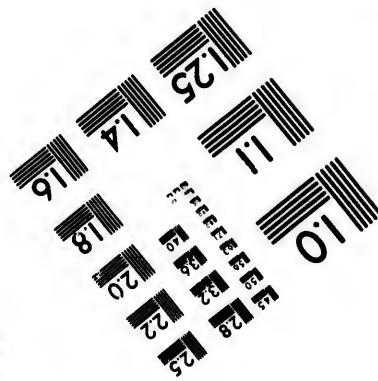
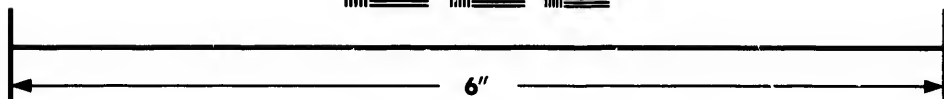
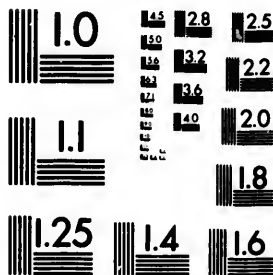


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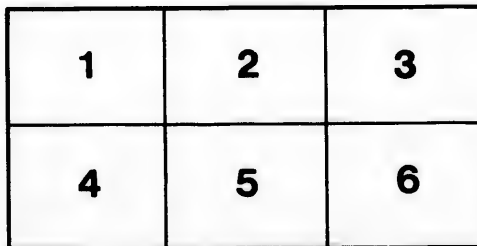
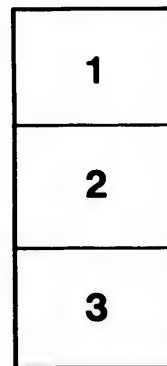
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BRIEF HISTORY

OF THE,

UNITED STATES BOUNDARY QUESTION.

DRAWN UP FROM OFFICIAL PAPERS.

By G. P. R. JAMES, Esq.

LONDON:  
SAUNDERS AND OTLEY, CONDUIT STREET.  
1839.

## ADVERTISEMENT.

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THE following sketch was first written as a note, upon a part of the register kept by Mr. James as Historiographer. Finding that many persons, even personally interested in the settlement of the Boundary Question, were unacquainted with the early transactions concerning it, and had neither time nor opportunity to wade through the mass of documents connected with the question, the author has ventured to publish in this form the brief summary then written, believing that it might prove useful to some. He has also ventured to suggest in a NOTE at the end, what he believes to be the only means by which a fair settlement of the question could be really arrived at.

LONDON.

PRINTED BY BLATCH AND LAMPERT, GROVE PLACE, BROMPTON.

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## BRIEF HISTORY,

§c.

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THE disputed points regarding the limits of certain possessions of the Crown of Great Britain on the Continent of America, and the Republic of the United States, dating from a period considerably anterior to the reign of Her Majesty Queen Victoria, it may be necessary briefly to state the facts which had previously occurred affecting that question, in order that the present state of the case may be clearly understood.\* In the famous treaty of 1783 between the King of Great Britain and the United States, it became necessary to define the respective limits of that country, which had claimed and established its independence of Great Britain,

\* The whole of this sketch having been drawn up as a note upon the register of remarkable events, which I kept as Historiographer, during part of Her present Majesty's reign, I have not thought fit to alter the above sentence.



and of those territories adjacent which remained subject to the Crown of Great Britain.

The definition of boundaries has always been extremely difficult in continental states; and in the present instance the terms made use of were so vague, and the various points along which the line was to be carried were so ill ascertained, that thirty-one years afterwards several most important points of dispute remained unsettled, and various islands in the bay of Fundy, together with a large tract of territory on the Continent of America, were claimed by the United States on the one hand as part of the Republican possessions, and by Great Britain on the other as part of British America according to the true meaning of the treaty of 1783. The clauses in that treaty affecting the question in dispute, were as follows:—

“ ARTICLE II.

“ And that all disputes which might arise in future on the subject of the boundaries of the said United States may be prevented, it is hereby agreed and declared, that the following are and shall be their boundaries, viz.—From the north-west angle of Nova Scotia, viz. that angle which is formed by a line drawn due north from the source of St. Croix river to the highlands, along

the said highlands which divide those rivers that empty themselves into the river St. Lawrence, from those which fall into the Atlantic Ocean, to the north-westermost head of Connecticut river; thence down along the middle of that river, to the forty-fifth degree of north latitude: from thence by a line due west on said latitude until it strikes the river Iroquois or Cataraquy; thence along the middle of said river, into Lake Ontario; through the middle of said Lake, until it strikes the communication by water between that Lake and Lake Erie; thence along the middle of said communication into Lake Erie; through the middle of said Lake, until it arrives at the water-communication between that Lake and Lake Huron; thence along the middle of said water-communication into the Lake Huron; thence through the middle of said Lake to the water-communication between that Lake and Lake Superior; thence through Lake Superior, northward of the Isles Royal and Phelipeaux, to the Long Lake; thence through the middle of said Long Lake, and the water-communication between it and the Lake of the Woods, to the said Lake of the Woods; thence through the said Lake to the most north-western point thereof, and from thence on a due west course to the river Mississippi; thence by a line to be

drawn along the middle of the said river Mississippi, until it shall intersect the northernmost part of the thirty-first degree of north latitude : —South, by a line to be drawn due east from the determination of the line last mentioned, in the latitude of thirty-one degrees north of the Equator, to the middle of the river Apalachicola or Catahouche; thence along the middle thereof, to its junction with the Flint river; thence straight to the head of St. Mary's river, and thence down along the middle of St. Mary's river to the Atlantic Ocean :—East, by a line to be drawn along the middle of the river St. Croix, from its mouth in the Bay of Fundy to its source; and from its source directly north to the aforesaid highlands, which divide the rivers that fall into the Atlantic Ocean from those which fall into the 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."

On the termination of the general war in 1814, a new treaty was entered into between the United States and the King of Great Britain, and signed at Ghent on the 24th of December, 1814, which is known by the name of the Treaty of Ghent.

In that treaty some parts of the boundary definitions of the treaty of 1783 were set forth, and the differences between the two states in regard to the interpretation of those definitions were briefly stated, especially regarding the islands in the Bay of Fundy, respecting which the claims of the several states were very clearly explained. In regard to the boundary line on the Continent from the source of the river St. Croix to a certain point on the river Iroquois, it was stated, that a survey had not been made, and that several important points in that line had not been determined.

The question regarding these boundaries and possessions, and the proposed means to be adopted for removing existing difficulties, were comprized in the fourth and fifth articles of the Treaty of Ghent. The IVth ARTICLE referred alone to the islands in the Bay of Fundy; but after a statement of the differences, that article provides that "in order, therefore, finally to decide upon these claims, it is agreed that they should be referred

to two Commissioners, to be appointed in the following manner, viz.—One Commissioner shall be appointed by his Britannic 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 so appointed shall be sworn impartially to examine and decide upon the said claims, according to such evidence as shall be laid before them, on the part of His Britannic Majesty and of the United States respectively. The said Commissioners shall meet at St. Andrew's, in the province of New Brunswick, and shall have power to adjourn to such other place or places as they shall think fit. The said Commissioners shall, by a declaration or report, under their hands and seals, decide to which of the two Contracting parties the several Islands aforesaid do respectively belong, in conformity with the true intent of the said treaty of peace of 1783; and if the said Commissioners shall agree in their decision, both parties shall consider such decision as final and conclusive.

“ It is further agreed, that in the event of the two Commissioners differing upon all or any of the matters so referred to them, or in the event of both or either of the said Commissioners refusing or declining, or wilfully omitting to

act as such, they shall make jointly or separately a Report or Reports as well to the Government of His Britannic Majesty as to that of the United States, *stating in detail the points on which they differ, and the grounds upon which their respective opinions have been formed, or the grounds upon which they or either of them have so refused, declined, or omitted to act.* And His Britannic Majesty and the Government of the United States hereby agree *to refer the Report or Reports of the said Commissioners to some friendly sovereign or state to be then named for that purpose, and who shall be requested to decide on the differences which may be stated in the said Report or Reports, or upon the Report of one Commissioner, together with the grounds on which the other Commissioner shall have refused, declined, or omitted to act as the case may be.* And if the Commissioner so refusing, declining, or omitting to act, shall also wilfully omit to state the grounds upon which he has so done, in such manner that the statement may be referred to such friendly Sovereign or State, together with the Report of such other Commissioners, then such Sovereign or State shall decide, ex-parte upon the said Report alone, *and His Britannic Majesty and the Government of the United States engage to consider the decision of such friendly*

*Sovereign or State to be final and conclusive on all the matters so referred.*"\*

The Vth ARTICLE relates to the continental boundary line, and is to the following effect. "Whereas neither that point of the Highlands lying due North from the source of the river St. Croix, designated in the former treaty of peace between the two powers as the North West angle of Nova Scotia, near the North Westernmost head of Connecticut river, have yet been ascertained; and whereas that part of the boundary line between the dominions of the two powers, which extends from the source of the river St. Croix, directly North to the above mentioned North West angle of Nova Scotia, thence along the said Highlands which divide those rivers that empty themselves into the river St. Lawrence, from those which fall into the Atlantic Ocean, to the North Westernmost head of Connecticut river, thence down along the middle of that river to the 45th degree of North Latitude, thence by a line due West on the said latitude until it strikes the river Iroquois, or Cataraquy, has not yet been surveyed, it is agreed that for the several purposes two Commissioners shall be

\*This article IV, is decidedly the most important as far as the question of reference is concerned; as it in fact defines exactly the powers of the arbitrators; the Vth Article referring entirely to it.

appointed, sworn, and authorized, to act exactly in the manner directed with respect to those mentioned in the next preceding article. The said Commissioners shall meet at St. Andrew's, in the province of New Brunswick, and shall have power to adjourn to such other place or places as they shall think fit. The said Commissioners shall have power to ascertain and determine the points above mentioned in conformity with the provisions of the said treaty of peace in 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 particularizing the Latitude and Longitude of the North West angle of Nova Scotia, of the North Westernmost head of Connecticut river, and of such other points of the said Boundary as they may deem proper. And both parties agree to consider such Map and declaration as finally and conclusively fixing the said Boundary. And in the event of the said two Commissioners differing, or both or either of them refusing, declining, or wilfully omitting to act, such Reports, Declarations or statements shall be made by them, or either of them, and such reference to a



friendly Sovereign or State shall be made in all respects, as in the latter part of the fourth article is contained, and in as full a manner as if the same was herein repeated."

Increasing difficulties, and the improbability of ever arriving at any definite conclusion, by the Reports of Commissioners, induced the Governments of Great Britain and the United States to refer the question of the boundary line to the King of the Netherlands, according to the terms of the two articles above cited, and a map containing the boundary lines as claimed by Great Britain and the United States, as well as a map used in the formation of the Treaty of 1783, and called Mitchel's map; were appointed to be received in evidence by the arbitrator.

In the convention of reference signed at London, on the 29th of September, 1827, the 1st ARTICLE states, "It is agreed *that the points of difference* which have arisen *in the settlement of the Boundary between the British and the American dominions, as described in the fifth article of the Treaty of Ghent,\** shall

\* No one viewing the question with common fairness, can doubt what was the true meaning of these words; especially when it is remembered, that many of the questions in agitation, at the time of the ratification of the treaty of

be referred as therein provided to some friendly Sovereign or State, who shall be invited to investigate, and make a decision upon such points of difference ;” and in the seventh article it is declared that, “The decision of the arbiter when given shall be taken as final and conclusive, and it shall be carried without reserve into immediate effect by Commissioners appointed for that purpose by the Contracting Parties.”

These are the only words made use of in any of the treaties or articles of reference, which define the question that was to be referred to arbitration ; and it is upon some pretended want of precision on this point, that the United States founded their resistance to the decision of the King of the Netherlands.

That Monarch bestowed great and scrupulous Ghent, had been set at rest before the signature of the convention of reference ; and that it was therefore necessary to point out distinctly, that the part of the boundary to be decided upon, was that referred to in the Vth article of the treaty of Ghent. It is a great pity that in drawing up the convention, the good old English form of locution had not been adhered to, and then the article might have stood thus : “It is agreed that the points of difference which have arisen *in settling* that part of the boundary, between the British and American dominions, described in the fifth article of the treaty of Ghent.”

pains on the investigation of the facts, and at length gave his decision at the Hague, on the 10th of January, 1831. By that decision the King of the Netherlands declared that neither of the two lines, claimed respectively by Great Britain and America, were the line of boundary intended by the Treaty of 1783; that various points mentioned in that treaty could not by any possibility be obtained geographically, or historically; and that the line of Boundary by his decision should be such as he traced upon the maps submitted to him, which line was considerably more in favor of the American claim than of the British claim.

Great Britain expressed her determination to submit at once to the decision of the King of the Netherlands. The Minister of the United States, however, at the Court of the Hague, instantly protested against that decision, contending, that the King of the Netherlands had arbitrated on a matter not submitted to his arbitration, and asserting that the sole question submitted to arbitration by the convention of September 1827, was the definition of the line intended by the treaty of 1783, and that no authority whatsoever was conferred upon the Arbiter to assign any other boundary whatsoever than that. The articles which we have cited from the con-

vention of arbitration, are the only ones which fix in any degree the powers of the Arbitrator ; and by these it will be found that the powers conferred were general, and by no means so distinctly limited as the American minister assumes ; so that very little doubt can exist that the real intention of the Plenipotentiaries, by whom the Convention of Reference was signed, was to refer the whole matter in dispute to arbitration, and not to limit the functions of the arbiter to the settlement of certain abstract geographical questions.

Now the question to be submitted to the arbitration of a friendly power, as defined in the fourth article of the treaty of Ghent,\* (which is declared by the fifth article to be the real explanation of the clause of reference in that fifth article also) does not state that it is certain geographical points which are to be submitted to arbitration ; but that it is the report or reports of commissioners, previously appointed by the fourth and fifth articles, which are to be so submitted in case of difference, and it is in regard to those reports, that the Arbiter is to

\* It is in reality, as I have before said, by the IVth Article of the treaty of Ghent, not the Vth, that the question is principally affected, as it is by it that the manner and extent of the arbitration is declared.

decide; the United States and the King of Great Britain binding themselves to regard his decision as conclusive *in regard to all the matters so referred*: And by the first article of the Convention of Reference of September 1827, it is declared, *not* that it is certain geographical points which are to be determined abstractedly, by the King of the Netherlands; but that "THE POINTS OF DIFFERENCE WHICH HAVE ARISEN IN THE SETTLEMENT OF THE BOUNDARY BETWEEN THE BRITISH AND AMERICAN DOMINIONS, *as described in the fifth article of the treaty of Ghent, shall be referred as therein provided*;" which terms must be intended to apply to *all the points of difference* which had arisen since the treaty of 1783; the words "*as described in the fifth article of the treaty of Ghent,*" being solely applicable by every rule of grammar to the word *boundary*; and therefore, the article left the term used "*points of difference,*" in its most extended signification: while the seventh article of the Convention of arbitration states, that "the decision of the arbitrator, when given, shall be taken as final and conclusive;" so that had the King of the Netherlands merely pronounced his arbitration without explanation, in the words, "The boundary line is such as I have drawn on the map," America must have submitted, or broken faith.

Mr. Preble however, who had been sent to the Court of the Netherlands as Minister of the United States, a citizen of the State of Maine, whose boundary was immediately in question, and one, who throughout the whole affair, took an active and decided part in upholding the claims of that State, protested as I have said against the decision of the King, alledging that the only question submitted to arbitration was, what was the boundary prescribed by the treaty of 1783. The government of Great Britain signified to the general Government of the United States, its adhesion to the decision of the King of the Netherlands, but in consideration of the difficulties which were likely to arise from the protest of Mr. Preble, Lord Palmerston empowered the Representative of Great Britain at Washington, to hold out to the Government of the United States, in a private and informal manner, the prospect of some amicable arrangement of the difficulties on condition of the decision of the King of the Netherlands being absolutely and formally received by the United States.

The President of the United States found himself bound to submit the decision of the King of the Netherlands to the Senate for acceptance or rejection. But he, at the same time, strongly

recommended that the award should be agreed to. The question was submitted to the Committee on Foreign Relations, who recommended that the President's views should be acceded to.

Mr. Preble returned to America while the matter was under consideration: a declaration was made by the Senate that not less than two-thirds of the votes should be considered as finally decisive of the question, and the award of the King of the Netherlands was consequently rejected.

This result was notified to the British Representative by Mr. Livingston, American Secretary of State, who in his note upon the occasion makes this important acknowledgment regarding the line pointed out by the King of the Netherlands, "If the decision had indicated this line as the boundary designated by the Treaty of 1783, this objection could not have been urged." He then goes on to propose new negotiations for determining the line, holding out hopes of greater facilities in the arrangements, which could not of course be relied upon by those who had experienced the difficulty of treating with a state, the executive Government of which was so circumscribed in its powers. He also put forth, as an appendage to the question, an object long desired by the State of Maine: namely, the right of navigating the

river St. John, which he stated naturally to combine itself with the negotiations he proposed.

In reference to these transactions, Lord Palmerston instructed Sir Charles Vaughan to inform the American Government, that, in the proposal of Mr. Livingston Great Britain saw no probability of settling the question without being certain of what was the principle of the plan contemplated by the American Government, and that without being assured that the President of the United States would be empowered to carry any decision into effect, the proposal could not be at all entertained. At the same time he distinctly refused to suffer the question of the navigation of the river St. John to be mixed up with the discussion of the Boundary question.

Some negotiations then took place through Mr. Vail, American chargé d'affaires in London, Mr. Livingston, and Sir Charles Vaughan, from which it became evident that no definite basis of negotiation could be obtained, and that instead of the negotiation on a broader footing, which had been first suggested by Mr. Livingston, America was inclined to recur to the original disputed points of the Treaty of 1783.

The American Secretary of State however, proposed a new Commission, accompanied by an



umpire, whose decision upon all the disputed points which might arise between the Commissioners of the two nations, should be final. The Representative of Great Britain gave no encouragement to this idea of a new Commission, which promised equal expense, and no results more favourable than had been obtained by former commissions; and, in the end, shortly before his resignation of office, Mr. Livingston made explanations of the plan he proposed to be pursued, in the hopes of obtaining a more favourable result from a Commission, which explanations present one of the most extraordinary points in the whole negotiation. Mr. Livingston therein suggested that a line drawn obliquely WESTWARD from the source of the river St. Croix, might lead to the discovery of Highlands within the terms of the Treaty of 1783, and might thus afford the Boundary. Now what was the pretext upon which the Government of the United States refused to receive the award of the King of the Netherlands?—That that decision was a departure from the terms of the Treaty of 1783. What are the terms of the treaty of 1783, on the very point now proposed by Mr. Livingston?—That the line shall be drawn “DUE-NORTH from the source of the River St. Croix.”

This anomaly does not seem to have escaped

Sir Charles Vaughan, though he does not appear to have pressed it upon the American Government; and he contented himself with demanding farther explanations as to where the line drawn North West was to stop, asserting that every thing tended to prove that the Boundary of the Treaty of 1783 was merely imaginary, and hinting that it was time to abandon both that Boundary line and the line suggested by the King of the Netherlands. The answer of the President, however, put such a proceeding entirely out of the question, the power of the Central Government being so limited, and its operations so fettered by the claims of the State of Maine, that he could agree to no other deviation than that proposed by Mr. Livingston.

The question now, however, was stripped by the proposals of deviation on the part of America (or rather might have been stripped) from all pretended adherence to the exact terms of the Treaty of 1783; and the real question became to what deviation from that Treaty the State of Maine would permit the federal Government to consent.\*

Another most important question remained, but that was between the federal Government

\* This is never to be forgotten, THAT AMERICA HERSELF HAS PROPOSED DEVIATIONS OF THE MOST IMPORTANT CHARACTER FROM THE LINE PRESCRIBED BY THE TREATY OF 1783.

and the State of Maine : namely, what constitutional power that State had so to limit the authority of the federal Government. The question of the territory was in dispute, and had been so for years, with the general Government of the United States, before Maine became one of those States ; and, to the understanding of most people, it would seem, that the mere fact of Maine becoming one of the States by being detached from Massachusetts, while the territory originally in dispute was supposed to belong to Massachusetts, could give Maine no claim to fetter the operations of the general Government in regard to negotiations which had commenced between that Government and another State, before Maine was admitted as a State at all.

Circumstances, however, and considerations, in regard to which we have no power of deciding, induced the President to act upon the objections of Maine, as if constitutionally valid ; and in the very first reply of Lord Palmerston addressed to the American Government through Sir Charles Vaughan, that Nobleman points out in clear and explicit words, the idleness of pretending to adhere strictly to one part of the treaty of 1783, and to deviate from another ; and taking into review the various points considered in the award of the King of the Netherlands, toge-

ther with the terms of the reference to that Prince, he demands inasmuch as the only pretence for rejecting that award was that one of the points was not truly decided at all, that the points that the King of the Netherlands did absolutely and clearly decide should be received by the American Government as determined ; and that satisfactory proof should be given that the American Government is possessed of the power to carry into effect any determination to be produced by subsequent negotiations. In regard to the first demand, the American Government distinctly refused to acquiesce ; and in regard to the second, no satisfactory proof was given whatever that the views of the President would not be overborne in all instances, as they had been in regard to the award of the King of the Netherlands, by the States of Maine and Massachusets.

In the course of the preceding discussions, a new pretension had been put forth by the American Government, the American Secretary of State boldly asserting that his Government had constantly and pertinaciously insisted upon the proposed line of Boundary being carried to the North of the river St. John ; whereas, on the contrary, Sir Charles Vaughan, in a luminous summary of the proceedings, drawn up about this time, shews that from the signature of the treaty of 1783 up to 1822, the American Government

made no pretension whatsoever to carry the Boundary beyond the river St. John, while England claimed at least ten thousand square miles on the south side of that river.

In the beginning of 1835, a strong disposition was evinced on the part of the Representatives of Maine and Massachusetts in Congress, to throw elements of irritation into the controversy, by representing in loud and angry terms that the Government of Great Britain was in forcible possession of territories rightfully belonging to the United States, and that aggressions had been committed therein, by British authorities, upon American citizens.\* One of the Representatives of the State of Massachusetts demanded that the correspondence between Great Britain and America on the question of the Boundary, and any representations and correspondence between the general Government and the provinces of Maine, regarding the possession of the disputed territory by Great Britain, should be laid before Congress.

On this demand the Secretary of State reported, that it would be detrimental to lay the

\* Two things will be remarked in regard to these points now revived, first—that England has been in uninterrupted possession up to the present day; secondly—that the American Secretary of State, in his report to the President, dated 5th January, 1835, admitted that an understanding did subsist between the Government of Great Britain and the United States, regarding the possession of the disputed territory.

late correspondence between Great Britain and America before Congress; that no complaints had been made on the part of Maine, but that complaints on the contrary had been made of aggressions on the part of America. The application therefore was refused, and the question remained between the two Governments, the Government of the United States adhering strenuously, notwithstanding all the sacrifices offered by Great Britain, to the impracticable plan of seeking according to the terms of the Treaty of 1783, for Highlands, separating the rivers which flow into the St. Lawrence from those which flow into the Atlantic; although it had been shewn that the American Government itself had at various times acknowledged that such Highlands were totally imaginary in the due North line from the source of the river St. Croix, presented by the Treaty of 1783.

This important fact had been admitted by Mr. Madison, American Secretary of State, in 1802; by President Jefferson in 1803; had been virtually acknowledged by the Commissioners of inquiry in 1816; and had positively been declared to be the case by the King of the Netherlands, in 1831.

The only deviation from this impracticable plan that had been suggested was, that the High-

lands should be sought in a North Western, instead of the Northern direction, which had been directed by the terms of the Treaty, by which America affected to be guided ; and this suggestion was made by an American Secretary of State. But this was coupled by an intimation that the Highlands were to be sought at any distance on that line Westward, so that the pretensions which might have been raised by the United States were incalculable, and the certainty of obtaining their great object of crossing the St. John was very nearly obtained.

Such being the state of the question, and England having shewn herself disposed to make every sacrifice, in order to abide by the decision of the Arbitrator which she had chosen ; while America showed herself disposed to make new demands from day to day, and only to treat upon such vague and indefinite principles, as promised to yield her future advantages ; it appeared from some conversation which took place between Sir Charles Vaughan, and Mr. Forsyth, the American Secretary of State, that the Government of the United States desired and hoped, that notwithstanding the great sacrifices already proffered on the part of England, in agreeing to the award of the Arbitrator at all, Great Britain should offer some compensation to Maine for her accession to that award.

In the reply of Lord Palmerston to the letters of Sir Charles Vaughan, enclosing the pretensions of America as set forth by Mr. Forsyth, no notice is taken of the above informal suggestion ; but Lord Palmerston suggests, in the first place, that the Commission of Survey proposed by the American Government should be instructed to search for Highlands separating rivers in regard to the course of which into the Atlantic or the St. Lawrence there could be no doubt, inasmuch as the question as to whether the Bay of Fundy or Chaleur Bay did or did not form a part of the Atlantic, according to the meaning of the Treaty of 1783, was contested. In the second place, Lord Palmerston proposed, in case of the rejection of the above, that the disputed territory should be divided equally between Great Britain and America, giving as an outline of the division that the Boundary should be drawn due North from the source of the St. St. Croix till it struck the St. John, then along the course of that river to its southernmost source, and thence in a direct line to the head of the Connecticut river, the Northern division of the territory thus separated remaining in the possession of Great Britain, the Southern being allotted to America.

Both these proposals were immediately rejected by America ; Mr. Bankhead, then representing



Great Britain at Washington, declaring a counter proposition made by the American Government to consider the river St. John along the whole of its course, the boundary, to be utterly inadmissible. Mr. Bankhead at the same time explained the first proposal of Lord Palmerston, which had been rejected, by stating that the commission of Survey was intended, as modified by Lord Palmerston's proposal, not to decide upon points of difference, but merely to present to the respective Governments the result of their labours. In reply to this, the President asked several questions of no great importance, and the correspondence on the subject appears to have dropped from the 5th of March 1836, till the 29th of March 1837.

But in the meantime, some important events had taken place in America. The Senate had applied for the correspondence between the two Governments since the arbitration of the King of the Netherlands. Copies of the correspondence had been furnished by the President, and the Senate had ordered the correspondence to be published, notwithstanding the strongest representations of the President. The State of Maine made application to the President to cause the line of boundary to be run according to its own interpretation of the Treaty of 1783, and the appropriation of a sum of money granted by

Congress for the purpose of carrying that object into effect.

The correspondence with England was resumed by an application from Mr. Forsythe for an answer to the proposal of the United States to make the St. John the boundary, and Lord Palmerston replied, strongly urging a conventional line equally dividing the disputed territory.

#### NOTE.

N.B. From the above statement it will be seen that although America rejected the arbitration of the King of the Netherlands, on the pretence that his decision was not in accordance with the line prescribed by the treaty of 1783, she has on various occasions proposed a direct deviation from that line; and at the same time has assumed much indignation when England has proposed deviations not so well suited to the views of Maine.

Although by no means fond of meddling with any political discussions, I may be permitted perhaps to say that there would seem to me to be a very easy way of settling the differences on the boundary question, supposing that there exists good faith and moderation on both parts. No new survey can have any good result, except upon such conditions as will create an umpire between

the respective Commissioners of survey, and render the limits agreed upon by the Commissioners, together with the decision of the umpire in regard to all contested points, binding on the two states interested. The transactions which accompanied the rejection of the division made by the King of the Netherlands, prove that the executive Government of the United States is not entrusted with sufficient powers to effect this object; and therefore it can only be brought about by a treaty of survey and arbitration, duly submitted to the constitutional bodies of both States, and fully ratified by both before any new attempt to define the boundary is made. One of the articles of the treaty might thus define the objects of the survey, and the powers of the umpire.

“It is agreed that two Commissioners be appointed in the following manner: that is to say; One Commissioner shall be appointed by Her Britannic 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 so appointed shall be sworn impartially to examine and decide what is the nearest possible approach which can be made to the line of boundary described in the 5th article of the treaty of Ghent, or to any part thereof which yet remains to be decided, commencing

their survey at that point between the degrees 46 and 47 North Latitude, and 70 and 71 West Longitude of Greenwich, or in any other spot, where the boundary first appears unfixed and indefinite.

“ And it is hereby farther agreed, that in the event of the two commissioners differing at any point upon the directions of the boundary line, which will afford the nearest possible approach to that line described in the fifth article of the treaty of Ghent, “they shall immediately draw up a report, or reports, jointly, or separately, of the point of difference between them, and shall lay the same before the umpire, hereinafter named and appointed: and immediately that the said umpire shall have notified his decision upon the point of difference between the two commissioners, and not till then, the two commissioners shall proceed upon their survey, adopting at once and without reply, the decision of the said umpire, to all intents and purposes as if it had been made by themselves on mutual consent, and shall draw and mark out the line of boundary accordingly; and on any fresh difference of opinion upon any point of the said boundary line or upon the question of what is the nearest possible approach to the line described in the 5th article of the treaty of Ghent,

the same course of reference to the umpire shall be pursued, and his decision shall be considered as final by the said Commissioners ; and upon all, and each, and every point of difference they shall adopt the decision of the umpire as if made by themselves, and instantly and without hesitation proceed to mark out and fix the line of boundary accordingly, till the whole shall be completed. And her Britannic Majesty, and the Government of the United States hereby agree to regard the line of boundary thus drawn out, to be to all intents and purposes the real and true limits of their respective dominions, according to the intent of all preceding treaties, conventions, &c."

The appointment of the Umpire, and the method of marking the limits, when determined, would be easily provided for by the other articles ; but it is necessary never to lose sight of the fact that before the survey is commenced, the treaty which is to insure its finality, must be sanctioned by Congress, or we again begin to fight with shadows.

THE END.

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