

CONSIDERATION
Of the CLAIMS & CONDUCT of
the UNITED STATES, respect-
ing their NORTH EASTERN
BOUNDARY, and of the value
of the BRITISH COLONIES IN
NORTH AMERICA.

Continued.

In this state of the question, the war of 1812 intervened; and the peace of 1815 was made, without any further settlement of the dispute, than the appointment of a second Commission; (except indeed that by inserting in the treaty the name of 'Grand Manan,' the Americans were admitted to add a new claim, which had never before been heard or imagined, and which was so ruinous to us, and so untenable in them, that it has been happily compromised by some minor sacrifice.) These Commissioners could not agree. The Emperor of Russia, to whom, agreeably to the treaty, the question was referred, decided that the parties should arrange it by negotiation. And negotiations for that purpose, it is believed, are now pending.

The spirit and intention of the Treaty of 1783, seem clearly to have been, to establish, between the two countries in this quarter, what is termed an *arbitrarius boundary*, such a line of separation, as should give to neither party the advantages for attack, but serve mutually for the defence of both, or especially of that, whose dominions were most likely to be invaded. Accordingly, having first recorded their regard "for the reciprocal advantages and mutual conveniences of both Nations," and their design "to settle the boundary upon such principles of liberal equity and reciprocity, that partial advantages, those seeds of discord, being excluded, such a beneficial and satisfactory intercourse between the two Countries may be established, as may promote and secure to both perpetual peace," they proceed to delineate the only Land marks, and to lay down the only principle, which in this quarter, could answer such ends. viz. that *Chain of Highlands which should divide the heads of Rivers, whose mouths and courses were within the actual Provinces of the respective claimants*. Thus the party possessing the mouth of any stream, would possess also its whole course to the fountain head. This was obviously the most equitable adjustment, and the most natural boundary. The entire course of the Penobscot, the Kennebec, and other Rivers, flowing into the Atlantic ocean, would be thus secured to the United States, and a reciprocal advantage afforded to us in the possession of the Chaudiere, and other streams, that discharged their waters within our territories. Between two nations no separation is so distinct, no barrier so effectual, as a mountainous frontier; and as Rivers, in new countries, are the great High ways of nature, and almost the only means of communication and transport, any other division must give to one party a most unequal advantage for invasion in war, and to both, continual disputes in trade and navigation in time of peace. The Line of separation was therefore to be drawn "from the North west Angle of Nova Scotia, that is, the Angle formed by a due north line drawn from the source of the St. Croix to the HIGH LANDS, along the said High Lands, dividing the waters that fall into the Atlantic, from those that fall into the river St. Lawrence, to the North western Head of the Connecticut river." Now as no part of the British possessions, in this quarter (their western boundary being the St. Croix) touched the Atlantic, nor of the American the St. Lawrence, the principle and object of the treaty evidently was, to give them the Heads of the Rivers that flowed to the Ocean into and

through their Territory, and us, of those that flowed into and through ours. Indeed, the description in the treaty coupled with this fact just stated must be considered as quite synonymous with this interpretation.

Perhaps the fairest and most intelligible manner of stating the difference between the two Governments is this. The source of the St. Croix is ascertained: the North line surveyed: there are some where High Lands that divide the streams to the Atlantic from those to the St. Lawrence, between the Kennebec and the Chaudiere, Rivers of respectable magnitude, flow, in contrary directions, from neighbouring sources, on opposite sides of the same Heights, the latter to the St. Lawrence, the former to the ocean. So far are both parties agreed. The description of the treaty is in these points fully answered, according to the interpretation of both Countries. But the difficulty is, that North Line, in which both parties acquiesce, does not intersect those High Lands, upon which both are agreed. It was in this light perhaps that the question presented itself to the Russian Government, who seem to have considered this circumstance as an omitted case, which was most proper, (or most expedient), to be settled by further treaty. Regarding it in the same view, a just and prudent arbitrator perhaps, who could venture to apply to a political dispute, the reasoning of private conduct, had not found it so impossible to terminate the controversy under the existing treaty and reference. "Gentlemen," he might have said, "the points in this question which are undeniably, may lead to an easy solution of the matters in debate. Produce your North line. Place me on that point of the Boundary where you are both agreed; for example, that part of the High Lands that separates the waters of the Chaudiere from those of the Penobscot or the Kennebec; and I shall thence follow those High Lands down, easterly, till I meet your North line, and mark out your Boundary; taking care, if I cannot always observe the precise letter, to pursue the strict principle, of the treaty, and adhere at least to its abstract description; that is, I shall include within the United States, the Heads of all those Rivers whose courses flow through their territories to the Atlantic ocean; the rest of the country belongs still to its ancient Sovereign."

That this is the only just basis upon which these differences could be arranged by arbitration, and the only safe and honorable one to be settled by treaty, may be further approved by examining the respective Lines, claimed by us, and the United States, and the probable consequences of accepting either.

In exploring this Boundary, the American Government seems to have assumed the principle that if no such High Lands existed, or existed where they would not be intersected by the North line, or intersected, would not divide Rivers agreeably to the strict letter of the treaty, they were then to go up to the St. Lawrence, and fix the north-west angle of Nova Scotia on the very shore of that River. Accordingly they pass over a high and extensive range of elevated Land, which, compared with the other heights and features of the whole Tract, would readily be called and recognized as THE HIGH LANDS, but which they deny to be the HIGH LANDS in the treaty, because though these would indeed divide the Heads of Rivers, and give them the course and source of all that flow into and through the United States, and us of all that flow into and through our Territories, yet if the streams on this side empty into the Atlantic, those on the other do not join the St. Lawrence. They pass on, therefore, and meet the St. John's. And here it should be recalled to

mind, that neither their Ministers in negotiating the treaty, nor their Agents under the first Commission, had ever dreamed of extending the most extravagant of their pretensions beyond the right bank of this river, which they wished to be accepted as the real St. Croix, but which, in each instance, was resisted by us, and finally relinquished by them. Indeed, both the language and the principle of the Treaty, are conclusive evidence, that its negotiators could never have entertained the intention, nor conceive the possibility, of touching, or intersecting, this River; or else in describing a Boundary, which was evidently to pursue the great natural Land marks of the country, they had never, not only neglected so important a feature, but adopted a principle of separating Heads of Rivers, utterly inapplicable to the Tract to be divided. Now, however, the Americans have the courage to pass the stream, and on the left bank, push on their north line. Having intersected the St. John's, leaving the lower half to us, and the upper to themselves, they proceed in their course to intersect its numerous branches, the lower parts of which are to be theirs, and the upper for us. They pass on, over a beautiful and well wooded country, of gentle hills and valleys, till, instead of streams running westerly to the St. John's, they meet with waters that flow easterly to the Bay of Chaleur, a branch of the Gulf of St. Lawrence. These they intersect, taking the source and upper part to themselves, and leaving the rest of their course to us. They pass on, and when a few miles more would have carried them into the Gulf, or River, of St. Lawrence, by whatever name the arm of the sea at that point is to be called, and they meet a stream flowing into it, they have the conscience to stop. And here is the North-west Angle of Nova Scotia, and if there chance to be a hill in the neighbourhood, these are the High Lands. Here they turn upon their heel, and follow these High Lands down to the south-west and south, dividing, first, the streams that flow into the River St. Lawrence, from those that empty into a part of the Gulf, called the Bay of Chaleur, both within our Territories; next, the waters that flow into the River St. Lawrence, from those that flow into the St. John's, both within, or falling into, our acknowledged Territories; keeping often in sight of, and never at any great distance from, the very bank of the former stream; until, at last, to get round the sources of the Chaudiere, they must turn almost to the south-east, and making a considerable bend, join the HIGH LANDS upon which both parties are agreed.

And this, they would persuade us, is the execution of that treaty, which had proposed for its object "the reciprocal advantages and mutual conveniences of both parties": this the Boundary it contemplated and described which is to sever the British provinces from each other, and the Canadas from Great Britain, "upon principles of liberal equity and reciprocity": which has stripped us of a natural and defensible frontier, "to exclude all partial advantages": intersected Waters in a manner to leave no question of navigation uninvolved, that "the seeds of discord might be removed": and placed, in fine, the American posts and people in the rear of the St. John's; and at the mouth of the St. Lawrence, "to promote and secure to both countries perpetual peace!"

But, say the Americans, if your Ministers have made an absurd division, see you to that; it is enough for us that we fulfil the Treaty. Here is the boundary agreeably to its express words, and literal meaning; for the waters on the one side of these High Lands flow into the St. Lawrence, on the other, into the Atlantic. This argument is the chief foundation of their whole preten-

sions. It may be easily shown to rest upon false assumptions, and fallacious reasoning. For first, a continuous Chain of High Lands, dividing waters in the manner they describe, or in any other similar manner does not exist in the quarter and direction they would run their Boundary. On the contrary, those High Lands are repeatedly interrupted and intersected, by low and marshy ground, and by other High Land crossing their line, and what is conclusive, even by Rivers. Next, the streams on the one side do indeed flow into the St. Lawrence, (except, that at the point, where they fix the North-west Angle, that water would perhaps be rather described as a portion of the Gulf,) but the rivers on the other side do not fall into the Atlantic ocean. Ultimately, indeed, it is well known, that all rivers fall into the Ocean, of which all seas, gulphs, and bays, are in some sense a part; but in questions of geography, or hydrography, separate names are given and used for these several parts, and are applied in contradistinction to each other, and to the whole. Nor can it be said that the parties, or makers of the treaty, were ignorant of, or averse to, these distinctions, which the common sense and common usage of mankind has constantly recognized, for they themselves have made use of them, and in this very Treaty, and more than once. In the sense therefore in which the treaty applies the words, these Streams do not fall into "the Atlantic." They fall into the St. John's, or they fall into "the Bay of Fundy," nay, they fall into "the Gulf of St. Lawrence," divisions of water, to which those names are given by the Treaty, in distinction from "the Atlantic," which, as it touched no part of a coast bounded by the St. Croix, so it could receive no Rivers that flowed through our Territories; and for that reason the Heads of all Rivers that reached it were assigned to the United States. In this understanding the object of the treaty, in describing the High Lands, appears obvious, its principle rational, and advantages reciprocal. If this sense be rejected, the apparent basis becomes not only inapplicable and absurd, but it is impossible to substitute any other theory for so unaccountable a Boundary, or conceive what purpose was had in view, what motive proposed, or what madness or folly possessed the negotiators, that they laid down a line, the very figure and appearance of which, on the Map, are as fantastic, as the difficulties it involves are obvious, and the consequences alarming.

Let us now examine, and compare with this, the Boundary as claimed by the British Commissioners. It commences from the same point, and runs in the same direction North. On approaching the western Bank of the St. John's, it intersects the range of HIGH LANDS already alluded to, rising from fifteen hundred to two thousand feet above the level of the sea, and extending in unbroken ridges in a western course. Here we find that feature of the Country, that elevation of Land, which, from its height and extent, would be easily recognized, and termed, in a geographical description of the tract, "THE HIGH LANDS." Here, therefore, at Mars Hill, the name given to the high intersected, we terminate the North line and fix the North-west Angle of Nova Scotia. Thence we follow these Heights of Land, dividing the Heads of Rivers, leaving the St. John's, its source and branches, flowing to the northward and eastward into our Territories, on the right, the Penobscot, the Kennebec, and other intermediate streams, flowing south-westerly, into theirs, on the left, till we reach the fountains of the Chaudiere, where we are joined by the American Commissioners, and proceed together to the Connecticut. It is a fact of great importance, and which has been ascertained by actual survey, that