BOUNDARY LINE.

EXTRACTS

From the Report of the Commissioners appointed by the British Government, July 9th, 1839, to Explore and Survey the Territory in Dispute between the Governments of Great Britain and the United States of America, under the second Article of the Treaty of 1783.

SOURCE OF THE ST. CROIX—*Error of the Commission of 1794.*

Disregarding the obvious propriety of choosing the most western source of the river, they fixed upon the north branch; and this in the face of the most extraordinary evidence against their proceeding. For the Scoodeag, which is the known Indian name of the St. Croix, runs from its most western source to its mouth, under the same name of Scoodeag, whilst its northern branch, which comes in at the upper falls, bears the separate name of *Cheputnaticook*. The westernmost sources of the Scoodeag are in a low, flat, lake country, consisting of many lakes running into each other, and hence the Indian name given to that part of the country and to the river; for *Scoodeag* means *low, swamp meadow*. Now the very continuity of its name should have convinced the Commissioners of the impropriety of deviating from that line. But the British Commissioner was overruled. He had, in conjunction with the American Commissioner, chosen an American gentleman, upon whose intelligence and integrity he relied, for the third Commissioner. This gentleman was, in point of fact, an umpire to decide all differences which might arise; and the American Commissioner having claimed a stream called *Magaguadavic*, lying still further to the east than the Cheputnatisook, to be the true St. Croix, the British Commissioner consented to a compromise, the result of which was, that although they made a correct decision as to the identity of the St. Croix, they practically decided to adopt the north source, as if it had been the most western source. That these gentlemen went out of the line of their duty, as prescribed in the Treaty of 1794, is evident; and much future expense and misunderstanding would have been saved, if their report had been restricted to the identification of the river. This will be seen by looking to the map.

The Saint John, like all other large rivers, occupies the lowest level of the country through which it flows, and holds its course through a valley of considerable breadth, which below Mars' Hill extends, in a modified manner, some distance to the westward of the bed of the river. The nearer a *due North Line* could be brought to the St. John, the better the chance was that it would run up that valley, whilst the further it lay to the west, the greater was the certainty of its missing that valley and of its more speedily meeting the highlands of the country. And this has in practice proved to be the case; for the exploratory north line drawn from the monument, reached no Highlands until it came to Mars' Hill; whilst if the line had started from its true point, the westernmost waters of the Scoodeag, it would have reached the "Highlands" about twenty-five miles south of Mars' Hill, near to the point where they separate the St. Croix (a tributary of the Roostuc) from the waters of the Meduxnakeag, which flows into the Saint John.—These Highlands are distinctly visible from the American post at Houlton, and are about fifteen miles, magnetic west, from that post. This deviation of the Commissioners from their duty, which has had a most unfortunate influence upon the settlement of this great question, was besides highly prejudicial in another respect to the British rights. If it should be ultimately assented to, it will lose to Great Britain more than one million of acres of land.

In 1798, an explanatory Article was added to the Treaty of Amity of 1794, releasing the Commissioners from their obligation to conform to the provisions of the Vth Article of the Treaty, in respect to particularizing the *latitude and longitude* of the *source of the River St. Croix*; and declaring, amongst other things, that the decision of the said Commissioners "respecting the place" ascertained and described to be the source of the said River St. Croix shall be permanently binding on "His Majesty and the United States."

Upon this, we beg to remark, that it has been made sufficiently manifest, that the Treaty of 1783 intended that the point of departure of the due north line should be at the westernmost source of the St. Croix, the description of the western limits of Nova-Scotia having been regularly maintained unaltered in all the documents from the grant of 1621. The proceedings of Congress, also, as found in the secret journals, always speak of "*the Boundary settled between Massachusetts and Nova Scotia*," and of the line being to be settled "agreeably *to their respective rights*."

To all these considerations, we add the important fact, that in the Vth Article of the Treaty of Ghent, it is stipulated that the ascertainment of the north-west angle of Nova Scotia is to be made "in conformity with the provisions of the said Treaty of Peace of one thousand seven hundred and eighty three." A fact which further confirms the general obligation to consider the most western waters of the St. Croix as the true Boundary of Nova Scotia.

The irresistible conclusion then presents itself, that it is indispensable to the faithful execution of the IId Article of the Treaty of Peace of 1783, that the commencement of the *due north line* be drawn from the north-westernmost source of the Saint Croix; and that whatever mistake may have hitherto crept in, during the attempt to settle this question, the two Powers, in order to execute the Treaty, must at last go back to that point. It is true that Her Majesty's Government may be considered, looking to the explanatory Article, as pledged to abide by the decision of the Commissioners under the Treaty of 1794, yet this pledge was given before the proceedings of those Commissioners were known to be in violation of the Treaty of 1783, and when the nature of their compromise was not understood. That compromise was one-sided in every respect. The acknowledgment that the river decided upon was the true St. Croix, could not have been avoided. The ample means of identifying it have long been public. But in return for that acknowledgment, Great Britain is asked, by the selection of a wrong point for the source of that river, to lose a territory of more than one million of acres of land, and has been subjected, in consequence of that erroneous decision, to much expense and trouble, by the delay in the execution of the Treaty of 1783.

If, then, the United States had ground for refusing to be bound by the adjudication of the King of the Netherlands, under the Convention of the 29th of September, 1827, which by Article VII. of the Convention was to be taken as "final and conclusive," because his adjudication was a compromise, and not a decision upon points submitted to him, and was not conformable to the conditions required by the Treaty of 1783, how much better ground has Great Britain to refuse its sanction to the proceedings of the Commissioners of 1794, now that they are discovered to be in violation of the Treaty of 1783, at the same time that they are the main cause of the difficulties which have lain in the way of the execution of that Treaty!

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We have endeavoured in the preceding pages to explain how, from very inadequate causes, the public in the United States have been led to entertain such strong but erroneous opinions of the right of that country to the disputed territory.

In regard to the ancient occupation of the country, we have shown that the concessions made by the government of France in 1684, of lands lying north of the 46th degree of north latitude, were ordered to be held *of the Governor of Quebec*.

But the Fief of Madawasca * was granted by the French Government in 1683, one year before this last period, and *eight years before the Charter of William and Mary was granted to the colony of Massachusetts in* 1691; and although that Fief is held under its original title to this day, the United States nevertheless claim it as lying within the disputed territory. Other concessions of a similar character exist; and it could be proved that Canadian and New-Brunswick jurisdiction obtained uninterruptedly in the disputed territory up to the year 1814, without any adverse claim having been put in by the United States.

With respect to the due North Line, which was run in 1817 and 1818, and which we have traced on the Map, a very general misunderstanding obtains respecting it. The line never was intended to have any validity as a practical execution of the Treaty, or to be any thing but an experimental and exploratory line, to aid in the examination of the country for discovering the "Highlands" of the Treaty. The joint commissioners, indeed, did, as we have already stated, authorise "an actual survey" of a due North Line from the source of the St. Croix, and that survey was undertaken; but it was almost immediately afterwards abandoned, in consequence of the imperfection of the method adopted, and on account of the disagreement of the surveyors. As respects the due North Line, then, nothing has been accomplished by the two Governments. Nevertheless the United States, acting as though the due North Line had been surveyed, and agreed upon by both parties, and as though any part of the disputed territory adjacent to it had been formally ceded to them by Great Britain, have already taken possession of the country to within twelve miles of the town of Woodstock in New-Brunswick, and have erected a strong military post and barracks at a place called Houlton, which has been for some time garrisoned by a detachment of the United States army.

There is yet another point to which we desire to draw the attention of your Lordship.

Had the award of the King of the Netherlands been accepted by both countries, the Treaty, nevertheless, could not have been executed; for when the line along the "*thalweg*" of the Saint John had got to its termination up the St. Francis, and had taken its western departure from thence, according to that award, it never would, as we have heretofore shewn, have come within forty to fifty miles of the "north-westernmost source of the *Connecticut River*," where the award of the King of the Netherlands directs it to go.

* The Fief of Madawasca is a tract of land entirely distinct, and at some distance from the settlement of Madawaska. These last are constituted by a continuous succession of small farms *on each bank* of the River St. John, extending from within five miles of the Great Falls of the Saint John to even the vicinity of the mouth of the St. Francis.   *   *   *   *

It is also to be remarked, that a fluctuating state of things such as existed in former times in that part of North America, of which the territory now in dispute with the United States forms a portion, could not fail to produce, at different periods, numerous maps, where the lines of demarcation between parties claiming adversely to each other, would be laid down in such a manner as to enforce, as much as possible, the claims of parties interested in the establishment of these several lines. Previously to the war with France in 1756, when the great conflict for power in North America began between the nations, many maps of North America were produced in England, in which the British claims were extended by lines of demarcation to the River St. Lawrence. These grew out of the war titles which have been spoken of; and new editions of such maps appeared, even after the grants made by the British crown had been virtually revoked by the various Treaties of Peace which have been enumerated. The British Colonies in North America were especially interested in keeping the French to the left bank of the St. Lawrence: and it was probably more with a view to the protection of those Colonies, than for the sake of mere dominion, that the British Government claimed all the country east of the Kennebec, and north to the St. Lawrence. The claims of Great Britain, to that extent, are recorded upon various maps; but, nevertheless, we do not find that, either previously to the expulsion of French power from North America, when the whole country fell under the rule of the King of Great Britain, or subsequently to the Peace of 1763, the Northern Boundary of Massachussetts was ever settled. This being the case, the existence of maps published in England from the Peace of Utrecht in 1713, down to the present times, exhibiting the claims of Great Britain carried out to the River St. Lawrence, or even representing *a due North Line*, reaching to suppositious "Highlands" near to the St. Lawrence, would furnish no evidence in support of the claim of Massachussetts to extend its territory to such Highlands; even if such Highlands existed at all, or if they could be traced to the north-westernmost Head of Connecticut River, whither they are required by the Treaty to go.

By the Treaty of Utrecht in 1713, Great Britain acquired by cession from France "all Acadie according to its ancient limits." These limits extended to the forty-sixth degree of north latitude. By the peace of 1763, France ceded to England the whole of her possessions north of the forty-sixth degree, to the River St. Lawrence. The title of England had then, therefore, become clearly established to the whole of that country, whilst no evidence appears of the right of Massachussetts to any part of it.

The Boundary of Massachusetts had never been settled previously to the peace of 1783; and nothing passed upon that occasion which could give to Massachusetts any reason to suppose that her Boundary would then be enlarged beyond her charter limits. The policy of England necessarily changed with the acknowledgment of the independence of her old Colonies, and her protection was now peculiarly due to others rather than to those who had voluntarily estranged themselves from her connexion.

Yet the people of the United States, asserting claims so directly injurious to British Colonial interests, have not scrupled, by their Legislative authorities, to use the most violent language upon this subject, calling into question the integrity of Great Britain, and representing the just assertion of her right to the territory in dispute, as an act which dishonoured her.* Imputations to this effect, accompanying statements of the American claims, founded upon such objectionable grounds as we have exposed in this Report, have been diligently circulated throughout the United States, and in all the Capitals of Europe.

All the material arguments and facts which have occurred to us, being thus brought under the notice of your Lordship, we proceed to close our Report with a summary of the foregoing pages.

I.—We have in the first place, endeavoured to shew that we should have been acting inconsistently with the information which we possess, and with the facts which we have to report, if we had adopted the ground which the official British agents who have preceded us in the investigation of this Boundary Question relied upon as essential to the maintenance of the British view of the Question; namely—that the Boundary intended to be established by the second Article of the Treaty of 1783, was to be a line distinct from the southern Boundary of the Province of Quebec as established by the Royal Proclamation of 1763. In opposition to that erroneous impression, we have felt it our duty to shew that those lines were one and the same thing. Indeed, the very definition of the point in the Treaty, viz. the coincidence of the due North Line with the Highlands, proves that the Commissioners for negociating the Treaty of 1783, considered the "Highlands" of the Treaty to be one and the same thing with the Southern Boundary of the Province of Quebec, for if Nova Scotia had extended further to the north, or to the west, than the point where the due North Line was to intersect the Highlands, that point would have been the north-east angle of the State of Maine, but could not have been the north-west angle of Nova Scotia. For the true north-west angle would have been still further to the north or to the west, at whatever point the western boundary of Nova Scotia touched the southern boundary of the Province of Quebec.

II.—We have given some historical notices of the periods when the land on the River St. Lawrence and on the Bay of Fundy were first discovered and settled by the French, with a view to show that it was long posterior to the settlements thus made by the French, that any part of those countries came into the occupation of the English; that every such occupation was incidental to a state of war; and that, invariably, on the restoration of peace, every part of those countries so occupied, *was restored* to France, down to the peace of Utrecht in 1713.

III.—We have shown that, in 1603, the Sieur de Monts received letters patent from his Sovereign, granting him the country now called Maine and New-Brunswick, to the 46th degree of north latitude; in which letters patent the word "*Acadie*" was first used as the name of the country; and that, at the peace of Utrecht in 1713, France made her first cession to England of any of her possessions in that part of North America, ceding forever to the British crown "*all Acadie according to its ancient limits.*"

IV.—We have endeavoured to show by various concessions granted by the French Government to its subjects, north of, and adjoining to, the 46° parallel of north latitude, that the Government of Quebec, when possessed by France, had jurisdiction as far south as that parallel.

V.—By our Map A, we show that a line drawn along that parallel, connects the head waters of the Chaudiere River, with a point not more than five miles north of that branch of the St. Croix River, where a monument has been erroneously placed, and with a point not more than forty-two miles north from the most western waters of the St. Croix.

VI.—We have endeavoured to show that the claims of the Colony of Massachusetts Bay to extend its territory to the St. Lawrence, in virtue of the grant of the Sagadahoc country by Charles II. to the Duke of York in 1664; in virtue of the renewal of that Charter in 1674; and in virtue of the Charter granted by William and Mary in 1691, are without weight: seeing that the grant of 1664 was revoked at the treaty of Breda in 1667; and that the title to the Sagadahoc country accruing by the renewal of the grant in 1674, as well as the title to Nova Scotia, both of which countries were annexed to the colony of Massachusetts Bay in the grant of 1691,—were revoked by the Treaty of Ryswick in 1697, *which restored to France all she had possessed before the declaration of war.*

VII.—It is shown that the Charter of William and Mary of 1691 does not extend the grant of the Sagadahoc country to the St. Lawrence, but only grants the lands "between the said country or territory of Nova Scotia and the said River of Sagadahoc, or any part thereof," so that the extreme interpretation of this grant would require for the northern limit, a line passing between the head water of the St. Croix River and the source of the Sagadahoc or Kennebec River, which would nearly coincide with a line passing between the western waters of the St. Croix and the Highlands which divide the Kennebec from the Chaudiere.

VIII.—We show that the northern boundary of the colony of Massachussetts' Bay had never been settled; that the right of that colony to go to the St. Lawrence was denied by the British Government soon after the peace of Utrecht in 1713, and has never since been admitted; that as late as 1764, a question was entertained by the Lords of the Board of Trade whether Massachusetts had any right whatever to the lands in the Sagadahoc territory; and that at the peace of 1783, that question had not been settled.

We also adduce the opinions of some distinguished Americans that Massachussetts had no claim to go to the St. Lawrence.

IX.—It is shown that there is no evidence of any expectation having been entertained on the part of the revolted colonies, that they would be permitted, at the restoration of peace, to have their boundary extended north of the River St. John; that on the contrary, the Congress in 1782, instructed the negociators to have, if possible, the north-west angle of Nova-Scotia established at the western source of the St. John River; and to propose that river, from its source to its mouth, as the boundary between the two countries; and that upon the Government of Great Britain refusing to admit their proposition, they abandoned it, and agreed "*to adhere to the Charter of Massachussetts Bay and to the St. Croix River mentioned in it.*"

X.—It will appear that the phraseology used in those Instructions of Congress to their negociators, in which the north-west angle of Nova-Scotia is stated to be at the source of the St. John, has been transferred to the second article of the Treaty of 1783; the only difference being, that, in the latter, the River St. Croix is substituted for the River St. John, and that the Highlands are directed to be reached from the St. Croix by a *due North Line.*

XI.—We show that the "Highlands" of the Treaty had been as early as 1755, described by Governor Pownall; and that he describes them as dividing the St. Francis and the Chaudiere, from the Kennebec, and from *all the branches of the Penobscot.*

We also show that he states the different branches of the Penobscot to extend from west to east along the southern point of the country now called the disputed territory;

That the topographical description of the southern boundary of Quebec, contained in the Royal Proclamation of 1763, and the description of the boundary of Nova-Scotia, contained in the commissions of some Royal Governors, were taken from Governor Pownall's paper;

And that the language used in the Boundary descriptions, quoted from the Secret Journals of Congress, and the language used in the second article of the Treaty of 1783, was but a copy of that which is to be found in the documents last mentioned.

XII.—We have drawn the just inference, that the "Highlands" which Governor Pownall speaks of as throwing down both the western and eastern branches of the Penobscot, are the Highlands intended by the Treaty; and we have adduced the contract of Jackson and Flint with the State of Massachussetts in 1792, to show that the land then granted was bounded on the north by the Highlands thus heading all the branches of the Penobscot; and that these "Highlands" were then understood by the Government of the State of Massachussetts to be the Highlands intended by the treaty of 1783.

XIII.—It is seen that the second article of the treaty of 1783 *can never be executed*, until the two Governments first agree which is the line of Highlands that is to be intersected by the due North Line, since the Treaty directs the execution of the article to begin at a point which can have no existence, until the due North Line has intersected Highlands acknowledged by both Governments to be those of the Treaty.

XIV.—We have discovered by a critical examination of the grant of Nova-Scotia of 1621, in the original Latin, that the passage which describes the Western Boundary of the territory included in that grant, and which boundary was agreed, at the time of the Treaty of 1783, to be the eastern boundary of Massachussetts in conformity with the provision contained in the Charter of Massachussetts of 1691, is susceptible of a new interpretation varying in important particulars from the received one; and we show by a literal translation of the Latin, that the Boundary was intended to run from the most western waters of the St. Croix to the sources of the Chaudiere; a line, which it has been seen, coincides in a most striking manner with the boundary in the Sieur De Mont's Grant of 1603.

XV.—With reference to the great errors in Mitchell's map in latitude and longitude, we have suggested some remarkable considerations resulting therefrom. We have observed that if a line were protracted upon that map between the most western sources of the St. John and the western termination of the Bay of Chaleurs, and were adopted as the Boundary between the two countries, the river St. John would fall to the south of that line, and be within the United States. Whereas by a line protracted between the above-mentioned points, *properly adjusted as to the latitude and longitude* as they exist on our map, the river St. John would be left on the British side, and to the north of the Boundary between the two countries. But though we have referred to Mitchell's map for the purpose of showing how the mistakes in that map may have contributed to account for the erroneous opinions prevailing in the United States about the Boundary Question, we are quite aware that Mitchell's map is not, and cannot be, any authority on this question: inasmuch as it is not mentioned or referred to, in any manner, in the Treaty. The Boundary must be determined by applying the words of the Treaty to the natural features of the country itself, and not by applying those words to any map.

XVI.—It appears that in the discussions which have been hitherto had on the subject of the Grant of Nova-Scotia in 1621, reference has always been had to an American translation of that Grant which was defective; and that all the omissions and inaccuracies in that defective translation singularly concur to obscure the nature of the claim which Her Majesty's Government is interested to maintain.

XVII.—We have shown that the terms *due North Line*, which were originally used in the Commission of Montague Wilmot, Esq., in 1763, were inserted in that instrument, because the sources of the St. Croix River being to the south of those of the Penobscot, it was necessary to direct a *due North Line* to be drawn from those sources as far as the Southern Boundary of the Colony of Quebec: a fact which goes far to identify that Boundary with the Highlands of the Treaty of 1783.

XVIII.—In adverting to the proceedings of the Commissioners appointed under the Treaty of 1794, to identify the St. Croix River, we remark upon the erroneous establishment of the point of departure for the due North Line, which has had a disturbing influence upon all attempts subsequently made to execute the Treaty.—Had the point of departure of the due North Line been established at the most western waters of the St. Croix, agreeably to a just construction of the Treaty of 1783, it would have intersected Highlands *south* of the Roostic River: and any further protraction of the *due North Line* from that point of intersection could not have been proposed, the Treaty directing the *due North Line* to go to the Highlands, and not to any further point.

XIX.—In that branch of our Report entitled "The Physical Geography of the Country" we have shown that the line of "Highlands" claimed by the United States to be the Highlands of the Treaty of 1783, even if it were continuous, which it is not, and if it divided the waters flowing in opposite directions, which it does not, passes at least fifty miles to the North of the "*North-Westernmost Head of Connecticut River,*" and therefore could not by any reasoning be shown to be the "Highlands" of the Treaty of 1783; those Highlands being required by that Treaty to go *to* the north-westernmost head of Connecticut River.

XX.—We have shown that the assumptions on the part of some of the official agents of the United States, both in relation to the continuity and to the dividing character of their "Highlands," and to the elevation above the sea of the point they have stated to be the north-west angle of Nova Scotia of the Treaty of 1783, are altogether unfounded in fact. That the conclusions upon which they have rested the American case, instead of being the legitimate results of practical investigation, are unsubstantial inventions brought forward in the absence of all real investigation; conveying erroneous ideas of the nature of the country; and calculated to mislead, not only their own authorities, but public opinion in the United States and in Europe, as to the merits of this question.

CONCLUSION.

In concluding this Report, we have to ask the indulgence of your Lordship, if it should appear to be less complete than the importance of the subject required, or would have admitted of. The very short period allotted for our personal examinations of the disputed territory, was diligently employed by us, as long as the season permitted us to continue our investigations; nor were they discontinued until we had made ourselves acquainted with the natural features of the country, to the extent required by the important end contemplated in our instructions.

We are also aware that the somewhat complicated history of this controversy might, in more able hands, have been treated with greater ability, yet we venture to ask your Lordship to rely upon the fidelity of all our statements. If we may be thought to have occasionally exceeded the precise line of our instructions, we rest our justification on the great anxiety we have felt to vindicate our Country and our Government from imputations as offensive as they are unfounded. Intimately allied as Great Britain and the United States are, we have thought it due to a question which has somewhat endangered the peace happily subsisting between them, that we should frankly explain some of the causes why the two Governments have hitherto been defeated in their earnest attempt to bring the dispute to an equitable and amicable arrangement. If our strictures upon the conduct of some of the agents of the two Governments heretofore employed in ineffectual attempts to settle the Boundary Question, should give pain in any quarter, we can only say that the maintenance of British rights and the preservation of peace did not appear to us to admit of being compromised by personal considerations. We have, therefore, stated things as we found them to be, and have been impartial in the application of our remarks. Above all, we desire to say that we have not intended to insinuate a doubt as to the good faith of the Government of the United States in the progress of this matter. On the contrary, we have regretted to see that those irregularities on the part of some of its agents which it has been our duty to expose, could not fail to mislead that intelligent Government whose conduct during the negociations has been uniformly marked by fairness. Notwithstanding the assertions which during so long a period have been confidently urged, that the United States alone can rightfully claim the territory in question, we hope to have proved that the claim of Great Britain does not, as has been alleged, rest upon vague and indefensible grounds, but that she has always had a clear and indefeasible title, by right and by possession, to the whole of the disputed territory; a title, it is true, which has hitherto been somewhat obscured by its rather complicated history, and by the want of that interest which countries in the state of a wilderness, and remote from the Mother Country, sometimes fail to inspire.

If it should be urged that the British agents, in whose hands this question has hitherto been, have sometimes taken different views of the subject, and consequently expressed themselves in a manner inconsistent with the reasonings which we have used, we may fairly attribute it to the want of that more accurate information which we possess at this time. But it becomes less surprising that they should have so acted under the disadvantageous circumstances we have alluded to, when we see that the people of Maine, whose legitimate home is conterminous with the country in dispute, have not to this day examined the territory, as they might have done, with an accuracy that admitted of an impartial judgment being formed, whether their claim, as they have hitherto preferred it, was or was not truly in accordance with the language or intentions of the Treaty of 1783. It is not to be concealed, that they who were so much interested in the decision of the question, and who, as it were, live upon the spot, have contributed little or nothing to clear up the difficulties attending upon the subject. Their acts seem principally to have been confined to surveying the land into townships, to be settled by their own citizens, and leaving it to the next generations to assert the proprietorship of them. Time will prove or disprove our statements. We have had truth at all times for our guide, and now confidently declare, that if, upon concluding our investigations, we had found reason to believe that the claim of Great Britain was, in our judgment, a doubtful one, we should have reported that fact to your Lordship.

When this question shall receive a more calm and a more careful examination in the United States, we believe that the American people, who are eminently capable of forming a deliberate and sound judgment upon this grave question, will be anxious that it shall be decided according to the principles of strict justice, and consistently with the reverence due to that treaty whence is dated the independence of their government.

Finally, it gives us great satisfaction to be able to state to your Lordship, that we have carefully examined every branch of this important subject as it has come under our consideration; and that conscientiously believing that the claims of Great Britain to the whole of the disputed territory are founded in justice, and are in plain accordance with the second article of the Treaty of 1783, and with the physical geography of the country;

We Report,

That we have found a Line of Highlands, agreeing with the language of the second article of the Treaty of 1783, extending from the north-westernmost Head of the Connecticut River to the sources of the Chaudiere, and passing from thence, in a northwesterly direction, *south of the Roostuc*, to the Bay of Chaleurs. The course of that Line is traced out on the map A, accompanying our Report. Upon the left margin of this Map we have placed a section of the country along the line as far as the Lake Keeaquawgam; and upon the right margin a perpendicular section along the exploratory due north line, accompanying them both with barometrical elevations.

We further Report that there does not exist, in the disputed territory, any other Line of Highlands which is in accordance with the second article of the Treaty of 1783; and that the line which is claimed on the part of the United States, as the Line of Highlands of the Treaty of 1783, does not pass nearer than from forty to fifty miles of the north-westernmost head of Connecticut River, and therefore has no pretension to be put forward as the Line intended by the Treaty of 1783.

We have the honour to remain, my Lord, your Lordship's most obedient and humble servants,

G. W. FEATHERSTONHAUGH,
RICH. Z. MUDGE,
Commissioners.

* We have spoken in strong terms in our Report of the popular opinion which obtains in the United States, as to the right of that country to the territory in dispute; but the positiveness of that opinion cannot surprise us when we consider the tone of many of the official documents which have emanated from some of their legislative bodies upon this subject, and the language held by the press in that country.

[Here several extracts are made from the annual messages of the Governors of Maine, and other exciting documents, which have from time to time appeared in this paper.] *Ed. Courier.*

The Courier.

SATURDAY, AUGUST 15, 1840.

Arrival of the Great Western!

By the arrival of the steamer *North America*, on Wednesday evening, we received Boston papers of Monday afternoon, containing a summary of the news by the steamer *Great Western*, which arrived at New-York on Sunday morning, in *fourteen days and a half* from Bristol.—The news was brought to Boston, by Harnden's express, in eleven hours.

Our English papers not having yet arrived in town, we are indebted to American papers for our extracts.

The Great Western brought about one hundred passengers, among whom were Jerome Napoleon Bonaparte, Prince Ravel, Mr. Miles, M. P., &c.

The steamer left Bristol on the 25th of July, and brings London and Liverpool papers of the 24th.

Colonel Thornton, who went to London for the purpose of negociating a loan for the State of Illinois, of one million dollars, met with no difficulty in immediately succeeding in the object of his mission, and has returned in the Great Western.

The weather had been very unsettled throughout Great Britain and Ireland, and some anxiety prevailed as to the crops.—The corn market had advanced. American Flour at Liverpool was 38s. 6d. to 39s. free, and 28s. 6d. to 29s. in bond.

Business and manufactures were dull.—Money is represented as being plenty.

COTTON MARKET.—There had been imported into Liverpool from the 18th to the 24th July, 95,686 bags of Cotton, of which 80,798 bags were from the United States. The market was much depressed during the latter part of the week ending on the 22d of July, and sales of 4000 bags were made on the 23d. Prices varied from 4½d. to 7½d. The prices were rather in favor of the buyers, as large quantities were offered.

Young Oxford, who attempted to take Her Majesty's life, had been tried, and a large amount of evidence was produced to prove his insanity. The jury returned a verdict to the effect that he was insane, and he was sentenced to the Bedlam prison for life.

Prince Albert has been made Regent of England, which is said to have displeased the Duke of Sussex.

The Queen has entertained the Duke and Duchess de Nemours, at Buckingham Palace, since the 14th ult.

Her Majesty has honored Mr. Haytu with a sitting for a full length portrait.

Charles Locock, Esq. has been appointed by the Queen first physician—accoucheur to Her Majesty—Robert Ferguson, Esq. second physician, and Richard Blagden, Esq. surgeon-accoucheur.

The Canada Government Bill, having passed both houses of Parliament, received the Royal assent on the 24th July.

Lord Stanley's Irish Registration Bill has been postponed till the next session of Parliament.

Mr. Kelly's Punishment of Death Bill, which has called forth considerable discussion after having been slightly amended, was to come up for a third reading on the 27th ult.

The Canada Government Bill has met with strong opposition from the Duke of Wellington, who gave eighteen reasons why he could not support it.

THE REGENCY BILL.—Lord Melbourne, on the 13th ult. announced a message from the Queen, which the Lord Chancellor read to the Peers.—"Victoria R. The uncertainty of human life, and a deep sense of duty to my people render it incumbent on me to recommend to your consideration a contingency that may hereafter take place, and to make such provision as may in any event secure the exercise of the Royal authority. I shall be prepared to concur with you in such measures as may appear best calculated to maintain, unimpaired, the power and dignity of the Throne, and thereby to strengthen those securities that protect the rights and liberties of my people."

On the 16th the Lord Chancellor introduced the Regency Bill into the House of Lords. He explained that the object of it was to provide for the possible contingency of the succession of a minor to the Crown. It is proposed that His Royal Highness Prince Albert shall be sole Regent, with only three restrictions on the exercise of the royal prerogatives. These are, that the Royal assent shall not be given to any Act for altering the succession to the throne; for interfering with the uniformity of doctrine and discipline at present existing in the Established Church; or for diminishing the legal priveleges of the Church of Scotland.

The bill was read a first time, and at its second reading on the 20th ult. the Duke of Sussex made a long speech in explanation of his views on the subject.

The tabular statements of the British revenue shew an increase of $147,133 on the year ending July, 1840, as compared with last year. A great deficiency occurs from the penny postage scheme. The deficiency on the last year alone amounts to $260,000.

The Manchester Commercial Bank has been re-opened.

The Duke of Wellington had, on the 15th July, another of his attacks of illness. He had, however, so far recovered as to resume his place in the House of Lords.

The papers announce the death of Mr. James Davies, keeper of the North and South American Coffee House, London, after an illness of only two days. The immediate cause of his death was the rupture of a blood vessel.

The trials of several persons for ribandism are in progress in Ireland.

Prince Augustus of Saxe Coburg is to marry the third daughter of Louis Phillipe.

The Rev. Connop Thirlwell, author of the History of Greece, in Lardner's Cyclopædia, has been created Bishop of St. David's, vacant by the death of Dr. Jenkinson, the late Bishop.

Professor Espy, from the United States, has been delivering his lectures on the theory of storms, at Liverpool, but if we may judge from the papers, he met with a poor reception.

The Great Western made her last passage from New-York to Bristol in thirteen days and a half.

The new steamer President, which was to leave Liverpool on the 1st of August, for New-York, made an experimental trip to Cork and Dublin, and proved herself to be a first rate sea boat.

There is nothing new in China. The second division of the English squadron was to sail on the 13th May from the Cape of Good Hope.

Sulphur Question.—In the Chamber of Peers, M. Thiers stated, that the mediation of France between England and Naples had been successful, and that the differences were finally concluded—the arrangement having received the signatures of the English and Neapolitan Ambassadors. By this arrangement, which is in the form of a new treaty, the sulphur trade is declared free, but a reasonable indemnity has been granted to Taix & Co., the Company previously in the enjoyment of the monopoly.

The indemnity to be paid by Naples to England is said to be fixed at 800,000 ducats, or about 136,000 pounds.

The London and Blackwall Railway has been opened to the public, and 67,164 persons were conveyed in eleven days in the passenger trains. 20,000 persons were ready to go on this new railway on a Sunday; only about one half of whom could be conveyed, as but one track is yet completed. It is supposed that this railway will prove one of the most profitable in England.

The enormous sum of £16,728 was taken on the Birmingham Railway in one week

Eight thousand men are constantly employed on the Edinburgh and Glasgow Railway, which great national undertaking, when finished, will give a new impulse to Scotland.

The weekly average of letters which pass through the English post office, is 432,086. By a new method adopted by the booksellers and others, of filling a penny envelope with advertisements, the public can procure postage stamps for about half price, as it is an excellent and cheap mode of circulating advertisements, and it is conjectured that very soon large establishments will find it profitable to give away thousands of these advertising envelopes, by which Rowland Hill's postage scheme will be turned into an universal free postage.

A meeting has been held in London for the purpose of adopting measures and opening a subscription for the restoration of York Minster. A few thousand pounds only were subscribed for this object; one individual gave one thousand pounds.

The Nelson column, about to be erected in Trafalgar Square, London, will be made of brass cannon recovered from the wreck of the Royal George.

Thomas Dibdin, who is now in his seventieth year, is said to be lingering in the most griping penury in London.

At a large meeting of the Zoological Society, it was proposed to close the Gardens on Sunday, which proposition was strongly opposed by a great majority of the aristocracy, who alone enjoy the privilege of visiting the Gardens on the Sabbath.

FRANCE.—The French papers do not furnish us with any news of much importance.—The Chambers were prorogued on the 15th ult. after a session commenced in much trouble, but terminated to the satisfaction of all, except the displaced ministers and their adherents. The friends of M. Thiers loudly proclaim their admiration of his tact and success in the management of very difficult questions.

Admiral Baudin has been dismissed from the command of the French expedition at Buenos Ayres.

SPAIN.—Cabrera, overpowered by the superior forces of the Queen, has been compelled to take refuge in France. A vast number of the Carlist forces have followed his example, and only a few chieftains with a miserable handful of men, now remain in the field. There is every reason to believe that the Carlist cause is at an end. The Queen's forces having got rid of the enemy, are now in hostility among themselves, and there is no doubt but that this unfortunate country is still destined to civil war.

Espartero had quarrelled with the Queen, and was in disgrace. The Morning Chronicle of the 24th says: "The positive confirmation of the news received on Wednesday, of the rupture between Espartero and the Queen Regent, had led to some excitement among the holders of Spanish Bonds." The origin of the quarrel was the refusal of Espartero to sanction the new municipal law.

ALGIERS.—The French have met with some partial success in Algiers—but the Arabs seem determined to carry on the war to the last extremity.—It yet remains very doubtful as to the French being enabled to make good their position.

TURKEY.—No settlement whatever has taken place between Mehemet Ali and the Porte. A serious insurrection has broken out in Syria, which it is understood has been the means of exciting a more amicable feeling on the part of the Pucha of Egypt.

The chance of an accommodation between Mehemet Ali and the Sultan of Turkey, was lessening. The envoy of Egypt was detained at quarantine at Constantinople, May 10th, in spite of promise to the contrary.

Hafiz Pacha, the Turkish Admiral, whose fleet was so long detained by Mehemet Ali, has been sentenced to degradation and banishment. The fleet, of course, has been given up.

GREECE.—The treaty of commerce, negotiated between Greece and the Porte, by Signor Zographos, has been finally rejected by the Greek Government, and the negotiators dismissed.

Italian letters represent the Pope as still unwell, and mention that several arrests had taken place in the Roman States, of persons connected with the Society of Young Italy.

Lucien Bonaparte, Prince of Canino, second brother of Napoleon, died at Viterbe in Italy, on the 29th June. He was 66 years of age. It is a remarkable fact that he died of the same complaint as Napoleon—cancer of the stomach.

London Money Market, July 24. The English Funds displayed more firmness in the early part of the day, Consols being quoted at 92½ to ¾; but this advance was not maintained, and some sales of Stock having been effected by the Bank broker, they closed rather heavily at 92, sellers for the account. Exchequer bills were the same as yesterday, being quoted at 25s. to 27s. premium.

LIVERPOOL, July 23.—The duty on wheat is reduced to 16s. 8d. per qr. and on flour to 10s. 0½d. per barrel; that on all foreign produce continuing the same as last week.

Free Flour was held at an advance of 6d. to 1s. per barrel, but not being readily obtainable, and having very little offering under lock below 30s., the transactions in either kind were unimportant.

LIVERPOOL CORN MARKET.—Since Tuesday, the 14th instant, there is a considerable arrival of barrel flour from Canada and the United States, and a fair quantity of wheat, but of other articles the fresh supplies are light. The weather has been extremely variable, and mostly stormy and wet.—The trade in free wheat has been inactive, and the sales confined to small lots to the town dealers, and for shipment coastwise, at little, if any, alteration in the prices of last Tuesday. Several large speculative purchases have been reported of wheat in bond, chiefly United States, at 8s. 6d., latterly at 9s.

Early in the week a lot of Philadelphia flour was sold ex ship, at 28s. in bond, since which the same price was freely offered, but 29s. was generally asked and only partially obtained. Free Canada and United States flour brought steady prices, but the demand was limited. There has been a better demand for oats, and full prices obtained. Several purchases of oatmeal have been made for shipment to Ireland, and prices have advanced 1s. There has been a ready sale for foreign free barley, chiefly for Wales, at higher prices. In beans and peas there is no change.

At this day's market, which was well attended, a fair business was done in wheats, generally at the prices of this day week; but 1d. to 2d. more was got on particular kinds, which were comparatively scarce. In bonded wheat no sales were reported. There was a good demand for Canada and United States flour in quantity at 37s. 9d. to 38s. for the former, and for the latter at 38s. 6d. to 39s. free, and 28s. 6d. to 29s. in bond.

Irish oats were 1s. dearer, and oatmeal 1s. 6d. to 2s., but the advanced rates checked the demand. A considerable quantity of Archangel oats were sold at 4s. 3d. to 4s. 4d. On barley an advance of 2d. was got, and other articles brought full prices. The weather to-day is cloudy, but dry and warm.—[Report of July 21st.

LONDON TRADE REPORT, July 24.—The public sales of produce to-day have been extremely small, and scarcely a shade of variation can be noticed in any article of produce. The Tea trade continues to wear a buoyant appearance. Both Company's Congous and Free Trade Teas may be quoted a shade higher than they were at the commencement of the week.

TRADE AND INDUSTRY.—The intelligence from the great seats of the manufacturing industry, is without exception discouraging. The apprehension about the harvest has added to the previously existing causes of depression, and purchases are made only on a scale to meet the most urgent wants of the consumers. For the last two months the statements made by the Manchester manufacturers have represented a progressive decline in prices.—The high price of the necessaries of life precludes the great majority of the laboring classes from purchasing clothes, and, in addition to the tremendous reaction from the United States, the home demand is a rapidly decreasing quantity.

AGRICULTURE.—The accounts from the hop districts generally are by no means favourable. The cold nights have been very prejudicial to the plants, but about Maidstone appearances are more favorable than elsewhere, and the plants look as healthy there as last year. Vermin are much complained of, and in some places the burr has appeared. In Sussex the complaints are serious, and the vines are said to be beyond recovery, being both foul and short in quantity. It is remarkable that the district about Maidstone is so far better than elsewhere, that within three miles round the place it is calculated one third of the duty this year will be levied. Of the prospect of the harvest generally accounts are very varied, in some places flattering, in others the reverse. Oats are cut in Kent. The appearance of the wheat in France is superb, and harvest has begun. The price of bread now in Paris of the first quality is 7d. one tenth for the English 4lb. loaf. The best is nearly 3d. more in London, or 10d. that will only buy a 4lb. loaf in London, will buy in Paris 5lb. 10oz. one seventh of bread of the very finest quality.

THE NORTH EASTERN BOUNDARY.—We are indebted to the attention of the Honorable the Speaker of the House of Assembly for a copy of the Report of the Exploration and Survey of the Disputed Territory, made last autumn by G. W. Featherstonhaugh, Esq. and Colonel Mudge, the Commissioners appointed by Her Majesty's Government for that purpose, and have made lengthy extracts therefrom to-day. The first is from that division of the Report which forms the "Review of the Documentary and other evidence bearing on the question of Ancient Boundaries, previously to the Treaty of 1783", concluding with the remarks upon the Commission of 1794, for ascertaining the true St. Croix. Our next extract comprises the whole of the concluding part of the Report, which embodies a recapitulation of the opinions and conclusions of the Commissioners, after an examination of the Treaties, Grants, and other documentary evidence bearing on the important subject, as well as after a personal exploration and survey of the Highlands and other points of the territory, about which the British and American Governments have hitherto been in dispute. And we must confess that it affords us much satisfaction to find that the Commissioners have, without hesitation, expressed their conscientious belief that the claims of Great Britain to the whole of the Disputed Territory are founded in justice, and are in plain accordance with the second article of the Treaty of 1783, and with the physical geography of the country. After such evidence of our title, we think our Western neighbours must cease their blustering and bravado, and withdraw their ill-founded pretensions to what, in fairness, they have no claim. We are glad to find that our government have another exploring and surveying party on the ground to make further investigations, and that the American Government have also appointed Commissioners to examine the country in dispute. Had these measures been adopted years ago, much trouble, expense and bad feeling would have been saved to both parties.

The Report, from which we have made our extracts, and the accompanying Appendix and Maps, have been left in the News Room.

FIRE AT CARLETON.—It is our melancholy duty again to commemorate the destruction of property by fire. This property consisted of three houses and a barn, the most valuable part of which belonged to George Bond, Esq., and was situated at Carleton: one of the houses having been the late residence of the worthy Alderman, but occupied, when the fire commenced, in five separate tenements. Mr. Bond has always been distinguished for the liberality with which he has dispensed the wealth which his industry has enabled him to acquire, in works of charity and mercy, and we are sorry to add, that conduct which ought to have conciliated the good will and respect of the whole community, has not had its proper influence upon the minds of some of the ignorant and malevolent, as the fire which occasioned the destruction of his property, and thus impaired the sources which afforded relief to the afflicted and succour to the needy, was the work of incendiaries. Circumstances have been disclosed which throw suspicions upon some parties as the perpetrators of this diabolical act; but as these have not justified the commitment or even the arrest of the suspected individuals, we forbear to mention their names. It appears, however, that the fire commenced about 3 o'clock on Wednesday morning, and spread so rapidly, that in less than two hours, a house just finished, a second, the late residence of our worthy friend, and another dwelling (owned by Mr. J. Irwin,) and a barn, were completely consumed, although the most laudable efforts were made to extinguish the flames. Six or seven families have thus been deprived of their places of abode, and many of them, we understand, of a considerable part of their household furniture. We recommend the case of these parties to the consideration of the benevolent and humane; and we hope that their sympathies will not be excited in vain, but that some substantial relief will be immediately afforded to the sufferers.—*Morning News.*

It may be proper to remark, that although there can be no doubt that the fire did not originate in accident, yet there is not the slightest reason to suppose that the party who committed the diabolical deed, owed Alderman Bond or any member of his family any ill will; but, on the contrary, it is believed that other objects were contemplated, which, we trust, will be brought to light, upon a proper investigation by the City authorities.

The splendid new building, which was rented at £120 per annum, would have been finished in about thirty days, at which time the owner, with his usual prudence, would have effected insurance upon it.

We understand that Major BROOKES, of the 69th Regiment, prior to his departure from this City for Britain, addressed a very complimentary note to Lieutenant Colonel B. L. PETERS, of the 1st Battalion City Militia, accompanied with the present of a Sword and Belt, as a mark of his respect and esteem for the military prowess and gentlemanly character of the zealous Colonel.

COMMISSARIAT CHANGES.—Deputy Commissary General Hewitson, who recently returned from London, having resumed the charge of the Commissariat Department at Halifax; Assistant Commissary General W. H. Robinson, who has been in charge during Mr. Hewitson's absence, has been transferred to the head of the Department in this Province,—to reside at Fredericton. Assistant Commissary General Goldsmith will still continue in charge at Saint John.

Wild Flowers of Nova-Scotia.—We have before us an elegant work with the above title, by Miss Maria Morris, of Halifax. The wild flowers of these Provinces have been collected and elegantly drawn from nature at full size by this accomplished young lady, who has commenced the publication of a series of engravings of these beautiful natural objects in a style becoming their beauty. It is pleasing to observe the progress of the fine arts in this and our sister Province, and Miss Morris has added greatly to the advancement of this pleasing study and natural science. Every lover of our native flowers will consider the work extremely interesting.

BALLOON ASCENSION.—A few minutes after five o'clock on Monday afternoon, Mr. Lauriat commenced a grand ascension from the Barrack Square, with his splendid Balloon "*Star of the East.*" The evening was unusually clear, with a gentle breeze from the South-West, and the weather in every respect most propitious for the novel spectacle. The Parade Ground and most of the eminences from which a view of the Balloon and its appendages could be obtained, were thronged with anxious spectators. Mr. L. frequently bowed and waved his hat from his fragile car, in acknowledging the plaudits of the gratified crowds. The Balloon took a northerly direction for a short time, and afterwards changed its course more to the eastward. It was in sight from town for nearly an hour, and the intrepid Aeronaut effected a safe landing in a field on Mr. VanHorne's farm, on the Quaco road, twenty-one miles from the City, in an hour and a quarter from the time of starting.—We understand that 7300 feet was the highest altitude which was gained, and that, when at that height, the Thermometer, which was at 70 at starting, had fallen to 53.

We are glad to find, that as the amount received for tickets of admission to witness the process of inflating the Balloon, and the making the other necessary preparations, fell far short of defraying Mr. Lauriat's expenses, a subscription was set on foot and about $100 contributed in a short time.—Mr. L. returned to Boston in the steamer *North America* on Thursday.

COMMON COUNCIL CHAMBER,

Tuesday, August 11.

On entering the Common Council Chamber this morning, (from the Grand Jury,) we found the Board discussing a question for fixing the salary of the intended Chief Engineer. Mr. M'Lauchlan had moved that £50 per annum be the yearly salary. Mr. Coram was speaking when we entered, and concluded by moving for £100, as an amendment. After a little very desultory debate, sometimes alluding to the amount of salary, and sometimes to the probability of who might be appointed, the Board divided equally (5 and 5—Aldermen Harding and Vanhorne being absent,) on the amendment; when, on motion of Alderman Bond, the further consideration of the subject was postponed.

Previous to our entry, a communication from the St. John Water Company had been read, accepting the terms originally proposed by the Corporation. Consideration postponed.

Read, Report of Committee for logging up Guildford street, Carleton. Three tenders received; lowest tender, Jacob Vail's, £193. Report accepted, and contract with J. Vail ordered.

STEAM FERRY BOAT.—Mr. M'Lauchlan presented the Agent's account for the Steam Ferry Boat, from July 10 to August 10; shewing an expenditure for the month of £61 16s. 10½d. and receipt of £238 13s. 4½d. Balance in favour of Boat, £176 16s. 10½d.

SALARIES.—Alderman Bond mentioned that the Board were in danger of losing the Engineer and Fireman of the Ferry Steamer, as they had both had a more advantageous offer from another steamer. They were unwilling to leave the Boat; but they felt the hardship of such very close and constant confinement, being not even allowed to enter a place of Worship on a Sabbath day, and having such a low salary. As they would certainly accept this better offer, where they would have higher wages and more liberty, unless their present salary was increased, and as it would not do to have the boat left without either engineer or fireman, he would move, that £1 per month each be added to the salaries of the Engineer, the Fireman, and the Captain.

Alderman Porter moved, that the salaries of the Captain and Engineer be increased from £132 to £150 each per annum.

Alderman Bond would agree to that, but the Fireman must also have £1 per month added.

Mr. Cameron seconded the motion.

Mr. M'Lauchlan was for increasing the salary of the Engineer only.

Mr. Cameron maintained that the arduous duties and responsibility of the Captain equally entitled him to consideration with the Engineer. As a sea-captain he could always get £10 a month and be *found* too; which he was not in this boat.

Alderman Humbert thought these matters ought to be regularly referred to and brought in by a Committee.

Mr. Coram strenuously supported the motion as it stood.

Mr. Ray also supported the motion, and after a few other observations from Aldermen Bond and Humbert, and Mr. Coram, it was carried by 7 to 3; to give £150 per annum each to the Captain and Engineer, and an additional £1 per month to the Fireman.

Mr. M'Lauchlan stated, that the Agent of the Boat, Mr. Smith, had been waiting six months to know what was to be his remuneration, and moved for £75 per annum.

Supported by Alderman Porter and Bond, Messrs. Ray and Cameron; and opposed by Mr. Coram, who moved £50 as an amendment.—Amendment negatived, and the original motion agreed to.

Some desultory conversation then occured on the subject of *season tickets*, or tickets by *wholesale*, at a reduced price, for passage in the Ferry Steamer; but no specific motion was made on the subject, nor any clear result arrived at, except a desire that the Committee should report on it. Alderman Bond moved, that the Black Children from Carleton be allowed their passage free, in coming to and returning from the Negro School in St. John. Mr. Cameron seconded the motion; but Alderman Porter and Mr. Ray opposed it, as a privilege very liable to be greatly abused; and it was quashed by a motion for adjournment, which was carried.

There was another meeting of the Board on *Thursday*, the 13th; but Mr. BLATCH was too ill to attend it.

We extract from the minutes the following:—

On further consideration of the Committee from the St. John Water Company, Alderman Humbert moved,

That this Board will accept and receive all the Lands, Houses, and other properties belonging to the said St. John Water Company, so soon as the Act of Assembly, authorising the transfer thereof is complied with, upon the terms proposed by this Board to the said Water Company on the 2d ult.

Resolved in the affirmative.

Resolved, That the Committee on the question of Mr. Robertson's encroachments in rear of the Market Wharf be authorized to retain other Counsel on the subject, and to adopt such measures as may be advised to be necessary to prevent the same.

Ordered, That the sum of £3934 be assessed on the Inhabitants on the eastern side of the harbour, exclusive of those in the Burnt District as pointed out by Law; that there be allowed the Assessors 1 per cent., and to the Collector 2½ per cent.—And further ordered, That an Assess Warrant issue accordingly, to D. Jordan, D. Ansley and H. Chubb, the present Assessors of Taxes, and that T. Baldwin, the present Collector of Taxes, do collect the same.

On further consideration of the question as to the payment of the account rendered by the Commissioners for widening the streets in the Burnt District, for their services under the Act of Assembly, *Ordered*, that the said account be returned back to the Commissioners, to be rendered in the manner pointed out by the said Act.

SAINT JOHN CIRCUIT—AUGUST, 1840.

Trial of DAVIS MORRIS, *for the Murder of* JOHN WILLIAMS.

Before His Honor Judge CARTER.

This trial came on upon Wednesday last, and excited much interest, from the fact of its being the only capital charge tried in this city for a length of time past. The prisoner, who is a Welshman, about thirty years of age, was placed at the bar shortly after the opening of the Court, and a Jury was immediately called and sworn. The Solicitor General stated the facts of the case to the Jury, and read to them several passages from Roscoe's Digest of Criminal Evidence, explanatory of the shades of difference between Manslaughter and Murder. He then called James Homer, the principal witness, an uncommonly neat well-looking sailor, who, in a very clear and concise manner, gave the following testimony:—

"I belonged to the Columbus; she arrived in the harbour of St. John from Liverpool, on the 24th March last—I had been on shore; in the evening between nine and ten I went on board, and found Morris, the prisoner, quarrelling with Williams, who was sitting on his chest, in the forecastle, shaving himself; Morris said "You —— I will give you some tobacco if you want some;" Williams replied, he neither wanted him or his tobacco; Morris said Williams was a thief and a robber, and Williams was no man if he did not take it up; Williams said he was a man, but did not wish to have a row on board the ship; Williams rose from his chest, when Morris made a blow at him, which he evaded; then Williams knocked Morris down. They fought three or four rounds, and Morris was knocked down at the end of each round; Morris called Williams a robber before any blow was struck; Williams said he could prove he was not; Morris laid three or four seconds on the forecastle deck after he was knocked down the last time; Williams went to his chest and commenced shaving again; Morris rose and went forward where his bag and hammock were; he then had no knife in his hand; it was three or four paces to the bag and hammock; the pawl-bit was between; Morris called out to Williams, "You —— come forward here; I've got something for you now." I called to Williams to sit still where he was, there had been quarrelling enough; Morris called a second time, when Williams rose and went forward; directly I heard him cry out "the villain has stuck me." I run forward, and saw Morris with a knife in his hand, and I knocked it out; I picked it up and put it in my pocket; I then secured Morris with a lashing; I tied him hand and foot; I sung out for somebody to go for a doctor; Williams was down, and the blood ran freely from him. Dr. Paddock came and sewed the wound up. Mr. Whitney, the owner, directed me to take Morris to gaol, which I did. From the time Morris first cried out to Williams to come to him, until he went, was about three minutes."

On the cross-examination, Homer stated that the crew shipped in Great-Britain; that the ship arrived in port the day of the affray; that Williams and the witness had been on shore, and had each two glasses of grog; that Morris remained on board, and that rum was sent off to him—he also had taken two glasses of grog; that they were all sober; that the deceased and Morris were countrymen and generally good friends; that they had not quarrelled on the voyage out, but Williams had charged Morris with stealing tobacco out of his chest; they were men of about the same strength; thought the prisoner had had time to cool, after being knocked down; he was not in a state of frenzy; when witness went forward Morris held up his hand with the knife, but witness did not give him time to strike with it; the knife was a smaller one than sailors usually carry. [The knife was here produced and identified; it was a small white-handled clasp-knife: the blade slightly curved, with a sharp point.] On the re-examination, the witness stated that he believed there was no old quarrel or grudge between prisoner and deceased; that he thought the deceased went forward with the intention of striking a blow, but had not time; that prisoner and deceased had that day made up their minds to go to sea together again, and stick to each other.

Dr. John Paddock, being called and sworn, stated, that being sent for, he went on board the Columbus, and found the deceased with a wound in the lower part of his belly. That he had him stripped, and found an incision about an inch and a half long. That about nine inches of the intestines protruded, and the deceased bled profusely. That he replaced the intestines and sewed up the wound. That next morning the deceased was removed to the Hospital. That after death, on the 27th March, he made a *post mortem* examination, with Dr. Bayard. That he found much effused blood in the cavity of the abdomen and inflammation of the peritoreum; and that he had no doubt that the wound caused the death of Williams.—There was no second wound; the one which appeared had been made with one blow; it was low down on the left side.

Dr. Robert Bayard confirmed the testimony of Dr. Paddock, and described, minutely, the appearance of the body on the *post-mortem* examination. He had not the least doubt that the wound had caused the death of Williams, and from the position of it, he should say that it had not been given by a man standing erect.

The evidence for the prosecution here closed, Mr. Robertson Bayard, for the prisoner, then read from Roscoe's Criminal Evidence, p. 599, and cited the cases of Rex *vs.* Thomas, 7 Carrington and Payne, and Regina *vs.* Kirkham, 8 Carrington and Payne. He then called

Captain Pentreath—who stated that he was Master of the Columbus in March last. That on the voyage out, Morris, the prisoner, was very quiet, the most so in the ship's company. The deceased was not so quiet: he was of a sordid, sullen temper, and much the stronger man. The deceased had had a sickness before the voyage, which subdued him, otherwise he would have been a very mutinous hand. He refused to lay out on the topsail yard, one night, when witness was up there, and he ordered him for punishment. He kept the forecastle several days after, and reported sick. The crew were very turbulent: there were only three or four quiet ones, and the prisoner was one of the few he relied on in case of emergency.

William Mann, the Mate of the Columbus, stated, that on the voyage out, Morris was very quiet; that on one occasion he saw the deceased lift his hand against the Master; that deceased was the stronger man, and that he knew of no quarrel between him and the prisoner.

Thomas A. Glenny, the Turnkey of the Gaol, stated, that on the morning after Morris was brought to prison, he examined him, and found that both his eyes were blacked, and that he was very much bruised and beaten.

The evidence here closed; and Mr. Bayard availed himself of the recent Act, allowing Counsel to prisoners in capital cases, to address the Jury, which he did in a very excellent manner, availing himself of every possible point in the prisoner's favour—stating the various points of law with much precision and clearness, and in a manner which reflected high credit on his skill and judgment: his address was very effective.

The Solicitor General closed with a short recapitulation of the evidence, and some further observations on the law, as applied to it.

His Honor, Judge CARTER, in summing up, said, there could be no doubt that the wound given by the prisoner to the deceased caused his death, and the only question to try was, whether the offence amounted to Manslaughter or Murder. If, on consideration, it should appear to the Jury that the blow was given under the influence of strong passion, arising from the previous affray, then it would be Manslaughter. If, however, the Jury should be satisfied, beyond a doubt, that the prisoner went forward with a cool determination to provide himself with the knife and use it in a renewal of the fight, then the offence would be Murder.

The Jury, after an absence of nearly two hours, returned the prisoner GUILTY OF MANSLAUGHTER. He was immediately removed from the Bar; his sentence will probably be imprisonment and hard labour.—During the trial, the prisoner, whose appearance is not very prepossessing, appeared to suffer very much, and during the absence of the Jury, seemed to be in great agitation and trepidation.

☞ The Treasurer of the Orphan Benevolent Society begs leave to acknowledge, with thanks, a Donation of twenty shillings, from Mr. H.

At a Meeting of the *Humbert Sacred Music Society*, held on Wednesday evening last, the following persons were chosen Office Bearers for the ensuing year;—Stephen Humbert, Esq., President; Warren Y. Smith, Vice President; Robert Wetmore, Secretary; Daniel Smith, Treasurer; and Robert S. Bennison, Director.