

would be to explore the disputed territory, in order to find, within its limits, dividing highlands which may answer the description of the Treaty; the search to be first made in the due north line, from the monument at the head of the Ste. Croix; and if no such highlands should be found in that meridian, the search to be then continued to the westward thereof; and Her Majesty's Government have stated their opinion, that, in order to avoid all fruitless disputes, as to the character of such highlands, the Commissioners should be instructed to look for highlands which both parties might acknowledge, as fulfilling the conditions required by the Treaty.

Mr. Forsyth in his note of the 5th of March, 1836, expresses a wish to know how the report of the Commission would, according to the views of Her Majesty's Government, be likely, when rendered, to lead to an ultimate settlement of the question of boundary between the two Governments?

In reply to this inquiry, Her Majesty's Government would beg to observe, that the proposal to appoint a Commission originated not with them, but with the Government of the United States: and that it is rather for the Government of the United States than for that of Great Britain, to answer this question.

Her Majesty's Government have themselves already stated, that they have little expectation that such a Commission could lead to any useful result; and they would on that account be disposed to object to it; and if Her Majesty's Government were now to agree to appoint such a Commission, it would be only in compliance with the desire so strongly expressed by the Government of the United States, and in spite of doubts which Her Majesty's Government still continue to entertain of the efficacy of the measure.

But with respect to the way in which the report of the Commission might be expected to lead to an ultimate settlement of the question, Her Majesty's Government in the first place, conceive that it was meant by the Government of the United States, that if the Commission should discover highlands answering to the description of the Treaty, a connecting line drawn from those highlands to the head of the St. Croix should be deemed to be a portion of the boundary line between the two countries. But Her Majesty's Government would further beg to refer Mr. Forsyth to the notes of Mr. Maclane of 5th June, 1833, and of the 11th and 28th of March, 1834, on this subject; in which it will be seen that the Government of the United States appears to have contemplated as one of the possible results of the proposed Commission of Exploration, that such additional information might possibly be obtained respecting the features of the country, in the district to which the Treaty relates, as might remove all doubt as to the impracticability of laying down a boundary in strict accordance with the letter of the Treaty.

And if the investigations of the proposed Commission should show that there is no reasonable prospect of finding a line strictly conformable with the description contained in the Treaty of 1783, the constitutional difficulties which now prevent the United States from agreeing to a conventional line, may possibly be removed, and the way may thus be prepared for the satisfactory settlement of the difference, by an equitable division of the disputed territory.

But if the two Governments should agree to the appointment of such a Commission, it would be necessary that their agreement should first be recorded in a Convention and it would obviously be indispensable that the State of Maine should be an assenting party to the arrangement.

The Undersigned avails, &c.,

(Signed)

HENRY S. FOX.

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Inclosure 2 in No. 2.

*Mr. Fox to Mr. Forsyth.*

*Washington, January 10, 1838.*

THE Undersigned, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, is directed by his Government to make the following observations to Mr. Forsyth, Secretary of State of the United States, with reference to certain points connected with the question of the north-eastern Boun-