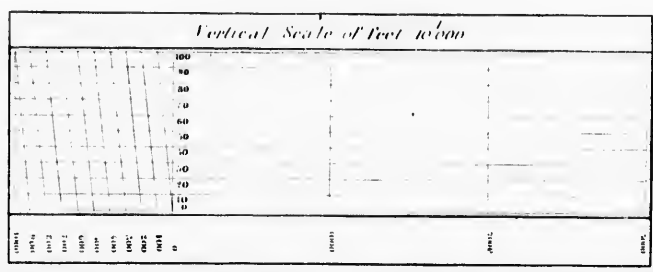
Lith of F. Haas, Wash. City



with the Transit by Major Graham assisted by Lieut^o Lee Thoms and Made of the Corps of Topographical Engineers, and M^r F. Schroeder The trace
e Leveling from which the Profile is prepared, from the Monument to Park's Hill, was executed by Lieut Thoms, Corps of Top. Eng^s and from Park's Hill to the River

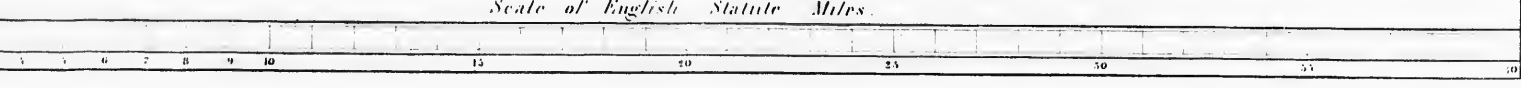
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Scale of English Statute Miles

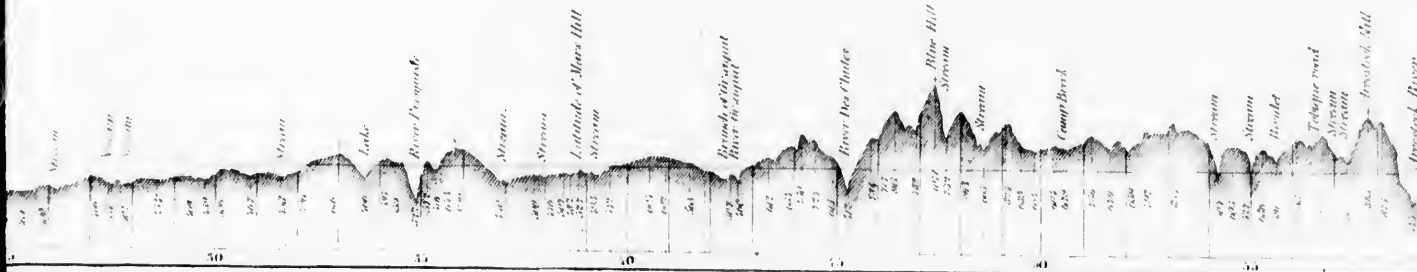


DUE NORTH LINE FROM THE MONUMENT AT THE SOURCE OF THE RIVER ST. CROIX TO

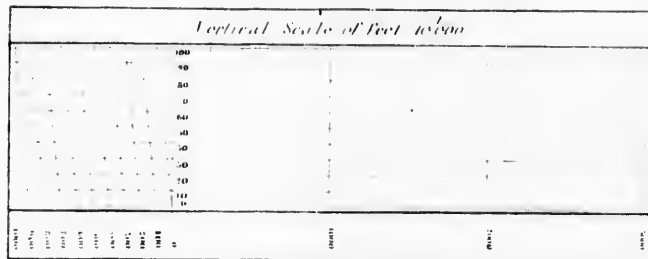
U.S. Top. Engineers one of the Commissioners for Surveying and exploring the N.E. Boundary of the U.S. and

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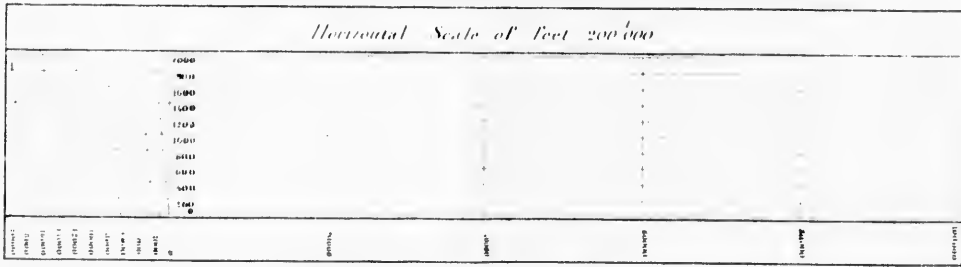
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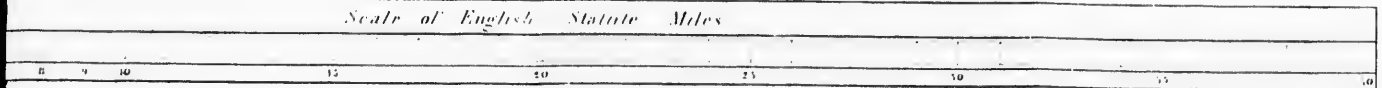
set by Major Gishlain assisted by Lieut^l Lee Thom and Meade of the Corps of Topographical Engineers, and M^r F. Schroeder. The profile is prepared, from the Monument to Park's Hill, was executed by Lieut. Thom, Corps of Top. Eng^s, and from Park's Hill to



The vertical heights are 333 feet deducted. The Stations which were the Stations which were the trace of the Meridian was done with a good

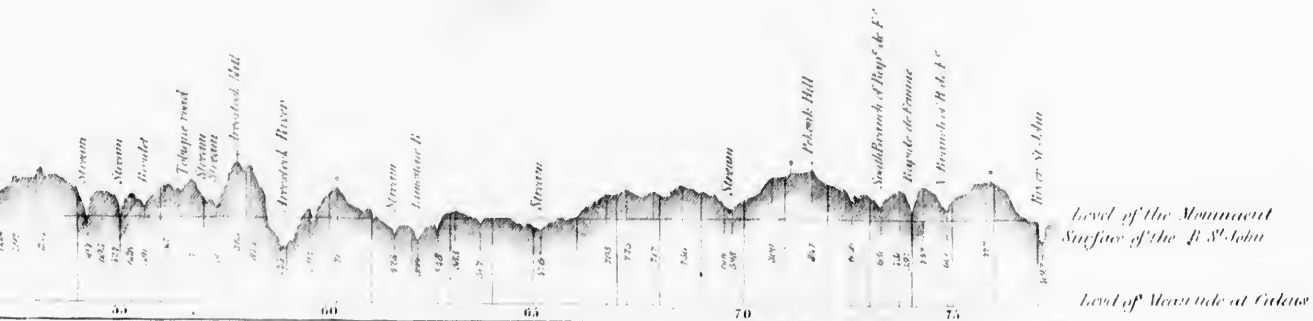


Scale of English Statute Miles





FROM THE RIVER ST. CROIX TO THE RIVER ST. JOHN.

Boundary of the U.S. under the Act of Congress of July 20th 1840.



and M^r F. Schroeder. The trace of that line between the Astronomical
King^y and from Parks Hill to the River St. John by Mess^{rs} Fairfax, Dearborn, Biddle & Schroeder.

Note

The vertical heights as expressed upon the profile in fact above the level of Meridian at Cahoon
338 feet deducted from these heights will give the elevations above the Monument at the Source of the St. Croix.
The Stations which were occupied by the Transit Instrument are marked thus 
The Stations which were fixed under view of the Transit are marked thus 
The trace of the Meridian between the points fixed by the large Astronomical transit
was done with a good portable Transit Theodolite every mile being marked by a curved post.

J. D. Graham
U. S. Commissioner

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BOUNDARY BETWEEN MAINE AND NEW HAMPSHIRE
AND THE ADJOINING BRITISH PROVINCES.

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES,

TRANSMITTING

A report of the Board of Commissioners appointed to survey the North-eastern boundary.

APRIL 12, 1842.

Referred to the Committee on Foreign Affairs.

DECEMBER 29, 1842.

Ordered to be printed.

To the House of Representatives of the United States:

I herewith transmit to the House of Representatives copies of a letter addressed to the Secretary of State by the chairman of the Board of Commissioners appointed to explore and survey the boundary line between the States of Maine and New Hampshire and the adjoining British provinces, together with the report of the operations of that commission to the 31st ultimo, and a profile of the meridian line from the source of the St. Croix river, as far as surveyed, illustrative of the report.

WASHINGTON, April 7, 1842.

JOHN TYLER.

DEPARTMENT OF STATE,

Washington, March 31, 1842.

Sir: By directions of the Board of Commissioners for exploring and surveying the Northeastern boundary, I have handed you the papers hereinafter specified, viz:

1. The report of the operations of the Commission up to the present date.
2. A profile of the meridian line of the source of the St. Croix, as far as surveyed, intended to illustrate the report.
3. A portfolio of drawings intended for the same purpose.

4. A roll marked appendix No. 1, containing the narrative of the field operations of the division of Professor Renwick.

5. A tin case containing the detail of the surveys of the division of Professor Renwick.

In reply to your inquiry in relation to the disposition of the said papers, I am directed respectfully to suggest, that all which is absolutely necessary to lay before Congress are the items 1 and 2, which, with a general map now in preparation, will contain all that will be of any general public interest.

The portfolio No. 3, and the box of maps and profiles No. 5, should remain on file in the Department; and while a part of the drawings in the former may be useful for illustration, the latter will be superseded by the general map, in which will be embodied all that they contain of importance to the question at issue.

Appendix No. 1, specified as No. 4 in the above list, will probably be demanded hereafter, to give authenticity to the conclusions of the report No. 1. It ought not, however, to be communicated until the appendices Nos. 2 and 3, containing the operations of the divisions of Messrs Graham and Talcott are handed in; and of the three no more than a limited number of copies will be useful.

I have the honor to be, with much respect, your most obedient servant,
JAS. RENWICK, *Chairman.*

Hon. DANIEL WEBSTER,
Secretary of State.

Report of the Commissioners appointed by the President of the United States for the purpose of surveying and exploring the boundary line between the States of Maine and New Hampshire, and the British Provinces.

WASHINGTON, March 28, 1842.

SIR: The duties assigned to the undersigned, by the instructions of your predecessor, were two-fold.

1st. To explore and survey the lines respectively claimed by the Governments of the United States and Great Britain.

2d. To examine and report upon the arguments contained in the report of Messrs. Featherstonhaugh and Mudge, addressed to the Secretary of State of Her Britannic Majesty for Foreign Affairs, under date of 16th April, 1840.

I. In order to the more exact and successful performance of the duties included under the first of the above heads, the boundary line was divided by their instructions, into three separate portions, one of which was assigned to each of the Commissioners; and while they were instructed to assemble in a board for the purpose of comparing their respective surveys, in view of the performance of the duties included in the second of the above divisions, their explorations have been separately conducted. Each of the Commissioners has employed the methods and course of action most appropriate, in his opinion, to the successful fulfilment of his appointed task; and the nature of the surveys assigned to one of them has been of a character widely different from those of his colleagues. Th

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Commissioners, therefore, while uniting in a general report of the progress made up to this time in the duties of their appointment, beg leave to submit, in the form of appendices, the narrative of their several operations, with so much of the records of their observations and calculations as they have severally judged necessary to authenticate the conclusions at which they have arrived.

The progress which has been made in the labors of the Commissioners enable them, at this time, to lay before you—

1st A description of the physical features of the disputed territory.

2d. A comparison of the heights of the line claimed by the United States, with those of the line styled the "axis of maximum elevation," by Messrs. Featherstonhaugh and Mudge. In laying the latter before you, they have, in order to avoid delay, made use, in part, of the published results obtained by those gentlemen; and although they have already detected errors in their inferences, they do not consider that by accepting them for the moment as the basis of comparison, they can be accused of exhibiting the line claimed by Great Britain in an unfavorable light.

1. *Description of the disputed territory.*—The sea coast of the State of Maine is rugged and hilly. The primitive rocks, of which its geological structure is chiefly composed, are broken into ridges which run parallel to the great streams, and therefore in a direction from north to south. These ridges terminate in an irregular line, which, to the east of the Penobscot, may be identified nearly with the military road to Houlton. From the northern summit of these ridges, an extensive view of the disputed territory can, in many places, be obtained. This is the case at the military post at Houlton, whence a wide extent of country may be seen. A still more perfect view may be obtained from the summit of Park's hill, at a point about 400 yards south of the road from Houlton to Woodstock, and about half a mile east of the exploring meridian line. At the time when that line was run by the British and American surveyors, under the 5th article of the treaty of Ghent, the top of this hill was covered with wood, and they were obliged to content themselves with the view from Park's barn, which is at least 200 feet beneath the summit. At the present moment the latter is cleared, and the view from west-south-west to northeast is unimpeded except by a single clump of trees, which cuts off the view for a few degrees in the northwest direction; but, by a change of position, every part of the horizon between these points is to be seen. Towards the west are seen ridges parallel to the Penobscot, over which Katahdin towers to a great height, bearing, by compass, north 85° west. In a direction north 75° west are seen two distant peaks, one of which was identified as the Traveller.* All of these eminences lie south of the line claimed by Great Britain. In the north-north-west direction there appear two ridges of comparatively small elevation, which were pointed out as the Aroostook mountains, but have since been ascertained to lie near the sources of the Maduxnakeag. These lie in the line claimed by Great Britain in 1817. Between these and the other mountains there is evidently no connexion; and the rest of the country, as seen from the hill, bears the aspect of a wooded plain. It will be sufficient to refer to this

* A sketch of this view is annexed to the report exhibiting the termination of the great mountain system of the State of Maine. A sketch of the same termination, as seen from the north, is also submitted.

view to be satisfied that all the impressions which have been circulated of a continuous chain of elevations, extending along the line claimed by Great Britain, are utterly fallacious.

Towards the north the country exhibits the same general features. One vast and apparently unbroken plain extends to the utmost limits of the visible horizon. In the midst of this, and at a distance of nearly 30 miles, Mars hill alone breaks the monotonous prospect, and from its isolated position assumes to the eye an importance to which its altitude of less than 1,800 feet would not otherwise entitle it. No other eminences are to be seen in this direction, except a round peak bearing a few degrees west of north, and some distant ridges about an equal distance to the east. The first of these has been ascertained, by the surveys of Major Graham, to be an isolated hill, near the peak known as Quaquajo. The eastern ridges are probably those measured between the Tobique and the Bay of Chaleurs by the British Commissioners. A sketch of this view from Park's hill is annexed to the report; and, lest any doubt be entertained of its accuracy, it is proper to state that the unassisted vision was not relied upon, but that the outlines were carefully delineated by means of the "camera lucida."

From this view, it might be inferred that the northern part of the admitted possessions of the United States, to the east of the Penobscot, and the disputed territory, as far as visible, constitute a vast table land slightly inclined towards the southeast.

On descending into the valley of the St. John, the appearances change. The table land is cut to a great depth by that stream, and from its bed the broken edges of the great plain look like ridges, whose height is exaggerated to the senses in consequence of their being densely clothed with wood. The same is the case with all the branches of this river, which also cut the table land to greater or less depths according to their distance from the stream into which they discharge themselves.

The want of a true highland or mountainous character in this region is obvious from the aspect it presents in the two different points of view. Mountainous regions are most imposing when seen from a distance, and from heights. On a nearer approach, and from the valleys which intersect them, the elevations, so important in the distant view, are hidden by their own slopes, or lose the appearance of relative elevation in consequence of the absolute heights of the valleys themselves. In conformity with this character, the line claimed by the United States for the most part presents, when seen at a distance, the appearance of lofty and deeply serrated ridges, while, to one who traverses it, it is a labyrinth of lakes, morasses, and short but steep elevations, which hide its peaks from the valleys and streams.

The line claimed by Great Britain, on the other hand, when seen from a distance, is as level as the surface of the ocean, with no greater appearance of elevation and depression than would represent its billows. While seen from its own valleys, the heights assume an importance which their elevation above the valleys when actually measured does not warrant. The characteristics of the region through which the line of Messrs. Mudge and Featherstonhaugh passes are, therefore, the opposite of those usually remarked in highland countries; while those of the line claimed by the United States are the same as are always observed in such regions.

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This character of a table land deeply cut by streams is well exhibited in the section of their "axis of maximum elevation" by the British Commissioners. In that will be seen the mountains near the source of the Aroostook, Allegash, and Penobscot on the one hand, and of the Tobique on the other, while the intervening space is occupied by a curve resembling an inverted arch of which the St. John occupies the keystone. In a country of this character, any line whatever would present the appearance of a succession of eminences, and might, by as liberal a construction of the term as has been made by Messrs. Mudge and Featherstonhaugh, be called highlands.

The sameness of this general character is broken only by a single chain of hills.* This is a prolongation of Mars hill towards the north, and, being both of less height and breadth than that mountain, is hidden by it from the view of a spectator on Park's hill. Mars hill is itself an isolated eminence, and is in fact nearly an island; for the Presqu' Isle and Gissiguit rivers, running the one to the north and the other to the south of it, have branches which take their rise in the same swamp on its northwestern side. To the north of the Des Chutes the ground again rises, and, although cut by several streams, and particularly by the Aroostook, the chain is prolonged by isolated eminences as far as the White rapids below the Grand falls of the St. John where it crosses that river. It may thence be traced in a northern direction to the Sugar Loaf mountain on the Wagansis portage, where it terminates.

To this broken chain belongs the elevation of 918 feet, given by Messrs. Mudge and Featherstonhaugh to an eminence in the neighborhood of the Aroostook falls. An accurate profile of so many of these eminences as fall in the line of the corrected meridian is herewith submitted. This chain of eminences is not prolonged to the westward, as it is entirely unconnected with any other height aspiring to the name of mountain in that direction.

It is not in any sense a dividing ridge, being cut by all the streams in the country, and in particular to a great depth by the St. John and the Aroostook.

A section of this line was given in a report to the British Commissioner, under the 5th article of the Treaty of Ghent, by Colonel Bouchette, the surveyor-general of the province of Canada. His heights were determined by the barometer, and estimated from the assumed level of the monument at the source of the St. Croix.

It would now appear, that the section of Colonel Bouchette is very inaccurate, and that the heights as reported by him are not only much beyond the truth, but that the continually ascending slope, ascribed by him to the country from the monument at the source of the St. Croix to the point where the due north line crosses the St. John, is entirely erroneous. He, however, adroitly availed himself of this inaccurate section to attempt to prove the existence of a continuous chain of mountains from Katahdin to the Great falls of the St. John, and thence around the southwestern branches of the Ristigouche until it met the heights rising from the north shore of the Bay of Chaleurs. For this reason, his view taken from Park's barn, and that made by Mr. Odell from the same point, were urged for admission as evidence on oath by the British agent, and the map

*A chain is made up of mountains, whose bases touch each other.—Balbi.

of Mr. Johnson, which contradicted this evidence, was carefully excluded. It cannot be concealed, that, could Colonel Bouchette's idea founded on erroneous premises have been established by indisputable facts, it would have been the most fatal argument that has ever been adduced against the American claim; for he would have argued that the meridian line of the St. Croix would, at Mars hill, have first intersected highlands, which, rising from the north shore of the Bay of Chaleurs, would have appeared to divide, until within a few miles of the Grand falls of the St. John, waters, which fall into the St. Lawrence from those which fall into the Atlantic, and would have been the south boundary of the province of Quebec.

Mars hill would then have appeared to be, in truth as well as in claim, the northwest angle of the province of Nova Scotia; and, although the rest of the line would not have fulfilled the conditions, the United States might, by an arbitrator, have been compelled to accept this point as the beginning of their boundary. Nor, in the unexplored state of the country, is it by any means certain that the American agent, who does not seem to have seen the drift of the proceedings of Colonel Bouchette, would have been prepared with the adverse facts, which are now known to be undeniable. It may, therefore, be considered fortunate for the claim of the United States that the survey was afterwards intrusted to a surveyor who, in pursuit of the double object of encroachment on the United States and the enlargement of his native province at the expense of Canada, signally failed in the proof of either of his positions.

The knowledge now acquired shows that the idea of Colonel Bouchette is unsupported by the facts of the case, for the highlands which rise from the north shore of the Bay of Chaleurs do not meet those in which the most southerly branch of the Ristigouche takes its rise.

The British Commissioners, although they give a profile of this ridge, do not pretend to have examined it except at Mars hill, near the Aroostook, and at the Grand falls of the St. John. It must be remarked, that these profiles (the original one of Colonel Bouchette and that exhibited by themselves) are contrasted—one British authority with another—for the purpose of invalidating the ground on which the American claim is founded.

It is not our business to reconcile these conflicting authorities, but it is our duty to recall the recollections of the fact that no part of the American argument laid before the King of the Netherlands was founded on this or any other estimate of heights.

Many elevations, indeed, were measured with great pains on the part of the Americans, as well as of Great Britain.

On behalf of the United States, Captain Partridge made many barometric observations, while Mr. Johnson took an extensive series of vertical and horizontal angles. His operations were performed in the presence of Mr. Odell, the surveyor on behalf of Great Britain, who doubtless made similar ones, as he visited the same stations with a better instrument and for the same avowed purpose. Mr. Odell's observations were not presented by the British agent, and those of Mr. Johnson were objected to. If received, they would have set aside the pretensions that a continuous ridge of mountains existed between the Metjarquette portage and Mars hill. They are, however, superseded by the operations of the undersigned, which have yielded satisfactory evidence that no chain of high-

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lands in the sense of the British Commissioners, or even an "axis of maximum elevation" exists where it is laid down on their map. Nor can it be doubted that the operations of Mr. Johnson had a decided advantage, in point of probable accuracy, over theirs. The exploring meridian line used as a base was measured with a tolerable degree of accuracy, and from the three heights chosen by him the whole country is visible.

On the other hand, the course of Messrs. Mudge and Featherstonhaugh being confined, except where they ascended Mars hill, to the valleys of the streams, they were for the most part excluded from a prospect. In describing the view from Mars hill, however, they have pictured in most accurate terms the true features of the country.

"The character of the country may be well discerned and understood from this insulated hill. It presents to the eye one mass of dark and gloomy forest, to the utmost limits of sight, covering by its umbrageous mantle the principal rivers, minor streams, and scanty vestiges of the habitation of man."*

This description can only agree with that of a vast table land, into which the streams cut so deep, and form such narrow valleys as to be invisible.

But if a chain of highlands, or even an "axis of maximum elevation," had existed, as they lay it down, within 20 miles, it would have been visible, and it need not be said that they would not have failed to describe it. The inconsistency between their map and this true and forcible description of the features of the country is apparent.

The same general character of table land is found to the north of the St. John, above the Grand falls. Its first important northern tributary is, the Grand river. In ascending this stream, the level of the table land is soon reached. The river runs between banks of very moderate elevation, and on a regular slope; and although running with great rapidity upon a pebbly bed, it is yet so tortuous, that, while its distance from its mouth to the Waganis portage in a straight line is no more than 13 miles, the meanders of its channel amount to near 30.

On the Waganis portage the table land is terminated by a ridge, whose summit is elevated 264 feet above the Waganis† of Grand river. It was at first believed that this, although of small elevation, was a dividing ridge, and that it might correspond to one construction which has, although inaccurately, been put on the treaty of 1783. This belief was speedily removed; for the rivulet on its northern side was found to be cut off from the Ristigouche by the Sugar Loaf mountain, and is therefore a branch either of the Grand river or of the stream which falls into the St. John immediately above the Grand falls. The height of land which divides this rivulet from the Waganis of the Ristigouche is not elevated above the former more than 117 feet. There is in fact, at this place, a gap five or six miles in breadth, in the great system of mountains which extend from the Gulf of St. Lawrence, at the Bay des Chaleurs, to the river St. Lawrence, near the Temiscouata portage. At the northern verge

* See Appendix, page 1, of the British Commissioners' Report, dated "Foreign office April 16, 1840."

† Wagan is a term in the Abenaki language signifying way. Sis is a diminutive particle. Wagan-sis is therefore the little way; and it seems probable that the name of Grand river, the usual epithet for the St. John, has been improperly applied to the small stream which bears it on the maps.

of the table land which has been described, and near the mouth of Green river, rises, to the height of about 1,600 feet, a mountain known from the name of that stream. This is, like Mars hill, isolated, and affords an extensive view. To the north and west, the prospect is bounded by a continuous line of horizon, which, instead of being obviously below the level of the eye, as in the view of the disputed territory from Mars hill, is evidently of even greater height than the Green river mountain itself.

On entering into this region from the south, by any of the navigable streams which traverse it, it presents a more decidedly mountainous character than the country to the south. The Grande Fourche of Ristigouche is bordered by two continuous chains of mountains, rising when it first issues from them to the height of a thousand feet above its surface. The stream having a rapid fall, the relative elevation becomes less until, in the neighborhood of the lake in which its north branch first collects its waters, the relative elevation is not more than four or five hundred feet.*

On traversing this elevated country, it presents a different aspect from what is seen either from a distance, or where it is entered from the rivers. Frequent ridges are crossed; the tops of these are often occupied by swamps filled with a thick growth of cedars. Deep and small basins occur, which are occupied by lakes that give rise to rivers flowing to the St. Lawrence or to the St. John. These are intermingled with thickets of dwarf spruce; and the streams are sometimes bordered by marshes covered by low alders, and sometimes cut deep into rocky channels. In this apparent labyrinth one positive circumstance marks the line of division or the true height of land. The streams which run to the St. John are all of the first description, sluggish; while those which discharge themselves into the St. Lawrence are rapid, and have the character of torrents.

On the western side of the disputed territory are ridges of rocky hills, running nearly north and south, and thus tending towards the St. Lawrence, which they in some places reach and shut out the view of the interior.

It thus becomes difficult to find a station whence the heights of land can be viewed and its character exhibited. It has therefore been hitherto possible for those who have argued in support of the claims of Great Britain to represent, without meeting with contradiction, that the streams which fall into the St. John had their rise in a country possessed of none of that mountainous character which they urged was essential to the epithet of highlands. There are, however, points where a different character is apparent, and some of these are easy of access. Thus, on the main-mail-road, along the southeast branch of the St. Lawrence, a mile northeast of the church of L'Islette, a rocky eminence is passed, whence may be seen a bold group of mountains, which have been identified with the sources of the Ouelle, the Kamouraska, and Black rivers. A view of this group is herewith presented.

From the height to the east of river Du Loup, a view may be seen, on a clear day, extending round 137 degrees of the horizon, beginning with the highlands of Bic, bearing north 58° east, and terminating in a conical mountain, bearing south 15° west.

The nearest and more conspicuous of these highlands (named those of St. André) are on the river Fourchée, a branch of the river Du Loup, whose waters they divide from those of the St. Francis. A view of these is also submitted herewith.

*Several sketches of the heights which surround this lake are herewith presented.

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A similar view of the same panorama of highlands is obtained from Hare island in the St. Lawrence, an outline of which, taken with the camera lucida, is likewise submitted. About a quarter of a mile to the south of the point where the Temiscouata portage crosses Mount Biort, the highlands may be seen at the head of Rimouski, bearing nearly east, thence extending round by the north to the mountains of St. André, bearing nearly west, forming about one half of the entire horizon. The entire panorama from the latter point, taken with the camera lucida, along with copies of some daguerreotypes made at the same place, are herewith submitted. Of the part of the line which extends to the northeast, from the source of the Etchemin, for a distance of many miles, a view may be almost constantly seen from the citadel of Québec, and from the tops of the houses in that city. One still more satisfactory may be obtained from the road between Quebec and the Falls of Montmorenci, in the neighborhood of the village of Belpport. The latter views are in particular referred to, as they are within the reach of numerous civil and military officers of the British Government, who must assent to the evidence of their own senses, which will prove that this region, the position of the path pursued during the present year by captain Talcott's parties, is to all intents a range of highlands.

The boundary presents from these positions the aspect of a continuous and deeply serrated ridge.

The geological character of the country cannot be admitted as having any bearing upon the subject under consideration. It never entered into the views of the framers of the treaty of 1783, and therefore could afford no illustrations of their intentions.

Were it admissible, however, it might be cited as an additional argument, that the dividing height which encloses the waters of the Connecticut continues unchanged in its features until it is cut off by the deep channel of the St. Lawrence.

Opportunities for observations of this character were most frequent on the Temiscouata portage, and on the banks of the St. Lawrence itself. It was only on the former place that the relative geological heights of the rocks could be observed by means of their outcrop.

The whole of the portage passes over stratified rocks dipping rapidly to the southeast. They were found to be alternate groups of common and talcose slate, and of a rock made up principally of angular fragments of white quartz, (grauwack.) These are in all respects identical with rocks which have been observed by one of the Commissioners in place in Berkshire county, Massachusetts, and in Columbia and Rensselaer counties, New York; and the description of geologists at various intervening points, as well as the observations of Captain Talcott's parties, would tend to establish the fact that the formations are continuous.

From these data, it would appear probable that the rocks are a prolongation of the western slope of the great range called by Mr. Featherstonhaugh, in his report as United States geologist, the Atlantic ridge. This formation, which is but a few miles in width where it crosses the Hudson, appears gradually to widen as it proceeds to the north, and was on the St. Lawrence found to prevail both at the river Du Loup and at Grand Metis, dipping in the two places in opposite directions, and covered in the interval by the thick diluvial deposits which form the valley of the Trois

Pistoles. To render the analogy more complete, in the valley of the outlet of the Little lake (Temiscouata) was found a vein of metalliferous quartz, charged with peroxyde of iron, evidently arising from the decomposition of pyrites, being in fact the same as the matrix of the gold, which has been traced in the talcose slate formation from Georgia to Vermont; and on the western shore of the Temiscouata lake, about a mile to the south of Fort Ingall, lie great masses of granular carbonate of lime, identically resembling the white marbles of Pennsylvania, Westchester county, New York, and Berkshire county, Massachusetts.

If the latter be in place, which, although probable, was not ascertained beyond all question, the primitive carbonate of lime has exactly the same relation to the slaty rocks, which it bears in the latter locality.

The formations which have been spoken of appear to occupy the whole extent of the country explored by the parties of Professor Renwick. Every where the streams were found cutting through rocks of slate. On the summits of many of the hills were found weathered masses of angular quartz rocks, showing that while the slate had yielded to the action of the elements, the harder and less friable rock had kept its place. The ridges which intervene between the St. Lawrence at the river Du Loup and Lake Temiscouata have the character, so well described by Elie de Beaumont, of mountains elevated by some internal force.

To the eastward of Lake Temiscouata, on the other hand, the country has the aspect of having once been a table land, elevated on the average about 1,700 feet above the level of the sea, and of having been washed by some mighty flood, which, wearing away the softer rocks, had cut it into valleys, forming a complex system incapable of being described in words, and only to be understood by inspection of a map.

2. *Comparison of the elevations of the boundary line claimed by the United States with those of the "axis of maximum elevation" of Messrs. Featherstonhaugh and Mudge.*

For the purpose of exhibiting the relative claims of the two lines to the exclusive epithet of "the highlands" in the most clear and definite manner, each of them will be considered as divided into three portions, which will be contrasted with each other by pairs. The first portion of each of the lines is that which lies nearest to the point of bifurcation; the residue of the American line is divided at the source of the Ouelle; the remainder of the line of Messrs. Featherstonhaugh and Mudge at that of the Aroostook. Metjarquette portage is taken as the point of bifurcation, whence waters run to the Penobscot, the St. John, and the St. Lawrence.

On the American line from the Metjarquette portage to Lake Etchemin

	Feet.
The maximum height is - - - - -	1,718
The minimum height is - - - - -	1,218

The minimum measured height is that of Lake Etchemin, which is lower than the actual source of that stream, and whose omission, as not upon the dividing ridge, would make the minimum greater. This height was determined by the parties of A. Talcott, Esq., by two distinct and separate sets of observations, one of which was continued hourly for several days; and no doubt can exist that it is as accurate a measure as the barometer is capable of affording. In the report of Messrs. Featherston-

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haugh and Mudge, this height as set down is no more than 957 feet, but it is determined from a single observation. That it is erroneous, must be considered as demonstrated. In the map presented by those gentlemen, they have made use of this erroneous determination for a purpose which, even were it correct, would not be warranted; for they, on its authority, leave out all the symbols by which heights are represented, and substitute therefor a dotted line with the inscription "fictitious hills of Mr. Burnham's map." The actual character of this part of the American line is an undulating country.

On the line of Messrs. Featherstonhaugh and Mudge, between the Metjarmette portage and the Cocumgamoc mountains—

The maximum elevation is.	-	-	-	-	-	Feet.	2,302
The minimum	-	-	-	-	-		987

This part of the line of Messrs. Featherstonhaugh and Mudge derives its apparent advantage from the fact that it crosses the summit, and occupies the eastern slope, of the highlands claimed by the United States. Notwithstanding this, the difference in their elevation is not such as to give it any decided superiority in its highland character.

On the American line from Lake Etchemin to the river Ouelle—

The maximum height is	-	-	-	-	-	Feet.	2,854
The minimum height is	-	-	-	-	-		1,306

On the line of Messrs. Featherstonhaugh and Mudge from the Cocumgamoc mountains to the headwaters of the Aroostook—

The maximum height is	-	-	-	-	-	Feet.	1,268
The minimum " "	-	-	-	-	-		880

On the parts of the line thus contrasted, the maximum height of that claimed by Great Britain is less elevated than the lowest gap of that claimed by the United States.

On the third portion of the American line:

From the head of the Ouelle to the Temiscouata portage—

The maximum height is	-	-	-	-	-	Feet.	2,231
The minimum " "	-	-	-	-	-		853

From the point where the line first crosses the Temiscouata portage to Mount Paradis—

The maximum height is	-	-	-	-	-	Feet.	1,983
The minimum " "	-	-	-	-	-		906

From the Temiscouata portage to the head of the Abagusquash—

The maximum height is	-	-	-	-	-	Feet.	1,510
The minimum " "	-	-	-	-	-		676

From Abagusquash to the Rimouski lake—

The maximum height is	-	-	-	-	-	Feet.	1,824
The minimum " "	-	-	-	-	-		651

From the Rimouski lake to the northwest angle—

The maximum height is	-	-	-	-	-	Feet.	1,841
The minimum " "	-	-	-	-	-		1,014

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The greatest elevation of the whole of the third part of the American line, therefore is 2,231 feet.
 The minimum is 651 "

The termination of the exploring meridian line falls into this part of the American line. Its height of 1,519 feet was determined by two separate observations compared with others taken on Lake Johnson. The height of the latter was calculated at 1,007 feet, from a series of observations continued for 17 days, and is believed to be as accurate as the method of the barometer is susceptible of.

This height of the termination of that line is estimated, by Messrs. Featherstonhaugh and Mudge, at no more than 388 feet, and that of the lake at no more than 363. In this estimate they reject the indications of their own barometers, because the results of them would have contradicted the previous impressions which seem to have governed all their operations, viz: that the point claimed by the United States as the north-west angle of Nova Scotia is not in an elevated region of country.*

On the third part of the British line from the sources of the Aroostook to the Grand falls of the St. John, no height is reported as measured by the British Commissioners which exceeds 1,050 feet, while the greatest height on their profile is 1,150 feet. The minimum height on their profile, excluding the Aroostook at its mouth and its intersection with the meridian line, is 243 feet, and the mean of the numbers entered by them both on their map and profile is 665 feet.

It will therefore appear that, if the profile of Messrs. Featherstonhaugh and Mudge be correct, the lowest gap on the third part of the American line is about as high as the mean elevation of the part of the British line with which it is compared.

The line claimed by the United States, therefore, possesses throughout, in a pre-eminent degree, the highland character, according to the sense at one time contended for in the argument of Great Britain, and is, to use the term of the British Commissioners, "the axis of maximum elevation"—the mean of all the heights measured upon it being 1,459 feet, while that of those measured on the line of Messrs. Featherstonhaugh and Mudge is no more than 1,085 feet.

It is regretted that the computations of the barometric and other observations, for the determination of the heights of that portion of the country between the valley of the St. John and the sources of the Aroostook, explored by the division of Major Graham, could not be completed in time to be made use of for this report, in the description of that portion of the line claimed for Great Britain by Messrs. Featherstonhaugh and Mudge. This delay has been solely caused by a want of reasonable time to complete this portion of the work, the Commissioner, having direction of the division charged with it, having only returned from the field in the month of January.

Sufficient information is known, however, to have been derived from

* A continuous line of levelling was carried by one of the parties of Major Graham's division, by means of two spirit levels checking one another, from tide water at Calais, in Maine, to the monument at the source of the St. Croix, and thence along the true meridian line to its intersection with the river St. John. The surface of the St. John at this point of intersection was thus found to be 419½ feet above the level of mean tide at Calais. The basin of the river immediately above the Grand Falls may be stated as of the same elevation in round numbers, as there is very little current in the river between those two points.

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those surveys to justify the assertion that, instead of the strongly marked range of highlands represented by the British Commissioners as constituting a part of their "axis of maximum elevation," the country in the vicinity of the Aroostook, lying between its sources and the valley of the St. John, is devoid of the character they have attributed to it. When properly represented upon a map, it will appear as an extended undulating surface of moderate elevation above the level of the Aroostook river, sparsely interspersed with occasional detached elevations, rising to heights of 600 to 900, and 1,400 feet above the level of the sea, but forming no continuous or connected chain whatever in the direction represented by the British Commissioners, or that could be construed into the character of highlands, such as are described in the treaty of 1783.*

In addition to the surveys upon the boundary line claimed by the United States, an exploring line was run, under the direction of Professor Renwick, as is more particularly described in appendix No. 1. This line extended to an eminence on the eastern side of Lake Metapediac, elevated

* NOTE. Since the above was written, Major Graham's map, and the computations of the barometric heights above alluded to, have been completed.

This map exhibits, in their proper positions, the numerous altitudes which were determined throughout the country watered by the Aroostook and its principal tributaries, extending laterally to the heights which bound the basin of that river on either side;—along the due west line traced in the year 1835, by Captain Yule of the Royal Engineers, between Mars hill and a point near the forks of the Great Machias river;—along, and in the vicinity of, the road recently opened by the State of Maine, from Lewis's, (a point in latitude $46^{\circ} 12' 20''$ between the head branches of the Maduxnakeag and the Masardis or St. Croix of the Aroostok,) to the mouth of Fish river in latitude $47^{\circ} 15' 13''$ being a distance actually measured, of 79 miles;—and along the new military road, embracing $40\frac{1}{2}$ miles of the distance from Fort Fairfield to Houlton, and including the adjacent heights on either side.

The number of elevations within the territory watered by the Aroostook, and claimed by Great Britain, that have thus been carefully measured, amount to upwards of two hundred.

This survey shows, that although the prominent eminences, which occur along that portion of the "axis of maximum elevation" of Messrs. Mudge and Featherstonhaugh which lies between the mouth and the source of the Aroostook, correspond very nearly in height and position, by our measurements, with those reported by themselves, yet these eminences are separated, one from another, by spaces of comparatively low and very often swampy country, so extended as to preclude the idea of a continuous range of highlands in the direction represented upon the map of those Commissioners.

If a range or chain of highlands is to be made to appear by drawing a strongly-marked line over widely-extended valleys or districts of comparatively low country, so as to reach and connect the most prominent eminences which may fall within the assumed direction, then such a range or chain of highlands may here be made as plausibly in any other direction as in that chosen by Messrs. Mudge and Featherstonhaugh; for the detached elevated peaks are so distributed as, under such a principle, to favor any one direction as much as another, and might thus be made to subservise, in an equal degree, whatever conflicting theories the object in view might cause to be originated.

We may also refer, in further illustration of the character of the country through which a portion of this pretended "axis of maximum elevation" is made to pass, to a panorama view taken in October, 1841, by one of Major Graham's assistants, from the summit of Blue hill, where crossed by the true meridian of the monument, at the source of the St. Croix. This position is 1,100 feet above the level of the sea, and $47\frac{1}{2}$ miles north of the monument. It commands a most satisfactory view of the whole country embraced within a radius of 40 to 60 miles, including, as the landscape shows, Park's hill to the south; Katahdin, the Traveller, and Mars hill, to the southwest; Qua-qua-jo, the Horseback, the Haystack, and one or two peaks beyond the Aroostook, to the west; the heights upon the Fish river and the southern margin of the Eagle lake, to the northwest; and those south of the St. John, (except a small angle obstructed by the Aroostook hill,) to the north.

The character of the great basin of the Aroostook, dotted with the detached peaks which rise abruptly from it at intervals of many miles apart, is here exhibited through at least two-thirds of its extent, in so satisfactory a manner, as in itself to preclude the idea of an "axis of maximum elevation," composed of any thing like a connected or continuous chain, in this region of country.

MAY 1, 1842.

1,743 feet above the level of the sea. The views obtained from this eminence established the fact that a chain of highlands extended thence to the north shore of the Bay des Chaleurs. They are believed to terminate in an eminence, which, from its imposing appearance, has been called by the Scotch settlers at its foot *Ben Lomond*. This was measured during the operations of the summer of 1840, and found to rise from the tide of the bay to the height of 1,024 feet. This exploring line, coupled with the more accurate surveys, appears to establish the fact of the existence of a continuous chain of eminences entitled to the epithet of highlands, from the north shore of the Bay des Chaleurs, at its western extremity, to the sources of the Connecticut river. Returning from the latter point, they exhibit the aspect of well-marked ranges of mountains as far as the sources of the Metjarmette. Thence, to the sources of the Etchemin, extends an undulating country whose mean height is 1,300 or 1,500 feet above the level of the sea. The boundary line is thence prolonged to the Temiscouata portage over well-defined ridges to the eastern side of Lake Temiscouata. At the sources of two of the streams which run into this lake, the minimum heights of 651 feet and 676 feet have been observed.

With these exceptions, the sources of the streams which rise to the north of the Temiscouata portage, and between the lake of that name and Lake Metapediac, average more than 900 feet above the level of the sea. For the purpose of describing this portion of the line claimed by the United States, we may take this height of 900 feet as the elevation of a horizontal plane or base. On this are raised knolls, eminences, and short ridges, whose heights above this assumed base vary from 300 to 1,300 feet. The more elevated of these are universally designated, by the hunters who occasionally visit the country and the lumberers who search it for timber, as mountains clothed to the summits with wood, which, in consequence of the rigor of the climate, attains but a feeble growth. They have an aspect of much greater altitude than they in reality possess, but their character as highlands is indisputable. This term, which the first English visitors ascribed without hesitation to the hills of New Jersey,* whose altitude is about 300 feet above the level of the sea, is much better merited by a group of eminences rising from 300 to 1,300 feet above a base, itself 900 feet in height, and which exceed in elevation the well-known highlands of the Hudson river.

Not to rest merely on instances drawn from the language of those of English birth, who first settled or traded on the coast of the present United States, there are in the immediate vicinity of the region in question a range of eminences, the highest of which is no more than 1,206 feet above the level of the sea. These, on the authority of a distinguished officer of Her Britannic Majesty's navy,† are named the "highlands of Bic," and have long been thus known by all the navigators of the St. Lawrence who use the English tongue.

To sum up the results of the field operations of the Commissioners:

1st. The meridian has been traced by astronomic observations from the monument, established by the consent of both nations, in 1798, at the

* The highlands of Neversink. † Capt. Bayfield.

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source of the St. Croix to a point four miles beyond the left bank of the St. John, in the neighborhood of the Grand Falls. In the course of this, not only has no highland, dividing waters which run into the St. Lawrence from those which run into the Atlantic, been reached, but no common source or reservoir of two streams running in opposite directions.* No place has therefore been found which, by any construction proposed or attempted to be put on the words of the treaty of 1783, can be considered as the northwest angle of Nova Scotia. This point must, in consequence, lie in the further prolongation of the meridian line to the north.

2d. The streams whose title to the name of the northwesternmost head of the Connecticut river, is in dispute, have been explored, and the line of the highlands has been traced from their sources to the point at which the lines respectively claimed by the two nations diverge from each other.

3d. The line claimed by Messrs. Featherstonhaugh and Mudge, on the part of Great Britain, has been in a great measure explored.

4th. The line of highlands claimed by the United States has, with some small exceptions, been thoroughly examined, and its prolongation, as far as the north shore of the Bay of Chaleurs, reconnoitred. The parts of the line which have not been actually reached have been seen from a distance, and streams flowing from them crossed and levelled. From the former indication, it is probable that the average height of those parts exceed that of the neighboring parts of the line. From the heights of the streams, it is certain that the lowest gaps in the unexplored portion of the line cannot be less elevated than 1,000 feet above the level of the sea.

That part of this line of highlands which lies east of the sources of the Rimouski, fulfils to the letter the words of the Royal Proclamation of 1763 and the contemporaneous commission of Governor Wilmot. The first of those instruments defines the mouth of the river St. Lawrence by a line drawn from Cape Rosieres to the St. John river, (on the Labrador coast;) and therefore all to the eastward of that line is "the sea." The height of land thus traced by the Commission, rising from the north shore of the Bay des Chaleurs at its western extremity, divides waters which fall into the river St. Lawrence from those which fall into the sea, and is the southern boundary of the province established by the proclamation of 1763, under the name of Quebec. The identity of the line defined in the proclamation of 1763 and the boundary of the United States in the treaty of 1783 has been uniformly maintained on the part of the United States; and is not merely admitted, but strenuously argued for, in the report of Messrs. Featherstonhaugh and Mudge.

The undersigned therefore report that they have explored, and, in a great measure, surveyed and levelled, a line of highlands in which the northwest angle of Nova Scotia lies, and which, in their opinion, is the true boundary between the States of Maine and New Hampshire, and the British Provinces.

* The levellings carried along this meridian line by means of spirit levels, alluded to in the note at bottom of page 12, passed Mars hill at a depression of 12 feet below the level of the base of the monument which stands (except at seasons of extreme drought) in the water at the source of the St. Croix.

11. *Examination of the argument contained in the report of Messrs. Mudge and Featherstonhaugh.*

The progress which has been made in the first portion of the duties of the Commissioners has been set forth in the preceding part of this report.

Although, as will be there seen, the task of running the meridian line of the monument marking the source of the St. Croix, and of exploring and surveying the lines of highlands respectively claimed by the Governments of the United States and Great Britain, has not been completed, yet enough has been done to furnish materials for an examination of the argument preferred by Messrs. Mudge and Featherstonhaugh in support of the novel form in which the claim of Great Britain has been presented by them.

In the surveys made by direction of the Commissioners, under the 5th article of the treaty of Ghent, the difficult character of the country had prevented any other method of exploration than that of ascending rivers to their sources. It was believed, on the part of the United States, that the determination of the position of these sources was sufficient for the demarcation of the line of highlands, in relation to which the controversy exists, and no attempt was made to meet the British argument by the exhibition of the fact that the lines joining these sources run in some cases along ridges, and in other cases pass over elevations, to which, in any sense of the term, the epithet of "highlands" may be justly applied. The denial of this mode of determining the line of highlands, by Great Britain, has made it important that both the lines claimed by Great Britain and by the United States should be explored and levelled—a task which, until recently, had not been attempted on either part. The examination of the lines claimed by the two nations, respectively, has been in a great measure accomplished, as will be seen from the reports of the field operations of the Commission, while such of these determinations as have a direct bearing on the argument will be cited in their proper place in this report.

It is to be regretted that the document now under consideration exhibits many instances of an unfriendly spirit. Charges of direct and implied fraud are made, and language is used throughout that is irritating and insulting. It is fondly hoped that these passages do not express the sentiments of the British nation, as in a state of feeling such as this report indicates little hope could be entertained of an amicable adjustment of this question. Any inference to be drawn from the language of the report under consideration is contradicted by the official declarations of the British Government, and may therefore be considered as the individual act of the authors, not as the deliberate voice of the nation by which they were employed.

It might have been easy to have retorted similar charges, and thus have excited in the Government of Great Britain feelings of irritation similar to those which pervaded the whole population of the United States on the reception of that report. While, however, it is due to the honor of the United States to declare that no desire of undue aggrandizement has been felt—no claim advanced beyond what a strict construction of their rights will warrant—it is trusted that the pretensions of Great Britain, however unfounded in fact or principle, have been advanced with a like disregard to mere extension of territory, and urged with the same good faith which has uniformly characterized the proceedings of the United States.

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It is not to be wondered that the claims of Great Britain have been urged with the utmost pertinacity, and supported by every possible form of argument. The territory in question is of great value to her, by covering the only mode of communication which can exist, for nearly six months in the year, not only between two valuable colonies, but between the most important of all her possessions and the mother country. The time is not long past when the use of this very communication was not an unimportant part of the means by which that colony was restrained from an attempt to assert its independence. It is not, therefore, surprising that the feelings of British statesmen, and of those who desired to win their favor, have been more obvious, in the several arguments which have appeared on that side of the question, than a sober view of the true principles on which alone a correct opinion of the case can be founded.

To the United States, in their collective capacity, the territory in dispute is, on the other hand, of comparatively little moment. No other desire is felt, throughout the greater part of the Union, than that the question should be settled upon just principles. No regret could therefore be widely felt, if it should be satisfactorily shown that the title of Great Britain to this region is indisputable. But should it be shown, as is beyond all question the fact, that the title is in truth in the United States, national honor forbids that this title should be abandoned. To the States of Maine and Massachusetts, who are the joint proprietors of the unseated lands, the territory is of a certain importance, from the value of the land and timber, and to the latter, within whose jurisdiction it falls, as a future means of increasing her relative importance in the Union; and a just and proper feeling on the part of their sister States must prevent their yielding to any unfounded claim, or the surrender of any territory to which a title can be established, without an equivalent satisfactory to those States.

To show the basis on which the title rests:

It is maintained, on the part of the United States, that the territory they held on the continent of North America, prior to the purchase of Louisiana and the Floridas, was possessed by a title derived from their own Declaration of Independence, on the 4th of July, 1776; the assertion of that independence in a successful war; and its acknowledgment by Great Britain as a preliminary to any negotiation for a treaty of peace. It is admitted, on the part of Great Britain, that a territory designated by certain limits was *granted* to the United States in the treaty of 1783. As a matter of national pride, the question whether the territory of the original United States were held by a right of war or by virtue of a grant from the British Crown is not unimportant; as a basis of title, it has not the least bearing on the subject. From the date of the treaty of 1783, all pretensions of the British Crown to jurisdiction or property, within the limits prescribed by the provisions of that instrument, ceased; and when a war arose, in 1812, between the two nations, it was terminated by the treaty of Ghent, in which the original boundaries were confirmed and acknowledged on both sides.

The treaty of 1783, therefore, is, in reference to this territory, the only instrument of binding force upon the two parties; nor can any other document be with propriety brought forward in the discussion, except for the purpose of explaining and rendering definite such of the provisions of that treaty as are obscure or apparently uncertain.

The desire of full and ample illustration, which has actuated both par-

ties, has led to the search, among neglected archives, for documents almost innumerable; and their force and bearing upon the question have been exhibited in arguments of great ability. Such has been the talent shown in this task of illustration, and so copious have been the materials employed for the purpose, that the great and only important question, although never lost sight of by the writers themselves, has, to the eye of the casual observer, been completely hidden. In the report under consideration, this distinction between treaties of binding force and documents intended for mere illustration has not been regarded; and the vague as well as obviously inaccurate delineations of a French or a Venetian map-maker are gravely held forth as of equal value for a basis of argument as the solemn and ratified acts of the two nations.

In pursuance of this desire of illustration, every known document which could in any form support either claim has been advanced and set forth in the statements laid before His Majesty the King of the Netherlands, when acting as umpire under the 5th article of the treaty of Ghent. If not yet given entire to the public,* they are in the possession of both Governments in a printed form, together with the opinion of the arbiter in respect to them; and although it is necessary that the arguments then adduced in favor of the American claim should be in part repeated, and although new illustrations of the correctness of that argument have since been brought to light, the present document will be confined as closely as possible to the provisions of the treaty itself, and will adduce no more of illustration than is barely sufficient to render the terms of that treaty certain and definite.

The boundaries of the United States are described, in the treaty of 1783, in the following words:

"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 NORTHWEST 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 northwesternmost head of the 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 Cataraguy; 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 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 Philipeaux, to the Long Lake; thence, through the middle of said Long Lake, and the water com-*

* A considerable part of the papers, together with the argument, has been published by Mr. Galatin, in his "Right of the United States to the Northeastern Boundary," New York, 1840, 8 vo. pp. 180.

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munication between it and the Lake of the Woods, to the said Lake of the Woods; thence, through the said lake, to the most northwestern 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 thirty-one degrees north of the equator, to the middle of the river Appalachiecola or Cotahouche; 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."

So far as the present question is concerned, five points of discussion are presented by this article of the treaty of 1783.

1st. What stream is to be understood by the name of the river St. Croix?

2d. The determination of the line due north from the source of that river.

3d. What is the position of the northwest angle of Nova Scotia?

4th. The delineation of the line passing through the highlands from that angle to the northwest head of the Connecticut river.

5th. What is to be considered as the northwestern head of the Connecticut river?

I.—River St. Croix.

Doubts in respect to the particular river intended to be understood by the name of the St. Croix having arisen, an article was inserted in the treaty of commerce signed in London in November, 1794, by Lord Grenville, on the part of Great Britain, and by John Jay, on the part of the United States.* This article, the fifth of that treaty, provided for the appointment of a joint commission, with full powers to decide that question. This commission was constituted in conformity, and the award was accepted by both Governments.† The river designated in this award became thenceforth the true St. Croix, however erroneous may have been the grounds on which it was decided so to be. When, therefore, in the fourth article of the treaty of Ghent, it is declared that the due north line from the source of the St. Croix has not been surveyed, and when in this and the other articles of the same treaty all other uncertain parts of the bound-

* Note I. † Note II.

dary are recited, the validity of the decision of the Commissioners under the 5th article of Jay's treaty is virtually acknowledged. Nay, more, the acknowledgment is completed by the stipulation in the second article of the treaty of Ghent, that "all territory, places, and possessions, taken by either party during the war," with certain exceptions, shall be forthwith restored to their previous possessors.* The only exceptions are the islands in Passamaquoddy bay; and had it been believed that any uncertainty in respect to the adjacent territory existed, it would not have been neglected. Nay, more, all the settlements lying within the line claimed by Great Britain before the commission created by the treaty of 1794 had been taken, and were in her actual possession at the time the treaty of Ghent took effect, and were forthwith restored to the jurisdiction of the United States. When also it became necessary to proceed to the investigation of the second point of the discussion, the agents and surveyors of both parties proceeded, as a matter of course, to the point marked in 1798 as the source of the St. Croix.† This point is therefore fixed and established beyond the possibility of cavil, and the faith of both Governments is pledged that it shall not be disturbed.

II.—*Due north line from the source of the St. Croix.*

The treaty of 1783 provides that the boundary from the source of the St Croix shall be drawn "directly north." In relation to this expression, no possible doubt can arise. It is neither susceptible of more than a single meaning, nor does it require illustration from any extrinsic source. The undersigned, therefore, do not consider that so much of the argument of Messrs. Mudge and Featherstonhaugh as attempts to show that this line ought to be drawn in any other direction than due north requires any reply on the part of the United States. Admitting that the words had been originally used as a mistranslation of terms in the Latin grant of James I. to Sir William Alexander, the misconception was equally shared by both parties to the treaty of 1783; and it will be shown hereafter that this misconception, if any, had its origin in British official papers. Were it capable of proof beyond all possibility of denial, that the limit of the grant to Sir William Alexander was intended to be a line drawn towards the northwest, instead of the north, it would not affect the question. So far as that grant was used by American negotiators to illustrate the position of the northwest angle of Nova Scotia, it would have failed to fulfil the object; but such failure in illustration does not involve the nullity of the treaty itself.

That the translation, which has hitherto been universally received as correct, of the terms in the grant to Sir William Alexander is the true one, and that the new construction which is now attempted to be put upon it is inaccurate, will be shown in another place;‡ where will also be exhibited an error committed in rendering the sense of another part of that instrument. The consideration of the correctness or incorrectness of the several translations can form no part of the present argument. While, therefore, it is denied that Messrs. Mudge and Featherstonhaugh have succeeded in showing that the grant to Sir William Alexander has been mistranslated, it is maintained that an error in the translation of this document

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can have no effect in setting aside the simple and positive terms of the treaty of 1783. That treaty, and its confirmation in the treaty of Ghent, must be admitted to be null and void, before that line can be drawn in any other direction than "due north."

III.—Northwest angle of Nova Scotia.

The term northwest angle of Nova Scotia was used in the secret instructions of Congress, and is adopted in the treaty of 1783. In the instructions, it is named without any explanation, as if it were a point perfectly well known. In one sense it was so; for although it never had been marked by a monument, nor perhaps visited by the foot of man, its position could be laid down upon a map—nay, was so on many existing maps—and the directions for finding it on the ground were clear and explicit. These directions are to be found in the Royal Proclamation of October, 1763, and in the commission to Montague Wilmot, Governor of Nova Scotia, of cotemporaneous date. Any uncertainty in regard to the position of this angle which may have existed in relation to the meaning of the first of these instruments, is removed by the act of Parliament of 1774, commonly called the Quebec Act.

Before citing these instruments, it will be proper to refer to the circumstances under which the two first were issued.

Great Britain, after a successful war, found herself in possession of the whole eastern side of the continent of North America. So much of this as lay to the south of the St. Lawrence, and the 45th parallel of north latitude, had been previously made the subject of charters from the British Crown, under a claim of right from priority of discovery.* The possession of this wide tract was not uncontested, and various other European nations had attempted to found settlements within the limits of the British charters. In such cases it was held, as a matter of law, that where the occupation or defence of the territory granted had been neglected, the right had ceased, and the country, when recovered by conquest, or restored by treaty, was again vested in the Crown, to be made the subject of new grants or governed as a royal colony. Thus, when the settlements made by the Dutch and Swedes, which, by the fortune of war had become wholly vested in Holland, were reduced, the Crown exercised its rights by conveying them to the Duke of York, although covered in a great part, if not wholly, by previous charters; and when these countries were again occupied by the Dutch, and restored by the treaty of Breda, it was thought necessary that the title of the Duke of York should be restored by a fresh grant. In both of these charters to that prince, was included the province of Sagadahock, within whose chartered limits was comprised the territory at present in dispute. This province, confined on the sea between the rivers St Croix and Kennebec, had for its opposite limits the St. Lawrence, or, as the grant expresses it, "extending from the river of Kennebec, and so upwards by the shortest course to the river Canada northwards." The shortest course from the source of the Kennebec to the St. Lawrence is by the present Kennebec road. This grant, therefore, covered the whole

* Sebastian Cabot, in the employ of Henry VII., discovered the continent of North America 24th June, 1497; and explored it from Hudson's bay, to Florida, in 1498. Columbus discovered South America 1st August, 1498; while the voyage of Vespucci, whose name has been given to the continent, was not performed until 1499.—*Humboldt*.

space along the St. Lawrence, from about the mouth of the Chaudière river* to the eastern limit of the grant to Sir William Alexander. By the accession of James II., or as some maintain by the act of attainder, it matters not which, this province reverted to the Crown, and was by it granted, in 1691, to the colony of Massachusetts. In the same charter, Nova Scotia also was included. This has been called a War Grant, as in fact it was; and the colony of Massachusetts speedily availed themselves of it by conquering the whole of the territory conveyed, except the island of Cape Breton. The latter, too, fell before the unassisted arms of the New England Provinces in 1745, at a time when Great Britain was too deeply engaged in the contest of a civil war to give aid either in money or in men to her transatlantic possessions.

The colony of Massachusetts, therefore, could not be charged with any want of energy in asserting her chartered rights to the territory in question. It is in fact due to her exertions, that both Nova Scotia and New Brunswick came, at so early a period, into the possession of the British Crown. In 1654, the French settlements, as far as Fort Royal, at the head of the Bay of Fundy, were reduced by Major Sedgwick; but by the treaty of Breda they were restored to France.

In 1690, Sir William Phillipps, Governor of Massachusetts, with a force of 700 men raised in that colony, again conquered the country; and although on his return the French dislodged the garrison, possession was forthwith resumed by an expedition under Col. Church. Acadie, however, or Nova Scotia, was ceded again to France by the treaty of Ryswick. After several spirited, but unsuccessful, attempts, during the war of the succession, General Nicholson, with a force of five regiments, four of which were levied in Massachusetts, reduced Fort Royal; and by its capitulation the present provinces of Nova Scotia and New Brunswick were permanently annexed to the British Crown. † Finally, the militia of Massachusetts, during the war of 1776, took possession of the territory, and occupied it until the date of the treaty of 1783. This occupation was not limited by the St. Croix, or even by the St. John, but included the whole of the southern part of New Brunswick, while the peninsula of Nova Scotia was only preserved to Great Britain by the fortification of the isthmus which unites it to the main land. ‡

The recession of Acadie (or Nova Scotia) to France, by the treaty of Ryswick, divested Massachusetts only of the territory granted her in the charter of 1691, under the latter name. Her war title to Sagadahock was confirmed by a conquest with her own unaided arms, and even the cession of Nova Scotia was a manifest injustice to her, as she was at the moment in full possession of it. It, however, suited the purpose of Great Britain to barter this part of the conquest of that colony for objects of more immediate interest.

Admitting that England did convey a part or the whole of Sagadahock to France, under the vague name of Acadie or Nova Scotia, § the conquest by Massachusetts in 1710, renewed her rights to this much at least; and although the Crown appropriated to itself the lion's share of the spoils, by making Nova Scotia a royal province, it did not attempt to disturb her possession of Sagadahock. So far from so doing, the commission of the royal Governors was limited to the west by the St. Croix, although it was

* Note VI. † Haliburton's History, Vol. I., p. 83 to 87. ‡ Do. p. 244 to 289. § See Note VII.

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stated in a saving clause that the province of Nova Scotia extended of right to the Penobscot. From that time until the breaking out of the Revolutionary War, a space of more than 60 years, the province of Sagadahock was left in the undisturbed possession of Massachusetts under the charter of 1691.

In defiance of this charter, the French proceeded to occupy the right bank of the St. Lawrence, which, at the time of the capture of Quebec and the cession in the treaty of 1763, was partially held by settlements of Canadians. The Crown, therefore, acted upon the principle that the right of Massachusetts to the right bank of the St. Lawrence had thus become void, and proceeded by proclamation to form the possessions of France on both banks of the St. Lawrence into a Royal Colony, under the name of the Province of Quebec.

This was not done without a decided opposition on the part of Massachusetts, but any decision in respect to her claims was rendered needless by the breaking out of the War of Independence. It is only proper to remark that this opposition was in fact made, and that her claim to the right bank of the St. Lawrence was only abandoned by the treaty of 1783. The country, of which it was intended to divest her by the proclamation of 1763, is described in a letter of her agent, Mr. Mauduit, to the general court of that colony, as "the narrow tract of land which lies beyond the sources of all your rivers, and is watered by those which run into the St. Lawrence."

It is assigned by him as a reason why the province of Massachusetts should assent to the boundary assigned to the province of Quebec by the Proclamation, that "it would not be of any great consequence to you, [Massachusetts,] but is absolutely necessary to the Crown to preserve the continuity of the province of Quebec." The part of the province of Quebec whose continuity with the rest of that colony was to be preserved is evidently the district of Gaspé, of which Nova Scotia, a royal colony, was divested by the same proclamation. For this continuity no more was necessary than a road along the St. Lawrence itself, and the reason would have been absurd if applied to any country lying beyond the streams which fall into that river; for up to the present day no communication between parts of Canada exists through any part of the disputed territory. The narrow territory thus advised to be relinquished extends, according to the views of Messrs. Mudge and Featherstonhaugh, from the Great falls of the St. John to Quebec—a distance in a straight line of 160 miles. It has a figure not far from triangular, of which this line is the perpendicular, and the shore of the St. Lawrence, from the Chaudiere to the Metis, the base. It contains about 16,000 square miles. It would have been a perversion of language in Mr. Mauduit to describe this to his employers as a narrow tract. But the space whose cession he really intended to advise is in every sense a narrow tract; for its length along the St. Lawrence is about 200 miles, and its average breadth to the sources of the streams 30. It contains 6,000 square miles, and is described by him in a manner that leaves no question as to its extent being "watered by streams," which "run into the St. Lawrence." It, therefore, did not include any country watered by streams which run into the St. John.

It is believed that this is the first instance in which the term NARROW has ever been applied to a triangle almost right-angled and nearly isos-

celes; and it is not a little remarkable that this very expression was relied upon in the statement to the King of the Netherlands as one of the strongest proofs of the justice of the American claim.

Admitting, however, for the sake of argument, that the Crown did demand this territory, and that the mere advice of an agent without powers was binding on Massachusetts, the fact would have no direct bearing upon the point under consideration. The relinquishment by Massachusetts of the whole of the territory west of the meridian of the St. Croix would not have changed the position of the northwest angle of Nova Scotia, nor the title of the United States collectively under the treaty of 1783, to a boundary to be drawn from that angle, however it might have affected the right of property of that State to the lands within it.

And here it is to be remarked, that the Government of the United States is two-fold—that of the individual States and that of the Federal Union. It would be possible, therefore, that all right of property in unseated lands within a State's jurisdiction might be in the General Government; and this is in fact the case in all the new States. Even had Massachusetts divested herself of the title, (which she has not,) the treaty of 1783 would have vested it in the Confederation. She had at least a color of title under which the Confederation claimed to the boundaries of Nova Scotia on the east, and to the southern limits of the province of Quebec on the north, and this claim was allowed by Great Britain, in the treaty of 1783, in terms which are at least admitted to be identical in meaning with those of the Proclamation creating the latter province.*

To illustrate the subject further—

Of the seventeen British colonies in North America, thirteen succeeded in asserting their independence; the two Floridas were conquered and ceded to Spain; while, of her magnificent American domain, only Quebec and Nova Scotia were left to Great Britain. The thirteen colonies, now independent States, claimed all that part of the continent to the eastward of the Mississippi, and north of the bounds of Florida, which was not contained within the limits of the last-named colonies, and this claim was fully admitted by the boundary agreed to in the treaty of 1783. Within the limits thus assigned it was well known that there were conflicting claims to parts which had more than once been covered by Royal Charters—it was even possible that there were portions of the wide territory the right to which was asserted by the United States, and admitted by Great Britain, that had not been covered by any Royal grant; but the jurisdiction in respect to disputed rights, and the title to land not conveyed, forever ceased to be in the British crown—first by a successful assertion of independence in arms, and finally by the positive terms of a solemn treaty.

If it should be admitted, for argument's sake, that the claim of Massachusetts, as inherited by the State of Maine, to the disputed territory, is unfounded, it is a circumstance that cannot enter into a discussion between Great Britain and the United States of America. Massachusetts did claim, under at least the color of a title, not merely to "the highlands," but to the St. Lawrence itself, and the claim was admitted as far as the former by the treaty of 1783. If it should hereafter appear that this

* Report of Messrs. Featherstonhaugh and Mudge, p. 6.

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claim cannot be maintained, the territory which is not covered by her title, if within the boundary of the treaty of 1783, cannot revert to Great Britain, which has ceded its rights to the thirteen independent States, but to the latter in their confederate capacity, and is thus the property of the whole Union. As well might Great Britain set up a claim to the States of Alabama and Mississippi, which, although claimed by the State of Georgia, were found not to be covered by its Royal Charter, as to any part of the territory contained within the line defined by the treaty of 1783, under pretence that the rights of Massachusetts are not indefeasible.

While, therefore, it is maintained that whether the title of Massachusetts be valid or not is immaterial to the present question, it may be further urged that not even the shadow of a pretence existed for divesting her of her rights by the Proclamation of 1763, except to territory which by neglect she had permitted France to occupy. On this point the French are the best authority; for it cannot be pretended that the Crown of England intended, in forming the Province of Quebec, to go beyond the utmost limits of the claim of France to her Colony of Canada. The assertions on the part of France, in the argument preceding the war of 1756, were—

1st. That both banks of the St. Lawrence are included in Canada.

2d. That, with the exception of Miscou and Cape Breton, her grants extended ten leagues from the river.

3d. That the commissions of the Governors of Canada, in the most formal and precise manner, extended their jurisdiction to the sources of the rivers which discharge themselves into the St. Lawrence.

Now, the distance of ten French leagues and that of the sources of the rivers on an average are nearly identical; and this narrow tract, of which alone the Crown could with any shadow of justice assume the right of disposing, is that of which Massachusetts was intended to be divested by the proclamation of 1763.

It was because Great Britain held that these claims on the part of France were too extensive that the war of 1756 was waged. In this war at least one-half of the force which, under Wolf, took Louisberg and reduced Quebec, and, under Amherst, forced the French armies in Canada to a capitulation, was raised and paid by the Colonies. The creation of the province of Quebec, covering a part of their chartered limits, was therefore a just subject of complaint.

The bounds assigned to the new Province of Quebec to the south, by the Proclamation of 7th October, 1763, are as follows: "The line crossing the river St. Lawrence and the Lake Champlain, in forty-five degrees of north latitude, passes along the highlands which divide the rivers that empty themselves into the St. Lawrence from those which fall into the sea, and also along the north coast of the Bay des Chaleurs, and the Gulf of St. Lawrence to Cape Rosieres," &c.

In the same month of October, 1763, the limits of the Royal Province of Nova Scotia are fixed, in the commission to Governor Wilmot, on the west "by the said river St. Croix to its source, and by a line drawn due north from thence to the southern boundary of our Province of Quebec; to the northward, by the same boundary, as far as the western extremity of the Bay des Chaleurs."

Here, then, we find the first mention in an English dress of the line to be drawn due north from the source of the St. Croix. There is no evi-

dence that it was a translation of the terms in the grant to Sir William Alexander; but if it was, it was made, not by Americans, but by Englishmen, and not only made, but set forth under the high authority of the Royal sign-manual, and authenticated by the great seal of the United Kingdom of England and Scotland.

The due north line from the source of the St. Croix, meeting the south bounds of the Province of Quebec, forms two angles. One of these was the northeast angle of the Province of Sagadahock; the other is the northwest angle of Nova Scotia. It might be debated, which of the streams that fall into Passamaquoddy bay was the true St. Croix; but such a question could be settled by reference to evidence, and has been thus settled by the award of the Commissioners, under the 5th article of Jay's treaty. Among the many branches of a stream, it may for a moment be doubted which is to be considered as its principal source; but this can be ascertained by proper methods, and it has been ascertained and marked with a monument by the same Commissioners. The tracing of a meridian line may be a difficult operation in practical surveying, but it can be effected by proper instruments and adequate skill; and this task has, in fact, been performed by one of the present Commissioners, after being attempted by the surveyors under the 5th article of the treaty of Ghent. The highlands are defined, in the commission of Governor Wilmot and the Proclamation of 1763, beyond the possibility of doubt. They are on the north shore of the Bay of Chaleurs, as described in the one instrument, and on the western extremity of that bay, as described by the other. They can, therefore, be found, and they have been found.

The Congress of 1779 and the framers of the treaty of 1783 were therefore warranted in speaking of the northwest angle of Nova Scotia as if it were a known point. It could have been laid down with precision on any good map; it could be discovered by the use of adequate methods and the expenditure of a sufficient appropriation. It was in fact as well known as the forty-fifth and thirty-second parallels of latitude, which are named in the same article of the treaty, or as the boundaries of very many of the States which had united in the Confederation. These were defined by the course and sources of rivers—by parallels of latitude and circles of longitude, either of indefinite extent or setting out from some prescribed point whose position was to be determined. At the time of making these grants, as in the case before us, many of the boundaries had never been visited by civilized men. Some of these lines had, indeed, been sought and traced upon the ground, in pursuance of orders from the Privy Council of Great Britain or the high court of chancery; and the recollection of the operation was fresh in the memory of both parties. Thus, in 1750, it was ordered by the latter tribunal that the boundary of the lower counties in the Delaware (now the State of that name) and the province of Maryland should be marked out. The boundary was an arc of a circle described around the town of Newcastle with a given radius, and a meridian line tangent thereto. This was a far more difficult operation than to draw a meridian line from a given point, such as the source of a river. It was thought, in 1763, worthy of the attention of the first assistant in the royal observatory at Greenwich; and the American Rittenhouse was associated with him. This operation was not only of great contemporary fame, but is still quoted in English books among the data whence we derive our knowledge of the magnitude and figure of the earth. So also the same

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astronomer, Mason, had but a few years before the war of independence commenced the tracing of a parallel of latitude from the former line to the westward, thus marking the respective limits of Pennsylvania, Maryland, and Virginia. With such examples before them, the framers of the treaty of 1783 were warranted in considering the northwest angle of Nova Scotia as a point sufficiently definite to be made not merely one of the landmarks of the new Nation, but the corner at which the description of its boundaries should begin. It has been well remarked, by one of the commentators* on the report of Messrs. Featherstonhaugh and Mudge, that if the treaty of 1783 be a grant, the grantors are bound by rule of law to mark out that corner of their *own land* whence the description of the grant commences. The British Government therefore ought, if it be, as it is maintained on its part, a grant, to have traced the line of highlands dividing their provinces of Nova Scotia and Canada. Had this been done in conformity with the proclamation of 1763 and the commission to Governor Wilmot, the northwest angle of Nova Scotia would be given by the trace of the meridian of the St. Croix. So far from doing this, the question has been complicated by the denial that the boundaries defined in that proclamation and in the treaty of 1783 were intended to be identical. The argument on this point was so ingenious, that the arbiter under the 5th article of the treaty of Ghent did not consider the American case as made out,† and this doubt was the principal ground on which his decision rested. It is therefore an earnest of a more favorable state of feeling, that the sophistry with which this fact had been veiled, at least in part, is now withdrawn, and that the Commission whose report is under consideration frankly admit this identity.‡ This admission being made, it is obvious that the origin of the highlands of the treaty must be sought on the north shore of the Bay des Chaleurs, and at its western extremity; and it follows that the point where this line of highlands is cut by the meridian of the monument at the source of the St. Croix is the northwest angle of Nova Scotia of the treaty of 1783, and must lie to the north of the Ristigouche, or in the very spot claimed by the United States.

The British Government has not only failed in marking out the corner of their territory at which the boundary of the United States begins, but has in practice adopted a very different point as the northwest angle of the Province of New Brunswick, which now occupies the place of ancient Nova Scotia in its contiguity to the American lines. Up to the time of the discussion before the King of the Netherlands, the commissions of the Governors of New Brunswick had been, so far as the western and northern boundaries are concerned, copies of that to Governor Wilmot. The undersigned have no means of ascertaining when or how the form of these commissions was changed, but it was found, during the exploration of the country, that the jurisdiction of New Brunswick, limited at least to the north of the St. John by the exploring meridian line, did not leave the Bay of Chaleurs at its western extremity, and follow thence the old bounds of the province of Quebec. It, on the contrary, was ascertained that it was limited by the Ristigouche as far as the confluence of its southwestern branch, formerly known by the name of

*The Hon. John Holmes, of Maine. †Note VIII.

‡Report of Messrs. Featherstonhaugh and Mudge, p. 6 and p. 23.

Chacodi, and thence followed the latter up to the point where it is crossed by the exploring meridian line. On all the territory thus severed from the ancient domain of Nova Scotia, permits to cut timber were found to have been issued by Canadian authorities, and the few settlers derived their titles to land from the same source.

Although this demarcation involves a double deviation from the proclamation of 1763, (first in following a river instead of highlands, second in taking a small branch instead of pursuing the main supply of the Bay of Chaleurs,) the northwest angle of Nova Scotia may be considered as at last fixed by British authority at a point many miles north of the point claimed to be such in the statements laid before the King of the Netherlands on the part of Great Britain, and 48 miles to the north of where the line of "abraded highlands" of Messrs. Featherstonhaugh and Mudge crosses the St. John. Were it not that the American claim would be weakened by any change in the strong ground on which it has always rested, it might be granted that this is in fact the long-lost northwest angle of Nova Scotia, and the highlands allowed to be traced from that point through the sources of the branches of the St. John and the St. Lawrence.

In proof of the position now assigned to this angle of New Brunswick, and consequently of ancient Nova Scotia, in the absence of documents which the archives of Great Britain alone can furnish, the map published by the Society for the encouragement of Useful Knowledge, the several maps of the surveyor general of the province of Canada, and the most recent map of the Provinces of Nova Scotia and New Brunswick, by John Wyld, geographer to the Queen of Great Britain, may be cited.

It may therefore be concluded that the northwest angle of Nova Scotia is no longer an unknown point. It can be found by a search conducted in compliance with the proclamation of 1763, and the contemporaneous commission of Governor Wilmot; and the researches of the present Commission show that it cannot be far distant from the point originally assigned to it in the exploring meridian line. The identity of the first of these documents with the boundary of the treaty of 1783 is admitted, and the latter is word for word the same with the description of the eastern boundary of the United States in the same treaty. Moreover, a northwest angle has been assigned to the province of New Brunswick by British authority, which, did it involve no dereliction of principle, might without sensible loss be accepted on the part of the United States.

IV.—*Highlands of the treaty of 1783.*

The highlands of the treaty of 1783 are described as those "which divide those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic ocean." It has been uniformly and consistently maintained, on the part of the United States, that by the term "highlands" was intended what is in another form of the same words called the height of land. The line of highlands in this sense was to be sought by following the rivers described in the treaty to their source, and drawing lines between these sources in such manner as to divide the surface waters. It was believed that the sources of such rivers as the Connecticut and the St. John must lie in a country sufficiently elevated to be en-

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titled to the epithet of highlands, although it should appear on reaching it that it had the appearance of a plain. Nay, it was even concluded, although as now appears incorrectly, and it was not feared that the conclusion would weaken the American argument, that the line from the north-west angle of Nova Scotia, at least as far as the sources of Tuladi, did pass through a country of that description. Opposite ground was taken in the argument of Great Britain by her agent; but, however acute and ingenious were the processes of reasoning by which this argument was supported, it remained in his hands without application, for the line claimed by him on the part of his Government was one having the same physical basis for its delineation as that claimed by the agent of the United States—namely, one joining the culminating points of the valleys, in which streams running in opposite directions took their rise. The argument appears to have been drawn while he hoped to be able to include Katahdin and the other great mountains in that neighborhood in his claimed boundary; and he does not appear to have become aware how inapplicable it was in every sense to the line by which he was, for want of a better, compelled to abide. The British Government, however, virtually abandoned the construction of their agent in the convention signed in London the 27th September, 1827.*

In this it was stipulated that Mitchell's and map A should be admitted, to the exclusion of all others, "as the only maps that shall be considered as evidence" of the topography of the country; and in the latter of these maps, constructed under the joint direction of the British and American negotiators, by the Astronomer of the British Government, it was agreed that nothing but the water courses should be represented. Finally, it was admitted, in the report of Messrs. Featherstonhaugh and Mudge, that the terms highlands and height of land are identical. The decision of the King of the Netherlands, to which Great Britain gave her assent in the first instance, recognises the correctness of the views entertained in the American statements.† All discussion on this subject is however rendered unnecessary by the knowledge which the undersigned have obtained of the country. The line surveyed by them not only divides rivers, but possesses in a pre-eminent degree the character by which, in the British argument, highlands are required to be distinguished.

It is sufficient for the present argument that the identity of the lines, pointed out by the Proclamation of 1763 and the Act of 1774, with the boundary of the treaty of 1783, be admitted. Such has been the uniform claim of the Government of the United States and the State of Massachusetts, and such is the deliberate verdict of the British Commissioners.‡ The words of the proclamation of 1763 have already been cited. By reference to them it will be seen that the origin of "the highlands" is to be sought on the north shore of the Bay of Chaleurs. If they are not to be found there, a gap exists in the boundary of the Proclamation, which, it is evident, could not have been intended. It has been thought by some that the gap did actually exist, but this idea was founded on an imperfect knowledge of the country. The Bay of Chaleurs seems, in fact, to have been better known to the framers of the Proclamation of 1763 and the Act of 1774 than to any subsequent authorities, whether British or American. Researches made in the year 1840 show that at the head of the tide of

* Note IX. † Note X. ‡ Report of Featherstonhaugh and Mudge, p. 6, and p. 23.

the Bay of Chaleurs a mountain rises immediately on the northern bank, which, from its imposing appearance, has been called by the Scotch settlers at its foot Ben Lomond. This, indeed, has by measurement been found to be no more than 1,024 feet in height, but no one can deny its title to the name of a highland. From this a continuous chain of heights has been ascertained to exist, bounding, in the first instance, the valley of the Metapediae to the sources of that stream, which they separate from those of the Metis. The height of land then passes between the waters of Metis and Ristigouche, and, bending around the sources of the latter to the sources of the Rimouski, begins there to separate waters which fall into the St. Lawrence from those which fall into the St. John, which they continue to do as far as the point where they merge in the line admitted by both parties.

These highlands have all the characteristics necessary to constitute them the highlands of the treaty. Throughout their whole northern and western slopes, flow streams which empty themselves into the St. Lawrence. Beginning at the Bay of Chaleurs, they in the first place divide, as it is necessary they should, waters which fall into that bay; they next separate the waters of Ristigouche from those of Metis; they then make a great detour to the south, and enclose the valley of Rimouski, separating its waters from those of Metapediae and Ristigouche, the Green river of St. John and Tuladi; they next perform a circuit around Lake Temiscouata, separating its basin from those of the Otty and Trois Pistoles, until they reach the Temiscouata portage at Mount Paradis. This portage they cross five times, and, finally, bending backwards to the north, enclose the stream of the St. Francis, whose waters they divide from those of Trois Pistoles, Du Loup, and the Green river of the St. Lawrence. Leaving the Temiscouata portage at the sixteenth mile post, a region positively mountainous is entered, which character continues to the sources of the Etchemin. It there assumes for a short space the character of a rolling country, no point in which, however, is less than 1,200 feet above the level of the sea. It speedily resumes a mountainous character, which continues unaltered to the sources of the Connecticut.

Now it is maintained, that all the streams and waters, which have been named as flowing from the southern and eastern sides of this line, are in the intended sense of the treaty of 1783 rivers which empty themselves into the Atlantic. The first argument adduced in support of this position is, that the framers of that treaty having, as is admitted, Mitchell's map before them, speak only of two classes of rivers, those which discharge themselves into the St. Lawrence river, and those which fall into the Atlantic ocean. Yet upon this map, were distinctly seen the St. John and the Ristigouche. The latter, indeed, figures twice—once as a tributary to the Bay of Miramichi, and once as flowing to the Bay of Chaleurs.* It cannot reasonably be pretended that men honestly engaged in framing an article to prevent "all disputes which might arise in future" should have intentionally passed over and left undefined these important rivers, when by the simplest phraseology they might have described them, had they believed that in any future time a question could have arisen whether they were included in one or the other of the two classes of rivers they named. Had it been intended that the due north line should have stopped

* Note XI.

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short of the St. John, the highlands must have been described as those which divide rivers which fall into the St. Lawrence and the St. John from those which fall into the Atlantic ocean. The mouth of the St. Lawrence had been defined, in the proclamation of 1763, by a line drawn from the river St. John (on the Labrador coast) to Cape Rosières. If, then, it had been intended that the meridian line should not have crossed the Ristigouche, the phraseology must have been highlands which divide rivers which fall into the river and Gulf of St. Lawrence from those which fall into the Atlantic ocean. Where such obvious modes of expressing either of these intentions existed, it is not to be believed that they would have been omitted; but had they been proposed to be introduced, the American negotiators would have been compelled by their instructions to refuse them. Such expressions would have prescribed a boundary different, not only in fact, but in terms, from that of the Proclamation of 1763 and the contemporaneous commission to Governor Wilmot. Either, then, the British Plenipotentiaries admitted the American claim to its utmost extent, or they fraudulently assented to terms, with the intention of founding upon them a claim to territory, which if they had openly asked for, must have been denied them. The character of the British ministry under whose directions that treaty was made forbids the belief of the latter having been intended. The members of that ministry had been, when in opposition, the constant advocates of an accommodation with the Colonies, or of an honorable peace after all hopes of retaining them in their allegiance had ceased. They showed, on coming into power, a laudable anxiety to put an end to the profitless effusion of human blood; and they wisely saw that it would be of more profit to their country to convert the new Nation into friends, by the free grant of terms which sooner or later must have been yielded, than to widen the breach of kindred ties by an irritating delay. The debates which ensued in the British Parliament, when the terms of the treaty were made known, show the view which the party that had conducted the war entertained of this question. The giving up of the very territory now in dispute was one of the charges made by them against their successors, and that it had been given up by the treaty was not denied. Nay, the effect of this admission was such as to leave the administration in a minority in the House of Commons, and thus became at least one of the causes of the resignation of the ministry* by which the treaty had been made. At this very moment, more maps than one were published in London, which exhibit the construction then put upon the treaty by the British public. The boundary exhibited upon these maps is identical with that which the United States now claim, and have always claimed.

The full avowal that the boundary of the treaty of 1763 and of the proclamation of 1763 and act of 1774 are identical, greatly simplifies the second argument. It has been heretofore maintained, on the the part of Great Britain, that the word "sea," of the two latter-named instruments, was not changed in the first to "Atlantic ocean" without an obvious meaning. All discussion on this point is obviated by the admission. But it is still maintained that the Bay of Fundy is not a part of the Atlantic ocean, because it happens to be named, in reference to the St. Croix, in the same article of the treaty. To show the extent to which such an

* Hansard's Parliamentary Register for 1783.

argument, founded on a mere verbal quibble, may be carried, let it be supposed that at some future period two nations, on the continent of North America, shall agree on a boundary, in the following terms: by a line drawn through the Mississippi, from its mouth, in the gulf of Mexico, to its source, thence a parallel of latitude until it meet the highlands which divide the waters that empty themselves into the Pacific ocean from those which fall into the Atlantic. Could it be pretended that because the mouth of the Mississippi is said to be in the Gulf of Mexico, the boundary must be transferred from the Rocky mountains, to the Alleghanies? Yet this would be as reasonable as the pretensions so long set up by the British agents and Commissioners.

It cannot be denied that the line claimed by the United States fulfils at least one of the conditions. The streams which flow from one side of it, fall, without exception, into the river St. Lawrence. The adverse line claimed by Great Britain, in the reference to the King of the Netherlands, divides, until within a few miles of Mars hill, waters which fall into the St. John from those of the Penobscot and Kennebec. The latter do not discharge their waters directly into the ocean, but Sagadahock and Penobscot bays intervene, and the former falls into the bay of Fundy; hence, according to the argument in respect to the bay of Fundy, this line fulfils neither condition.

The line of Messrs. Featherstonhaugh and Mudge is even less in conformity to the terms of the treaty. In order to find mountains to form a part of it, they are compelled to go south of the source of branches of the Penobscot; thence from mountains, long well known at the sources of the Allagash, well laid down on the rejected map of Mr. Johnson, it becomes entangled in the stream of the Aroostook, which it crosses more than once. In neither part does it divide waters at all. It then, as if to make its discrepancy with the line defined in the proclamation of 1763 apparent, crosses the St. John, and extends to the *south* shore of the Bay of Chaleurs, although that instrument fixes the boundary of the Province of Quebec on the the north shore of the bay. In this part of its course, it divides waters which fall into the said bay from those which fall into the St. John. But the Proclamation, with whose terms this line is said to be identical, directs that the highlands shall divide waters which fall into the St. Lawrence from those which fall into the sea. If the branches of the Bay of Chaleurs fulfil the first condition, which, however, is denied, the St. John must fulfil the latter. It therefore falls into the Atlantic ocean; and, as the identity of the boundary of the treaty with that of the proclamation of 1763 and act of 1774 is admitted, then is the St. John an Atlantic river, and the line claimed by the United States fulfils both conditions, and is the only line to the west of the meridian of the St. Croix which can possibly do so.

The choice of a line different from that presented to the choice of the King of the Netherlands is no new instance of the uncertainty which has affected all the forms in which Great Britain has urged her claim.

In fact, nothing shows more conclusively the weakness of the ground on which the British claim rests than the continual changes which it has been necessary to make, in order to found any feasible argument upon it.* In the discussion of 1798, it was maintained, on the part of Great Britain,

* Note XII.

that the meridian line must cross the St. John river; in the argument before the Commissioners under the fifth article of the treaty of Ghent, it was denied that it ever could have been the intention of the framers of the treaty of 1783 that it should. Yet the mouthpiece by which both arguments were delivered was one and the same person. The same agent chose, as the termination of what he attempted to represent as a continuous range of hills, an isolated mountain, Mars hill; and the Commissioners whose report is under consideration place a range of abraded highlands, "the maximum axis of elevation," in a region over which British engineers have proposed to carry a railroad, as the most level and lowest line which exists between St. Andrew's and Quebec.*

On the other hand, the American claim, based on the only practicable interpretation of the treaty of 1783, has been consistent throughout. "Let the meridian line be extended until it meets the southern boundary of the province of Quebec, as defined by the proclamation of 1763 and the act of Parliament of 1774."

No argument can be drawn against the American claim from the secret instructions of Congress, dated August, 1779. All that is shown by these instructions is the willingness to accept a more convenient boundary—one defined by a great natural feature, and which would have rendered the difficult operation of tracing the line of highlands, and that of determining the meridian of the St. Croix by astronomic methods, unnecessary. The words of the instructions are: "And east by a line to be drawn along the middle of the St. John, from its source to its mouth in the Bay of Fundy, or by a line to be settled and adjusted 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, comprehending all islands within twenty leagues 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."

The proposal in the first alternative was, to appearance, a perfectly fair one. From an estimate made by Dr. Tiarks, the astronomer of Great Britain, under the 5th article of the treaty of Ghent, in conformity with directions from Colonel Borelay, the British Commissioner, it was ascertained that the whole disputed territory contained 10,705 square miles; that the territory bounded by the St. John to its mouth, contained 707 square miles less, or 9,998 square miles. The difference at the time was probably believed to be insensible. The first alternative was, however, rejected by Great Britain, and obviously on grounds connected with a difference in supposed advantage between the two propositions. The American Commissioners were satisfied that they could urge no legal claim along the coast, beyond the river St. Croix; they, therefore, treated on the other alternative in their instructions—the admitted limits between Massachusetts and Nova Scotia. Even in the former alternative, Nova Scotia would still have had a northwest angle; for the very use of the term shows that by the St. John, its northwestern and not the southwestern branch was intended.

At that moment, when the interior of the country was unknown, the

* Prospectus of St. Andrew's and Quebec Railroad, 1836; and Survey of Cap. and York, 1833.

adoption of the St. John as the boundary, even admitting that the Walloostook, its southwestern branch, is the main stream, would have given to the United States a territory of more immediate value than that they now claim. For this very reason, the proposition was instantly rejected by Great Britain, and the State of Massachusetts was forced to be contented with the distant region now in debate—a region then believed to be almost inaccessible and hardly fit for human habitation.

Even now, were there not vested private rights on both sides which might render such a plan difficult of application, the undersigned would not hesitate to recommend that this line should be accepted in lieu of the one which is claimed under the treaty of 1783.

It is finally obvious, from the most cursory inspection of any of the maps of the territory in question, that the line claimed for Great Britain in the argument before the King of the Netherlands, fulfils no more than one of the two conditions, while that of Messrs. Featherstonhaugh and Mudge fulfils neither; and as the line claimed on the part of the United States is denied to be capable of meeting the terms of the treaty of 1783, by Great Britain, there is no line that, in conformity with the British argument, can be drawn within the disputed territory or its vicinity, that will comply with either of the conditions. This is as well and as distinctly shown in the map of Mitchell as in the map of the British Commission. It would, therefore appear, if these views be correct, that the framers of the treaty of 1783 went through the solemn farce of binding their respective Governments to a boundary, which they well knew did not and could not exist.

V.—*Northwest head of Connecticut river.*

The true mode of determining the most northwesterly of any two given points need no longer be a matter of discussion. It has already been a matter adjudicated and assented to by both Governments, in the case of the Lake of the Woods. The point to be considered as most to the northwest is that which a ruler laid on a map drawn according to Mercator's projection, in a direction northeast and southwest, and moved parallel to itself towards the northwest, would last touch. In this view of the subject, the eastern branch of the Connecticut, which forms the lake of that name, is excluded; for its source, so far from lying to the northwest of those of the other two branches which have been explored, actually lies to the south of the source of the Indian stream. The question must therefore lie between the two others; and it is, as yet, impossible to decide which of them is best entitled to the epithet, as their sources lie very nearly in the same northeast and southwest rhomb line. Another circumstance would, however, render the decision between them easy. The 45th parallel of latitude, as laid out by the surveyors of the provinces of Quebec and New York, in conformity with the proclamation of 1763, crosses Hall's stream above its junction with the united current of the other two. In this case, the latter is the Connecticut river of the treaty of 1783, and Hall's stream, which has not yet joined it, must be excluded. The parallel, as corrected by the united operations of the British and American astronomers, under the 5th article of the treaty of Ghent, does not touch Hall's stream; and the Connecticut river, to which it is produced, is the united current of the three streams. If, then, the corrected

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parallel should become the boundary between the United States and the British provinces, Hall's stream must become one of those, the claim of whose source to the title of the northwesternmost head of Connecticut river is to be examined. And here it may be suggested, although with the hesitation that is natural in impeaching such high authority, that the Commissioners under the 5th article of the treaty of Ghent, in all probability, misconstrued that instrument when they reopened the question of the 45th parallel. It cannot be said that the 45th degree of latitude had "*not been surveyed*," when it is notorious that it had been traced and marked throughout the whole extent, from St. Regis to the bank of the Connecticut river.

In studying, for the purpose of illustration, the history of this part of the boundary line, it will be found that a change was made in it by the Quebec act of 1774. The proclamation of 1763 directs the 45th parallel to be continued only until it meets highlands, while in that bill the Connecticut river is made the boundary of the province of Quebec. Now, the earlier of these instruments was evidently founded upon the French claim to extend their possession of Canada ten leagues from the St. Lawrence river; and from the citadel of Quebec, looking to the south, are seen mountains whence rivers flow to the St. Lawrence. On their opposite slope there was a probability that streams might flow to the Atlantic. These mountains, however, are visibly separated from those over which the line claimed by the United States runs, by a wide gap. This is the valley of the Chaudiere, and the St. Francis also rises on the southeastern side of these mountains, and makes its way through them. It is not, therefore, in any sense, a dividing ridge. Yet, under the Proclamation of 1763, the provinces of New York and New Hampshire claimed, and were entitled to, the territory lying behind it, which is covered by their Royal Charters. The Quebec act, it would appear, was intended to divest them of it; and, according to the construction of the treaty of 1783, now contended for, the United States acquiesced in this diminution of the territory of those members of the Union. If, however, it be true, as maintained by Messrs. Featherstonhaugh and Mudge, that the highlands seen to the south of Quebec are a portion of the ridge seen from southeast to northeast, and if, as they maintain, so deep and wide a valley as that of the St. John is no disruption to the continuity of highlands, it would be possible to show that the highlands of the treaty of 1783 are made up of these two ridges of mountains, and that the United States is entitled to the whole of the eastern townships. This range of highlands would coincide with the terms of the Proclamation of 1763, by terminating on the north shore of the bay of Chaleurs, while the abraded highlands of Messrs. Featherstonhaugh and Mudge terminate on its south shore. In fact there is no step in their argument which might not be adduced to support this claim, nor any apparent absurdity in preferring it, which would not find its parallel in one or other of the positions they assume.

In this view of the history of this part of the line, it becomes evident, however, that, in divesting the Provinces of New York and New Hampshire by the Quebec act, of territory, admitted to belong to them in the Proclamation of 1763, the British Parliament must have intended to make the encroachment as small as possible; and the first important branch of the Connecticut met with in tracing the 45th parallel must have been intended. This intention is fully borne out by the words of the treaty of

1783, which chose from among the branches of the Connecticut that whose source is farthest to the northwest.

It has therefore been shown, in the foregoing statement—

1st. That the river to be considered as the St. Croix and its true source have been designated by a solemn act, to which the good faith of the Majesty of Great Britain and of the people of the United States is pledged, and cannot now be disturbed.

2d. That the boundary line must, in compliance with the provisions of the treaty of 1783, be drawn due north from the source of that river, and in no other direction whatever.

3d. That the northwest angle of Nova Scotia was a point sufficiently known at the date of the treaty of 1783, to be made the starting point of the boundary of the United States; that it was both described in the treaty and defined, without being named in previous official acts of the British Government, in so forcible a manner that no difficulty need have existed in finding it.

4th. That the line of highlands claimed by the United States is, as the argument on the part of Great Britain has maintained it ought to be, in a mountainous region, while that proposed by Messrs. Featherstonhaugh and Mudge does not possess this character; that it is also, in the sense uniformly maintained by the United States, the height of land, which that of Messrs. Featherstonhaugh and Mudge is not; that it fulfils, in every sense, the conditions of the proclamation of 1763, the Quebec act of 1774, and the treaty of 1783, which no other line that can possibly be drawn in the territory in question can perform.

5th. That, as far as the Indian stream and that flowing through Lake Connecticut are concerned, the source of the former must, in the sense established by the assent of both parties, be considered as the northwestern source of the Connecticut river, but that if the old demarcation of the 45th parallel be disturbed, the question must lie between the sources of Hall's and of Indian streams.

All which is respectfully submitted.

JAS. RENWICK,
JAMES D. GRAHAM, } *Commissioners.*
A. TALCOTT,

HON. DANIEL WEBSTER,
Secretary of State.

NOTE I.

TREATY OF 1794, ARTICLE 5.

Whereas doubts have arisen what river was truly intended under the name of the river St. Croix, mentioned in the said treaty of peace, and forming a part of the boundary therein described, that question shall be referred to the final decision of commissioners, to be appointed in the following manner, viz:

One commissioner shall be named by His Majesty, and one by the President of the United States, by and with the advice and consent of the Senate thereof, and the said two commissioners shall agree on the choice of a third, or, if they cannot agree, they shall each propose one person, and of the two names so proposed, one shall be drawn by lot in the presence of the two original commissioners and the three commissioners so

appointed shall be sworn impartially to examine and decide the said question according to such evidence as shall respectively be laid before them on the part of the British Government and of the United States. The said commissioners shall meet at Halifax, and shall have power to adjourn to such other place or places as they shall think fit. They shall have power to appoint a secretary, and to employ such surveyors or other persons as they shall judge necessary. The said commissioners shall, by a declaration under their hands and seals, decide what river is the river St. Croix intended by the treaty. The said declaration shall contain a description of the said river, and shall particularize the latitude and longitude of its mouth and of its source. Duplicates of this declaration, and of the statements of their accounts and of the journal of their proceedings, shall be delivered by them to the agent of His Majesty and the agent of the United States, who may be respectively appointed and authorized to manage the business on behalf of the respective Governments. And both parties agree to consider such decision as final and conclusive, so as that the same shall never thereafter be called into question or made the subject of dispute or difference between them.

NOTE II.

Declaration of the commissioners under the 5th article of the treaty of 1794, between the United States and Great Britain, respecting the true river St. Croix, by Thomas Barclay, David Howell, and Egbert Benson, commissioners appointed in pursuance of the 5th article of the treaty of amity, commerce, and navigation, between His Britannic Majesty and the United States of America, finally to decide the question "what river was truly intended under the name of the river St. Croix, mentioned in the treaty of peace between His Majesty and the United States, and forming a part of the boundary therein described."

DECLARATION.

We, the said commissioners, having been sworn impartially to examine and decide the said question according to such evidence as should respectively be laid before us on the part of the British Government and of the United States respectively, appointed and authorized to manage the business on behalf of the respective Governments, have decided, and hereby do decide, the river hereinafter particularly described and mentioned to be the river truly intended under the name of the river St. Croix, in the said treaty of peace, and forming a part of the boundary therein described; that is to say, the mouth of the said river is in Passamaquoddy bay, at a point of land called Joe's point, about one mile northward from the northern part of St. Andrew's island, and in the latitude of $45^{\circ} 5' \text{ and } 5''$ north, and in the longitude of $67^{\circ} 12' \text{ and } 30''$ west from the Royal Observatory at Greenwich, in Great Britain, and $3^{\circ} 54' \text{ and } 15''$ east from Harvard College, in the University of Cambridge, in the State of Massachusetts; and the course of the said river, up from its said mouth, is northerly to a point of land called the Devil's head; then, turning the said point, is westerly to where it divides into two streams, the one coming from the westward and

the other from the northward, having the Indian name of Cheputnatecook or Chebuitcook, as the same may be variously spelt; then up the said stream, so coming from the northward, to its source, which is at a stake near a yellow birch tree, hooped with iron, and marked S. T. and J. H. 1797, by Samuel Titcomb and John Harris, the surveyors employed to survey the above-mentioned stream coming from the northward.

NOTE III.

ARTICLE FIFTH OF THE TREATY OF GHENT, 1814.

Whereas neither that point of the highlands lying due north from the source of the river St. Croix, and designated in the former treaty of peace between the two Powers as the northwest angle of Nova Scotia, nor the northwesternmost head of Connecticut river has 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 northwest angle of Nova Scotia; thence, along the said highlands which divide the rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic ocean, to the northwesternmost head of Connecticut river; thence, down along the middle of that river, to the forty-fifth degree of north latitude; thence, by a line due west on said latitude, until it strikes the river Iroquois or 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. Andrew's, in the province of New Brunswick, and shall have power to adjourn to such place or places as they shall think fit. The said commissioners shall have power to ascertain and determine the points 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 northwest angle of Nova Scotia, of the northwesternmost 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 part of the fourth article is contained, and in as full a manner as if the same was herein repeated.

NOTE IV.

The point originally chosen by the commissioners in 1798, as the source of the St. Croix, was, to all appearance, the act of an umpire who wished

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to reconcile two contending claims by giving to each party about half the matter in dispute. No one who compares Mitchell's map with that of Messrs. Featherstonhaugh and Mudge can fail to recognise in the St. Croix of the former the Magaguadavic of the latter. That this was the St. Croix intended by the framers of the treaty of 1783, was maintained, and it may be safely asserted proved, on the American side. On the other hand, it was ascertained that the river called St. Croix by Dumonts was the Schoodiac, and the agent of Great Britain insisted that the letter of the instrument was to be received as the only evidence, no matter what might have been the intentions of the framers. The American argument rested on the equity of the case; the British on the strict legal interpretation of the document. The commissioners were divided in opinion, each espousing the cause of his country. In this position of things, the umpire provided for in the treaty of 1794 was chosen; and, in the United States it has always been believed, unfortunately for her pretensions. A lawyer of eminence, who had reached the seat of a judge, first of a State court, and then of a tribunal of the General Government, he prided himself on his freedom from the influence of feeling in his decisions. As commissioner for the settlement of the boundary between the States of New York and Vermont, he had offended the former of which he was a native, by admitting the claim of the latter in its full extent; and it was believed that he would rather encounter the odium of his fellow-citizens than run the risk of being charged with partiality towards them. Colonel Barclay, the British commissioner, who concurred in choosing him as umpire, had been his schoolfellow and youthful associate; and it is believed in the United States that he concurred in it if he did not prompt the nomination, from a knowledge of this feature of character. Had he, as is insinuated by Messrs. Featherstonhaugh and Mudge, been inclined to act with partiality towards his own country, he had most plausible grounds for giving a verdict in her favor; and that he did not found his decisions upon them, is evidence of a determination to be impartial, which his countrymen have said was manifested in a leaning to the opposite side. Those who suspect him of being biassed by improper motives, must either be ignorant of the circumstances of the case, or else incapable of estimating the purity of the character of Egbert Benson. His award, however, has nothing to do with the question, as it was never acted upon. Both parties were dissatisfied with the conclusions at which he arrived, and, in consequence, a conventional line, in which both concurred, was agreed upon; and the award of the commissioners was no more than a formal act to make this convention binding.

If, then, both Governments should think it expedient to unsettle the vested rights which have arisen out of the award of 1798, there is a strong and plausible ground on which the United States may claim the Magaguadavic as their boundary; and the meridian line of its source will throw the valley of the St. John, from Woodstock to the Grand falls, within the limits of the State of Maine. While, therefore, it is maintained that it would violate good faith to reopen the question, there is good reason to hope that an impartial umpire would decide it so as to give the United States the boundary formerly claimed.

NOTE V.

The angle made by the southern boundary of the province of Quebec

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with the due north line from the source of the St. Croix first appeared in an English dress in the commission to Governor Wilnot. This was probably intended to be identical in its meaning with the terms in the Latin grant to Sir William Alexander, although there is no evidence to that effect. If, therefore, it were a false translation, the error has been committed on the side of Great Britain, and not on that of the United States. But it is not a false translation, as may be shown to the satisfaction of the merest tyro in classical literature.

The words of the grant to Sir William Alexander, as quoted by Messrs. Featherstonhaugh and Mudge, are as follows, viz :

“ Omnes et singulas terras continentis, ac insulas situatas et jacentes in America intra caput seu promontorium communiter *Cap de Sable* appellat. Jacen. prope latitudinem quadraginta trium graduum aut eo circa ab æquinoctiali lineâ versus septentrionem, à quo promontorio versus littus maris tenden. ad occidentem ad stationem Sanctæ Mariæ navium vulgo *Sanctmaris Bay*. Et deinceps, versus septentrionem per directam lineam introitum sive ostium magnæ illius stationis navium trajicien. quæ excurrit in terræ orientalem plagam inter regiones Suriquorum et Etecheminorum vulgo *Suriquois* et *Etchemines* ad fluvium vulgo nomine *Sanctæ Crucis* appellat. Et ad scaturiginem remotissimam sive fontem ex occidentali parte ejusdem qui se primum predicto fluvio immiscet. Unde per imaginariam directam lineam quæ pergere per terram seu currere versus septentrionem concipietur ad proximam navium stationem, fluvium vel scaturiginem in magno fluvio de Canada sese exonerantem. Et ab eo pergendo versus orientem per maris oris littorales ejusdem fluvii de Canada ad fluvium stationem navium portum aut littus communiter nomine de Gathepe vel Gaspee notum et appellatum.”

The authentic Latin copy of the grant to Sir William Alexander, as communicated officially by the British Government, contains no commas, and would read as follows:

“ Omnes et singulas terras continentis ac insulas situatas et jacentes in America intra caput seu promontorium communiter *Cap de Sable* appellat. Jacen. prope latitudinem quadraginta trium graduum aut eo circa ab æquinoctiali lineâ versus septentrionem a quo promontorio versus littus maris tenden. ad occidentem ad stationem Sanctæ Mariæ navium vulgo *Sanctmaris bay*. Et deinceps versus septentrionem per directam lineam introitum sive ostium magnæ illius stationis navium trajicien. quæ excurrit in terræ orientalem plagam inter regiones Suriquorum et Etecheminorum vulgo *Suriquois* et *Etchemines* ad fluvium vulgo nomine *Sanctæ Crucis* appellat. Et ad scaturiginem remotissimam sive fontem ex occidentali parte ejusdem qui se primum predicto fluvio immiscet. Unde per imaginariam directam lineam quæ pergere per terram seu currere versus septentrionem concipietur ad proximam navium stationem fluvium vel scaturiginem in magno fluvio de Canada sese exonerantem. Et ab eo pergendo versus orientem per maris oris littorales ejusdem fluvii de Canada ad fluvium stationem navium portum aut littus communiter nomine de Gathepe vel Gaspee notum et appellatum.”

The translation of Messrs. Mudge and Featherstonhaugh is as follows:

“ All and each of the lands of the continent, and the islands situated and lying in America within the headland or promontory, commonly called *Cap de Sable*, lying near the forty-third degree of latitude from the equinoctial line or thereabouts. From which promontory stretching westwardly,

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towards the north, by the sea shore, to the naval station of St. Mary, commonly called St. Mary's bay. From thence, passing towards the north by a straight line, the entrance or mouth of that great naval station, which penetrates the interior of the eastern shore betwixt the countries of the Souriquois and Etchemins, to the river, commonly called the St. Croix. And to the most remote source or spring of the same on the western side, which first mingles itself with the aforesaid river. From whence, by an imaginary straight line, which may be supposed (*concipietur*) to advance into the country, or to run towards the north, to the nearest naval station, river, or spring, discharging itself into the great river of Canada. And from thence advancing towards the east by the gulf shores of the said river of Canada, to the river, naval station, port, or shore, commonly known or called by the name of Gathepe or Gaspé."

The only American translations which have ever been presented in argument, are as follows:

Translation of Messrs. Gallatin and Preble, who were employed to prepare the statement laid before the King of the Netherlands.

"Beginning at Cape Sable, in 43° north latitude, or thereabout, extending thence westwardly, along the sea shore, to the road commonly called St. Mary's bay; thence towards the north, by a direct line crossing the entrance or mouth of that great ship road which runs into the eastern tract of land, between the territories of the Souriquois, and of the Etchemins, (Bay of Fundy,) to the river, commonly called St. Croix, and to the most remote spring or source which from the western part thereof first mingles itself with the river aforesaid; and from thence, by an imaginary direct line, which may be conceived to stretch through the land, or to run towards the north, to the nearest road, river, or spring, emptying itself into the great river de Canada; (river St. Lawrence,) and from thence, proceeding eastwardly, along the sea shores of the said river de Canada, to the river, road, port, or shore, commonly known, and called, by the name of Gathepe or Gaspé."

Translation of Mr. Bradley, the American agent, under the 5th article of the treaty of Ghent:

"By the tenor of this our present charter, we do give, grant, and convey to the said Sir William Alexander, his heirs or assigns, all and singular, the lands of the continent and islands, situated and lying in America, within the headland or promontory, commonly called Cape Sable, lying near the latitude of 43° or thereabout, from the equinoctial line, towards the north, from which promontory, stretching towards the shore of the sea to the west to the road of ships commonly called St. Mary's bay, and then towards the north, by a direct line crossing the entrance or mouth of that great road of ships which runs into the eastern tract of land, between the territories of the Souriquois and the Etchemins, to the river called by the name of St. Croix, and to the most remote spring or fountain from the western part thereof, which first mingles itself with the river aforesaid, whence, by an imaginary direct line, which may be conceived to go through or run towards the north, to the nearest road of ships, river, or spring, emptying itself into the great river of Canada; and from thence, proceeding towards the east by the shores of the sea of the said river of

Canada, to the river, road of ships, or shore, commonly known and called by the name of Gachepe or Gaspè."

But the translations of the Americans were merely for form's sake, as the original Latin, in a copy furnished from a British public office, was laid before the King of the Netherlands; and no fear need have been felt that the umpire would not have been able to judge whether the translations were true or not. It was rather to be inferred that he, in examining a question submitted in a language foreign to him, would have found the Latin quite as intelligible as the English. This examination, however, is wholly superfluous.

From whatever source the negotiations of the treaty of 1783 derived their view of the boundary, that instrument directs that it shall be a due north line from the source of the river St. Croix. This expression is too definite to require explanation or illustration, and it is only for those purposes that any other instrument can be permitted to be quoted.

In the passages referred to, the words "*versus septentrionem*" occur three times, and in two of the instances are qualified by the context in such manner as to leave no possible doubt as to the meaning. The first time they occur, the words of the passage are "*prope latitudinem quadraginta trium graduum aut eo circa versus septentrionem.*" The free translation into modern idiom is, beyond doubt, "near the forty-third degree of north latitude or thereabouts," and the direction towards the north must be along a meridian line on which latitude is measured, or due north. Messrs. Mudge and Featherstonhaugh, instead of connecting in their translation, the words "*versus septentrionem*" with the words "*prope latitudinem*," &c., with which they stand in juxtaposition in the Latin text which they quote, connect them with the words "*ad occidentem tendentem*," which occur in the next clause of the sentence, even according to their own punctuation. We note this as a false translation, although it does not touch the point in dispute. They have, indeed, attempted to use it in their argument; but even if the use they make of it had been successful, their inferences fall because drawn from erroneous premises.

The second clause in which the words occur is as follows, "*ad stationem navium Sanctæ Mariæ vulgo St. Mary's Bay, et deinceps versus septentrionem per directam lineam introitum sive ostium magnæ illius stationis navium trajicientem*," &c., "*ad fluvium vulgo nomine Sanctæ Crucis appellatum.*" Here the line, although directed to be drawn towards the north, is also directed to be drawn between two given points; and it is clear that, under the double direction, if they should differ from each other, the position of the given points must govern, and the line be traced from one of them to the other, no matter what may be their bearings.

The last time the words occur is after the direction that the line shall pass up the St. Croix, and to the most remote western spring or fountain of that stream "*unde per imaginariam lineam directam quæ pergere per terram seu currere versus septentrionem concipiatur.*" Here alone can any doubt exist as to the meaning of the terms, and that is easily solved.

The boundary pointed out in the instrument is "such as may be conceived to go or run towards the north by (per) a direct (*directam*) line." Now, a direct line towards the north can be no other than a meridian line. Had it been merely a straight line of vague northerly direction which was meant, *rectum*, the usual expression for a mathematical straight line,

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would have been used instead of *directam*. It is moreover to be considered that the Romans had names both for the northeast and northwest points of the compass, and that the expression "versus septentrionem," in its most vague application, could not possibly have admitted of a deviation of more than two points on either hand. Had the direction intended deviated more than that amount from the true north, the Latin term corresponding to northeast or northwest must have been used. Nor is this a matter of mere surmise; for, in a passage immediately following that which has been quoted, the direction through the Gulf of St. Lawrence, towards Cape Breton, is denoted by the term "versus Euronotum," leaving no possibility of doubt that, had the line directed to be drawn from the source of the St. Croix been intended to have a northwestern bearing, the appropriate Latin words would have been employed.

It is besides to be recollected that the instrument was drawn by a person using habitually and thinking in a modern idiom, and that, in translating the English words due north into Latin, no other possible expression could suggest itself than the one employed. Such, then, was the sense appropriately given to the Latin words, first in the commission of Governor Wilmot, and his successors, Governors of Nova Scotia; and subsequently in the commission of all the Governors of New Brunswick, from the time that it was erected into a province until the question was referred to the King of the Netherlands. In this reference, although a translation was given in the American argument, it was not as quoted by Messrs. Featherstonhaugh and Mudge, but was in the words which have already been cited.

Connected with this subject, although like it wholly irrelevant, is another conclusion which Messrs. Mudge and Featherstonhaugh attempt to draw from the same grant to Sir William Alexander. That charter directs the line "versus septentrionem" to be produced "ad proximam navium stationem, fluvium, vel scaturiginem in magno fluvio de Canada sese exonerantem." It can hardly be credited that, although a literal translation of this passage is given, including the whole of the three terms, naval station, river, or spring," that it is attempted to limit the meaning to the first expression only, and to infer that as Quebec, in their opinion, is the first naval station above Gaspé or the St. Lawrence, the line "versus septentrionem" was intended to be drawn towards that place, but that as "spring" is also mentioned, the line must stop at the source of the Chaudiere. Now it has been uniformly maintained by British authorities, and most strongly in the discussion which preceded the war of 1756, that Nova Scotia extended to the St. Lawrence. The boundary of Sir William Alexander's grant, was therefore to be changed from a geographical line to a water course, as soon as it met with one; and the apparently useless verbiage was introduced to meet every possible contingency. Supposing, however, that it did not extend so far, the northwest angle of his Nova Scotia will be where the meridian line of the St. Croix crosses the Beaver stream running into Lake Johnson, only a mile to the north of the point maintained by the American claim to be such.

The map of L'Escarbot, quoted by Messrs. Mudge and Featherstonhaugh, illustrates both this point, and the second instance in which the term "versus septentrionem" is employed. On that map, due north of the Bay of St. Mary's, a deep inlet of the Bay of Fundy is represented, and, continuing in the same direction, a deep inlet of the St. Law-

rence is figured. The latter does not exist, but this map shows that it was believed to exist at the time of the grant, and must be the "statio naviium" of that instrument.

This inlet of the Bay of Fundy occupies the position of the St. John, which is almost due north by the most recent determination from St. Mary's bay, and is so represented on their own map. That the St. John was by mistake arising from this cause taken for the St. Croix in the charter to Alexander, is obvious from its being described as lying between the territories of the Etchemin and Souriquois. Now Etchemin, or canoe men, is the name given by the Micmac Indians to the race of the Abenakis, from their skill in the management of the canoe; and this race has always inhabited the river, whence one of their tribes is still called St. John's Indians. The language of this tribe, although they have lived apart for many years, is still perfectly intelligible by the Indians of the Penobscot; and those in the service of the Commission conversed with perfect ease with the Indians of Tobique. Massachusetts, then, was right in claiming to the St. John as the eastern limit of the grant to Sir William Alexander, being the stream understood and described in it under the name of St. Croix, and wholly different from the river known to the French under that name. If, therefore, Great Britain should insist that the question in relation to the St. Croix shall be reopened, the United States would be able to maintain, in the very terms of the original grant to Alexander, (on which the British argument in 1797 rested,) that the St. John is the St. Croix, and the boundary will be that river to its most northwestern source, the Asherbish, which flows into the upper end of Lake Temiscouata. Nova Scotia will then have recovered her lost northwest angle, which cannot be found in any of the many shapes under which the British argument has been presented, although it forms the place of beginning of what is called a grant to the United States.

NOTE VI.

The fact that a line drawn from the source of the Kennebec to the mouth of the Chaudière, or thereabouts, must be one of the boundary lines of the grant to the Duke of York, has not escaped the notice of Messrs. Featherstonhaugh and Mudge. But they have not derived the true result from this discovery. The Kennebec being the western limit of the grant, the line in question bounds the territory on the southwest, while they infer that it bounds it on the northeast. In making this inference, they appear to have forgotten that the St. Croix is the eastern boundary of the grant. By their argument, the grant to the Duke of York is blotted wholly from the map, or rather becomes a mathematical line which is absurd.

NOTE VII.

No name which has ever been applied to any part of North America is as vague as that of Acadie.* The charter to De Monts in 1604, extended from the 40th to the 46th degree of north latitude—that is to say, from Sandy

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Hook, at the mouth of the Hudson, to the peninsula of Nova Scotia. It therefore included New York, parts of New Jersey, and Pennsylvania, and all the New England States, but excluded the disputed territory. His settlement was at the mouth of the St. Croix, but was speedily removed to Port Royal. The latter place was soon after destroyed by an expedition from Virginia under Argall. Under the title derived from this conquest, it would appear probable that the celebrated grant to Sir William Sterling was made. But when his agents attempted to make settlements in the country, they found that the French had preoccupied it. Although the son of Alexander succeeded in conquering the country granted to his father, and even beyond it to the Penobscot, it was restored to France by the treaty of St. Germain, in 1634, and the Alexanders were indemnified for the loss by the Crown of England.

In the subsequent cessions to France after its occupations by the arms of Massachusetts, and in its final cession to Great Britain, by the treaty of Utrecht, in 1713, the country ceded is described as Acadie or Nova Scotia, with its ancient bounds (*cum finibus antiquis.*) The uncertainty arising from this vague description became in 1750, a subject of controversy between France and England, and was one of the causes which led to the war of 1756. In this discussion, both parties admitted that the names Acadie and Nova Scotia were convertible terms. England maintained that the territory thus named extended to the St. Lawrence; the French, on the other hand, insisted that their Acadie had never extended more than ten leagues from the Bay of Fundy; while by geographers, as quoted by the British Commissioners, the name was limited to the peninsula which forms the present province of Nova Scotia.* If Acadie had been limited to the north by the 46th degree of north latitude, as expressed in the charter of De Monts, that parallel is to the south of Mars Hill. The British Government, therefore, derives no title to the disputed territory from this source, as the title of Massachusetts, and of Maine as her successor, is admitted to all country south of that parallel.†

It is very easy to tell what country was actually settled by the French as Acadie. Its chief town was Port Royal, now Annapolis, at the head of the Bay of Fundy. Nearly all the settlements of the Acadians were in that vicinity, and for the most part within the peninsula.

From these seats they were removed in 1756 by Great Britain; and to them a remnant was permitted to return. The most western settlement of Acadians was on the St. John river, near the present site of Fredericton; and no permanent occupation was ever made by them of country west of the St. Croix. It is even doubtful whether the settlement near Fredericton was a part of French Acadie, for it seems to have been formed by persons who escaped from the general seizure and transportation of their countrymen.

This settlement was broken up in 1783, and its inhabitants sought refuge at Madawaska; but it cannot be pretended that this forced removal of

* Report of Featherstonhaugh and Mulze, p. 8.

† It cannot be seriously pretended that when, by the treaty of St. Germain in 1632, Acadie was restored to France, the intention was to cede to her the colonies already settled in New England. Yet the language of the British Commissioners would imply that this was the case, were it not that they evidently consider the 46th parallel as the southern boundary of the grant to De Monts, whereas it is the northern.

Acadians, subsequent to the treaty of 1783, was an extension of the name of their country. The whole argument in favor of the British claim, founded on the limits of ancient Acadie, therefore fails:

1st. Because of the inherent vagueness of the term, on which no settled understanding was ever had, although England held it to be synonymous with Nova Scotia, and France denied that it extended more than ten leagues from the Bay of Fundy;

2d. Because by its original definition in the grant to De Monts, it excludes the whole disputed territory on the one side; and—

3d. Because, in its practical sense, as a real settlement, it is wholly to the east of the meridian of the St. Croix, and this excludes the whole of the disputed territory on the other.

The portion of the territory granted to the Duke of York, and which is now the subject of dispute, therefore, cannot be claimed as a part of Acadie, as it never fell within its limits either by charter or by occupation.

NOTE VIII.

EXTRACT FROM THE AWARD OF THE KING OF THE NETHERLANDS.

“Considering:” “that in 1763, 1765, 1773, and 1782, it was established that Nova Scotia should be bounded at the north, as far as the western extremity of the Bay des Chaleurs, by the southern boundary of the province of Quebec; that this delimitation is again found, with respect to the Province of Quebec, in the commission of the Governor General of Quebec of 1786, wherein the language of the proclamation of 1763, and of the Quebec act of 1774, has been used, as also in the commissions of 1786, and others of subsequent dates of the Governors of New Brunswick, with respect to the last-mentioned Province, as well as in a great number of maps anterior and posterior to the treaty of 1783; and that the first article of the said treaty specifies, by name, the States whose independence is acknowledged;

But that this mention does not imply (*implique*) the entire coincidence of the boundaries between the two Powers, as settled by the following article, with the ancient delimitation of the British Provinces, whose preservation is not mentioned in the treaty of 1783, and which, owing to its continual changes, and the uncertainty which continued to exist respecting it, created from time to time differences between the provincial authorities;”

NOTE IX.

ARTICLE 4TH OF THE CONVENTION OF 1827.

“The map called Mitchell’s map, by which the framers of the treaty of 1783 are acknowledged to have regulated their joint and official proceedings, and the map ‘A,’ which has been agreed on by the contracting parties as a delineation of the water courses, and the boundary lines in

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reference to the said water courses, as contended for by each party respectively, and which has accordingly been signed by the above-named plenipotentiaries, at the same time with this convention, shall be annexed to the statements of the contracting parties, and be the only maps that shall be considered as evidence, mutually acknowledged by the contracting parties, of the topography of the country.

"It shall, however, be lawful for either party to annex to its respective first statements, for the purpose of general illustration, any of the maps, surveys, or topographical delineations, which were filed with the commissioners under the fifth article of the treaty of Ghent, any engraved map heretofore published, and also a transcript of the above-mentioned map 'A' or of a section thereof, in which transcript each party may lay down the highlands or other features of the country as it shall think fit; the water courses and the boundary lines as claimed by each party remaining as laid down in the said map 'A.'

"But this transcript, as well as all the other maps, surveys, or topographical delineations, other than the map 'A' and Mitchell's map, intended to be thus annexed by either party to the respective statements, shall be communicated to the other party, in the same manner as aforesaid, within nine months after the exchange of the ratifications of this convention, and shall be subject to such objections and observations as the other contracting party may deem it expedient to make thereto, and shall annex to his first statement, either in the margin of such transcript, map or maps, or otherwise."

NOTE X.

EXTRACT FROM THE AWARD OF THE KING OF THE NETHERLANDS.

"Considering: That, according to the instances alleged, the term highlands applies not only to a hilly or elevated country, but also to land which, without being hilly, divides waters flowing in different directions; and that thus the character, more or less hilly and elevated, of the country through which are drawn the two lines respectively claimed, at the north and at the south of the river St. John cannot form the basis of a choice between them;"

NOTE XI.

The reason of the double delineation of the Ristigouche, on the map of Mitchell, and several others of ancient date, is obvious. A mistake was common to them all by which the Bay of Chaleurs was laid down too far to the north. The main branch or Grande Fourche, of Ristigouche, (Katawam Kedgwick,) has been reached by parties setting out from the banks of the St. Lawrence at Metis, and was known to fall into the Bay of Chaleurs; while the united stream had also been visited by persons crossing the Wagansis of Grand river and descending the southwestern branch. The map-makers could not, in consequence of the error in latitude, make

their plat meet, and therefore, considered the part of the united streams reached in the two different directions as different bodies of water, and, without authority, sought an outlet for that which they laid down as the southernmost of the two in another bay of the Gulf of St. Lawrence. On many of the maps, however, the small streams which modern geographers improperly call Ristigouche, is readily distinguishable under the name of Chacodi.

NOTE XII.

In the argument of the British Commissioners under Jay's treaty, the following points were maintained, and, being sanctioned by the decision of the umpire, became the grounds of an award acceded to by both Governments:

1st. That the limits of Nova Scotia had been altered from the southern bank of the St. Lawrence to the highlands described in the treaty of peace.

2d. That if the river Schoo lie were the true St. Croix, the northwest angle of Nova Scotia could be formed by the western and northern boundaries—the meridian line and the highlands.

3d. That the territory of Acadie, or Nova Scotia, was the same territory granted to Sir William Alexander.

4th. That the sea and Atlantic ocean were used as convertible terms.

5th. That, from the date of the treaty of Utrecht, the boundary between Massachusetts and Nova Scotia was that of the patent to Sir William Alexander.

6th. That the provinces of Quebec and Nova Scotia belonged to and were in possession of His Britannic Majesty in 1783, and that he had an undoubted right to cede to the United States such part of them as he might think fit.

7th. That the due north line from the source of the St. Croix must of necessity cross the St. John.

It has since been maintained on the part of Great Britain:

1st. That the limits of Nova Scotia never did extend to the St. Lawrence.

2d. That the northwest angle of Nova Scotia was unknown in 1783.

3d. That Acadie extended south to the 46th degree of north latitude, and was not the same with Nova Scotia.

4th. That the sea and the Atlantic ocean were different things.

5th. That the claims and rights of Massachusetts did not extend to the western bounds of the grant to Sir William Alexander.

6th. That, this being the case, the cession of territory not included within her limits is void.

7th. That it could never have been intended that the meridian line should cross the St. John.

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NOTE XIII.

It has been pretended that the grant of the fief of Madawaska, in 1683, can be urged as a bar to the claim of Massachusetts. That fief, indeed, was among the early grants of the French Governors of Canada; but it is not included in the claim which the French themselves set up. It was therefore covered by the Massachusetts charter, because the grant had never been acted upon. Even up to the present day, this fief can hardly be said to be settled or occupied, except by the retainers of the garrison of Fort Ingall; and, from all the evidence which could be found on the spot, it appeared that no settlement had ever been made upon it until the establishment of a post-house, some time between the date of the treaties of 1763 and 1794. It therefore was not, at the time the charter of Massachusetts was granted, (1691,) "actually possessed or inhabited by any other Christian Prince or State."

An argument has also been attempted to be drawn from the limits given on Greenleaf's map to a purchase made from the State of Massachusetts by Watkins and Flint. This purchase is, however, by the patent, extended to the highlands; and the surveyors who laid it out crossed the Walloostook in search of them. Here they met, at a short distance from that stream, with waters running to the north, which they conceived to be waters of the St. Lawrence, and they terminated their survey. The lines traced on Greenleaf's map are therefore incorrect, either as compared with the grant or the actual survey; and although, from a want of knowledge of the country, the surveyors stopped at waters running into Lake Temiscouata, instead of the St. Lawrence, the very error shows the understanding they had of the true design of the patent; and this transaction, so far from being an available argument against the American claim, is an act of possession at an early date within the limits of the disputed territory.

