

- Inclosure 1 in No. 2.

*Mr. Fox to Mr. Forsyth.*

*Washington, January 10, 1838.*

THE Undersigned, Her Britannic Majesty's Envoy Extraordinary, and Minister Plenipotentiary, has received the orders of his Government to make the following communication to the Secretary of State of the United States, with reference to the negotiation pending between the two Governments upon the question of the north-east Boundary.

The Undersigned is, in the first place, directed to express to Mr. Forsyth the sincere regret of Her Majesty's Government, that the long-continued endeavours of both parties to come to a settlement of this important matter have hitherto been unavailing. Her Majesty's Government feel an undiminished desire to co-operate with the Cabinet of Washington, for the attainment of an object of so much mutual interest; and they have learned, with great satisfaction, that their sentiments on this point are fully shared by the actual President of the United States.

The communications which, during the last few years, have taken place upon this subject between the two Governments, if they have not led to a solution of the questions at issue, have at least narrowed the field of future discussion.

Both Governments have agreed to consider the award of the King of the Netherlands as binding upon neither party, and the two Governments, therefore, are as free, in this respect, as they were before the reference to that Sovereign was made; the British Government, despairing of the possibility of drawing a line that shall be in literal conformity with the words of the Treaty of 1783, has suggested that a conventional line should be substituted for the line described in the Treaty, and has proposed, that, in accordance with the principles of equity, and in pursuance of the general practice of mankind in similar cases, the object of difference should be equally divided between the two differing parties, each of whom is alike convinced of the justice of his claim.

The United States Government has replied, that to such an arrangement it has no power to agree; that until the line of the Treaty shall have been otherwise determined, the State of Maine will continue to assume that the line which it claims is the true line of 1783; and will assert, that all the land up to that line is territory of Maine; that, consequently, such a division of the disputed territory as is proposed by Great Britain, would be considered by Maine as tantamount to a cession of what that State regards as part of its own territory; and that the Central Government has no power to agree to such an arrangement, without the consent of the State concerned.

Her Majesty's Government exceedingly regret that such an obstacle should exist to prevent that settlement, which, under all the circumstances of the case, appears to be the simplest, the readiest, the most satisfactory, and the most just. Nor can Her Majesty's Government admit that the objection of the State of Maine is well founded, for the principle upon which that objection rests is as good for Great Britain as it is for Maine. If Maine thinks herself entitled to contend that, until the true line described in the Treaty is determined, the Boundary claimed by Maine must be regarded as the right one; Great Britain is surely still more entitled to insist upon a similar pretension, and to assert that, until the line of the Treaty shall be established to the satisfaction of both parties, the whole of the disputed territory ought to be considered as belonging to the British Crown, because Great Britain is the original possessor, and all the territory which has not been proved to have been, by Treaty, ceded by her, must be looked upon as belonging to her still. But the very existence of such conflicting pretensions seems to point out the expediency of a compromise; and what compromise can be more fair than that which would give to each party one-half of the subject-matter in dispute?

A conventional line, different from that described in the Treaty, was agreed to, as stated by Mr. Forsyth, in his note of the 28th of April, 1835, with respect to the boundary westward from the Lake of the Woods; why should such a line