

With regard to the proposition for the appointment of a Commission of Exploration and Survey, Mr. Fox stated that Her Majesty's Government, with little expectation that it could lead to a useful result, but, unwilling to reject the only plan left which seemed to afford a chance of making a further advance in this matter, would not withhold their consent to such a Commission, if the principle upon which it was to be formed, and the manner in which it was to proceed, could be satisfactorily settled—that of the two modes proposed in which such a Commission might be constituted, Her Majesty's Government thought the first, viz: that it might consist of Commissioners named in equal numbers by each of the two Governments, with an Umpire to be selected by some friendly European power, would be the best; but suggested that it might be better that the Umpire should be selected by the members of the Commission themselves, rather than that the two Governments should apply to a third Power to make such a choice—that the object of this Commission should be to explore the disputed territory in order to find within its limits dividing highlands which might answer the description of the Treaty—the search to be made in a north and north west line from the monument at the head of the St. Croix—and that Her Majesty's Government had given their opinion that the Commissioners should be instructed to look for highlands which both parties might acknowledge as fulfilling the conditions of the Treaty.

In answer to the inquiry how the report of the Commissioners would, according to the views of Her Majesty's Government be likely, when rendered, to lead to an ultimate settlement of the boundary question, Mr. Fox observed that, since the proposal for the appointment of a Commission originated with the Government of the United States, it was rather for that Government than the Government of Great Britain to answer this question—Her Majesty's Government had already stated they had little expectation that such a Commission could lead to any useful result, &c. ; but that Her Majesty's Government in the first place, conceived that it was meant by the Government of the United States that if the Commissioners should discover highlands answering to the description of the Treaty, a connecting line from them to the head of the St. Croix should be deemed to be a portion of the boundary between the two countries. Mr. Fox further referred the Secretary to the previous notes of Mr. McLane on the subject, in which it was contemplated as one of the possible results of the proposed Commission that such additional information might be obtained of the features of the country as might remove all doubts as to the impracticability of laying down a boundary in accordance with the letter of the Treaty. Mr. Fox said that the investigations of the Commission should show that there was no reasonable prospect of finding the line described in the Treaty of 1783, the constitutional difficulties which now prevented the United States from agreeing to a conventional line might possibly be removed, and the way be thus prepared for a satisfactory settlement of the difference by equitable division of the territory: but, he added in conclusion, if the two Governments should agree to the appointment of such a Commission, it would be necessary that their agreement should be by a Convention, and it would be obviously indispensable that the State of Maine should be an assenting party to the arrangement.

In acknowledging the receipt of Mr. Fox's communication at the Department, he was informed, 7th February, that the President experienced deep disappointment in finding that the answer just presented on the part of the British Government to the proposition made by this Government with the view of effecting the settlement of the boundary question, was so indefinite in its terms as to render it impracticable to ascertain without further discussion what were the real wishes and intentions of Her Majesty's Government, respecting the appointment of a Commission of Exploration and Survey—but that a copy of it would be transmitted to the Executive of Maine, for the purpose of ascertaining the sense of the State authorities upon the expediency of meeting the views of Her Majesty's Government, so far as they were therein developed.

Occasion was taken at the same time to explain to Mr. Fox, in answer to the suggestion in his note of the 10th of January last, that the parallel of latitude adopted as a conventional substitute for the line designated in the Treaty for the boundary westward from the Lake of the Woods, passed over territory within the exclusive jurisdiction of the General Government, without trenching upon the rights and claims of any member of the Union; and the legitimate power of the Government therefore to agree to such line was held to be perfect: but that in acceding to a conventional line for the boundary eastward from the river Connecticut it would transcend its constitutional powers, since such a measure could only be carried into effect by violating the jurisdiction of a Sovereign State, and assuming to alienate a portion of the territory claimed by such State.

In reply to the observation of Mr. Fox, that it was difficult to understand upon what ground an expectation could have been entertained that the proposition to make the St. John the boundary, would be received by Her Majesty's Government, he was informed that the suggestion had been offered as the proposition on the part of Great Britain that led to it was supposed to have been, without regard to the extent of territory lost or acquired by the respective parties,—and in the hope that the great importance of terminating this controversy by establishing a definitive and indisputable boundary, would be seen and acknowledged by the British Government, and have a correspondent weight in influencing its decision—that the suggestion in Mr. Bankhead's note of 28th December, 1835, of a part of the River St. John, as a portion of the general outline of a conventional boundary, apparently recognized the superior advantages of a river over a highland boundary—and that no difficulty was anticipated on the part of Her Majesty's Go-

## XII.

North-eastern  
Boundary.

Arrest of E. Greely.  
Fortifications.