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NORTH AMERICAN BOUNDARY.

CORRESPONDENCE

RELATING TO THE

BOUNDARY

BETWEEN THE

BRITISH POSSESSIONS IN NORTH AMERICA

AND THE

UNITED STATES OF AMERICA,

UNDER THE

TREATY OF 1783.

[IN CONTINUATION OF PAPERS PRESENTED TO PARLIAMENT IN 1840.]

Presented to both Houses of Parliament by Command of Her Majesty,
1843.

LONDON:
PRINTED BY T. R. HARRISON, ST. MARTIN'S LANE.

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LIST OF PAPERS.

PROCEEDINGS AND CORRESPONDENCE

RELATING TO

THE DISPUTED TERRITORY;

FROM

June 1840, *to October* 1841.

No. 1.

Viscount Palmerston to Mr. Fox.

Sir, *Foreign Office, June* 3, 1840.

I SEND you herewith three copies of the Report and Map presented to Her Majesty's Government by Colonel Mudge and Mr. Featherstonhaugh, the Commissioners who were employed last year to survey the Disputed Territory.

You will immediately transmit to Mr. Forsyth two copies of the Report and of the Map, saying that it is only within the last few days, that these documents have been in the hands of Her Majesty's Government; that it will, of course, be the duty of Her Majesty's Government to lay this Report before Parliament; but that Her Majesty's Government wish, as a mark of courtesy and respect towards the Government of the United States, that a document, bearing upon a question of much interest and importance to the two countries, should, in the first place, be communicated to the President. You will further state, that the British Government continues to feel an unabated desire to bring the long pending questions about the Boundary between the United States and the British possessions in North America, to a final and satisfactory settlement. Questions of this kind, while they remain open between two States, keep up irritation on both sides, and may at any time lead to events, which might endanger friendly relations.

It is obvious, that the questions still pending between the United States and the British Crown, must be beset with various and considerable inherent difficulties, or those questions would not have remained open ever since the year 1783, notwithstanding the many and earnest endeavours made by both Governments to bring them to an adjustment.

But Her Majesty's Government do not abandon the hope, that the sincere desire which is felt by those parties, to arrive at an amicable arrangement, will at length be crowned with success.

The best clue to guide the two Governments in their future proceedings, may perhaps be derived from an examination of the causes of past failure, and the most prominent among these causes has certainly been a want of information as to the topographical features and physical character of the district in dispute. This want of adequate information may be traced as one of the difficulties which embarrassed the Netherland Government in its endeavours to decide the points submitted to it in 1830.

It has been felt by the British Government, by the United States' Government, and even by the Government of the contiguous State of Maine.

The British Government and the Government of the United States agreed, therefore, two years ago, that a survey of the Disputed Territory, by a joint

commission, would be the measure best calculated to elucidate and solve the questions at issue. The President accordingly proposed such a commission, and the British Government consented to it; and it was believed by the British Government, that the general principles upon which the Commission was to be guided in its local operations, had been settled by mutual agreement, arrived at by means of a correspondence which took place between the two Governments in 1837 and 1838.

The British Government accordingly transmitted in April of last year, for the consideration of the President, the draft of a convention to regulate the proceedings of the proposed Commission.

The preamble of that draft recited textually, the agreement which had been come to, by means of notes which had been exchanged between the two Governments; and the Articles of the Draft were framed, as Her Majesty's Government considered, in strict conformity with that agreement. But the Government of the United States did not think proper to assent to the Convention so proposed. That Government did not, indeed, allege that the proposed Convention was at variance with the result of the previous correspondence between the two Governments; but it thought that Convention would establish a joint commission "of mere exploration and survey;" and the President was of opinion, that the step next to be taken by the two Governments, ought to bear upon its face stipulations which must necessarily lead to a final settlement under some form or other, and within a reasonable time. The United States' Government accordingly sent to you, for transmission to Her Majesty's Government, a counter-draft of convention, varying considerably, as Mr. Forsyth admitted, in some parts from the Draft as proposed by Her Majesty's Government. But Mr. Forsyth added, that the United States' Government did not deem it necessary to comment upon the alterations so made, as the text of the Counter-Draft would be found sufficiently perspicuous.

Her Majesty's Government certainly might have expected that some reasons would have been given to explain why the United States' Government declined to confirm an arrangement which was founded on propositions made by that Government itself, and upon modifications to which that Government had agreed; or that if the American Government thought that the Draft of Convention thus proposed to it, was not in conformity with previous agreement, it would have pointed out in what respect the two differed.

Her Majesty's Government, however, in the present state of this question, concur with the Government of the United States in thinking that it is on every account expedient that the next measure to be taken by the two Governments should contain in its details, arrangements which should necessarily lead to some final settlement; and they think that the Convention which they proposed last year to the President, instead of being framed so as to constitute a mere Commission of Exploration and Survey, did, on the contrary, contain stipulations calculated to lead to the final ascertainment of the boundary which is to be determined.

There was, however, undoubtedly, an essential difference between the British Draft and the American Counter-Draft; the British Draft contained no provision embodying the principle of arbitration. The American Counter-Draft did contain such a provision.

The British Draft contained no provision for arbitration, because the principle of arbitration had not been proposed on either side during the negotiations upon which that Draft was founded, and because, moreover, it was understood at that time that the principle of arbitration would be decidedly objected to by the United States.

But, as the United States' Government have expressed a wish to embody that principle in the proposed Convention, the British Government is perfectly willing to accede to that wish; you are therefore instructed to state to Mr. Forsyth, that Her Majesty's Government consent to the two principles which form the main foundation of the American Counter-Draft, namely: 1st., That the Commission to be appointed should be so constituted as necessarily to lead to a final settlement of the questions at issue between the two countries; and secondly, that in order to secure such a result, the Convention, by which the Commission is to be created, should contain a provision for arbitration upon points as to which the British and American Commissioners may not be able to agree.

You will at the same time say, that there are some matters of detail in the American Counter-Draft, which Her Majesty's Government could not adopt, but that you will, by a very early opportunity, receive an amended draft to be submitted to the consideration of the President; and that you will at the same time be instructed to propose to the President a local and temporary arrangement, for the purpose of preventing collisions within the limits of the Disputed Territory.

I am, &c.,
(Signed) PALMERSTON.

No. 2.

Viscount Palmerston to Mr. Fox.

Sir, *Foreign Office, June* 3, 1840.

WITH reference to my other despatch of this day, I have to state to you, that it seems desirable that no time should be lost in endeavouring to settle with the United States' Government some temporary arrangement which shall effectually prevent local collisions within the Disputed Territory, during the period which may yet elapse before the question of the Boundary shall be finally determined.

I have, accordingly, to instruct you to call the serious attention of the President to the many inconveniences which are likely to result from the present state of things in that quarter, and to say, that it is the opinion of Her Majesty's Government, that the best way of preventing the friendly relations between the United States and Great Britain from being interrupted by the indiscreet acts of local authorities, would be, to place these matters in the hands of the two Governments.

For this purpose Her Majesty's Government would propose, that an agreement, to be recorded either by a protocol or by an exchange of notes, should be come to between yourself on the part of Her Majesty's Government, and Mr. Forsyth on the part of the Government of the United States, purporting that two Commissioners should be appointed, one by each Government, who should have charge of maintaining order in the Disputed Territory, during the interval of time which may elapse before the question of Boundary shall be finally settled.

That these Commissioners, neither of whom should be a citizen of any of the States on the immediate border, nor a native of Her Majesty's North American provinces, shall employ a civil force in the capacity of constables, to consist of an equal number of British subjects and of American citizens; and that the duty of these persons shall be to protect the timber from depredation, and to arrest and expel all trespassers; that any fortifications or entrenchments which either party may have constructed within the Disputed Territory shall be demolished; and that any post which it may be necessary for the Commissioners to cause to be occupied, for the purpose of preventing trespass and plunder, shall be occupied by an equal number of British and American constables. All timber which may be found cut down by trespassers within the Disputed Territory, shall be burnt on the spot where it may be found; and all trespassers who may be met with in the act of plundering, shall be delivered over to their respective country to be dealt with according to law.

I shall send you further instructions on this matter by the same opportunity by which I shall transmit to you the Draft of a Convention for settling the Boundary.

I am, &c.,
(Signed) PALMERSTON.

No. 3.

Viscount Palmerston to Mr. Fox.

Sir, *Foreign Office, June* 30, 1840.

I NOW transmit to you the Draft of a Convention which Her Majesty's Government wish to submit to the Government of the United States, for the purpose of appointing two Commissions, the one to explore and survey the line of boundary between the British Provinces of New Brunswick and Canada and the United States, and to determine and lay down that boundary in conformity with the Treaty of 1783; the other to act as Arbitrator on matters with respect to which the first Commission may be unable to come to a decision.

Her Majesty's Government trust that this Draft will be considered a fresh proof of their earnest desire to bring this long-pending business to a just and satisfactory conclusion.

The Government of the United States, in the year 1833, made to the British Government a proposal that a Commission of Exploration should be appointed by the two Governments to search for the Highlands of the Treaty of 1783. The British Government accepted that proposal in substance, but suggested certain modifications in its details. Some of these modifications were agreed to by the Government of the United States; and Her Majesty's Government prepared a Convention, which, in its preamble, recited the agreement that had been come to by the two Governments, and in its Articles was intended to carry that agreement into effect. But when the Draft of that Convention was received at Washington, the Government of the United States seemed to have changed its views; and without assigning any specific reasons for not abiding by the agreement which had previously been come to, with respect to a proposal originating with the Cabinet of Washington, it transmitted, in reply, a Draft of Convention, differing essentially from that in which Her Majesty's Government thought they had embodied the result of the preceding negotiations.

The chief reason assigned, or rather implied, by the Government of the United States for rejecting the British Draft was, that in the present state of things, it has become inexpedient for the two Governments to take any measure on these matters which shall not contain within itself the certainty that it will lead to a final settlement. Her Majesty's Government concur in that opinion, but they think that the Draft which they proposed last year will be found, upon attentive examination, to contain arrangements which must almost necessarily have led to a final settlement. There was not, indeed, in that Draft any provision for arbitration upon points on which the Members of the Commission, and the two Governments who were to appoint them, might be unable to agree; and it may certainly be said that an arrangement is in a case of this kind the best adapted to render a final settlement certain. But one principal reason why that Draft did not contain a provision for arbitration was, that no such provision had then been proposed by the Government of the United States, and that, on the contrary, the Government of the State of Maine had distinctly resolved that it would not consent to any further arbitration.

The American Counter-Draft does contain a provision for arbitration; and Her Majesty's Government being desirous of having this question finally settled, and believing that there is little prospect of its ever being so settled without arbitration, in some shape or other, is willing to agree to adopt that principle.

The Draft now sent to be proposed to the United States' Government contains therefore a provision for establishing a Commission of Arbitration.

The American Counter-Draft seemed to Her Majesty's Government to be open to many objections, both in its principles and in its details.

Her Majesty's Government are willing to adopt the principle of arbitration, and to assent to the particular mode proposed by the President for constituting the arbitrating authority; but Her Majesty's Government do not see any advantage in carrying beyond the limits of necessity the employment and application of the arbitrating power, and the American Draft appears so to carry it.

That Draft provides, that if the joint Commission to be appointed by the two Governments shall not be able to agree as to the whole Boundary, then the determination of the whole of the Boundary is to be referred to the Commission

of Arbitration, who are to decide the entire line from the monument at the head of the St. Croix to the point where the 45th degree of north latitude strikes the St. Lawrence.

It may happen that this arbitrating Commission may be obliged to decide and determine the whole of that line, but it seems needless to assume that this will be the case; and it appears to Her Majesty's Government better that the Commission of Survey should decide finally all points on which they may agree, and that it should only be their points of difference that the Arbitrating Commission should be called upon to determine.

The American Draft proposes that each Government should make out a statement to be laid before the Commission of Arbitration.

Her Majesty's Government are of opinion that it will be much better that the documents to be laid before that Commission should be the Reports of the Commission of Survey, together with any observations which each Government may think fit to make thereupon.

The American Draft proposes that the Commission of Arbitration should be empowered to appoint surveyors to make surveys, and that the two Governments should bind themselves to adopt as conclusive the reports of these irresponsible surveyors; but such a proposal appears to Her Majesty's Government to be wholly inadmissible, and instead thereof, the Draft now sent, proposes, that any topographical information wanted by the Commission of Arbitration should be obtained through the two Governments from the Commission of Survey.

The other minor modifications of the American proposal will speak for themselves, and you will have no difficulty in explaining the reasons on which they are founded.

I must, however, particularly notice two or three passages in the American Counter-Draft which have been left out in the accompanying Draft, and which are wholly inadmissible. The first is in that part of the American Preamble, in which, by what appears to be merely a topographical description, the Contracting Parties would affirm, that the line claimed by the United States does correspond with the words of the Treaty of 1783, and that the line claimed by Great Britain does not do so.

It is scarcely to be supposed that the President could have expected that this passage could have been agreed to by the British Government.

The second passage is in the 10th article of the American Draft, by which it is proposed that Mitchell's Map should be acknowledged as a document bearing upon the question to be decided. But Mitchell's Map is well known to be full of the grossest geographical inaccuracies, and to be remarkable for extraordinary errors in the latitude and longitude of places; and as that map is not mentioned, or in any degree referred to by the Treaty of 1783, and as that Treaty is the authority now to be expounded, Her Majesty's Government cannot possibly consent to give any value whatever to a map which is entitled to no weight, either from diplomatic or scientific considerations.

The third passage is in Article XIV. of the American Counter-Draft, which seems to imply, that agents of the two Governments should accompany the Commission of Survey, for the purpose, as it is said, of giving explanations on behalf of the respective parties.

To such a proposal, Her Majesty's Government cannot possibly consent; no such agents are necessary; no such explanations are wanted. The face of the country, and the words of the Treaty, are the things to be explained, and the Commissioners are there to explain them. The proposed agents would only maintain a perpetual squabble, and convert the encampments of the Commissioners into a scene of incessant contest. Her Majesty's Government must therefore insist that no agents, either from the British Government, or the British Colonial Authorities, or from the United States' Government, or from any of the States of the Union, be permitted to accompany the Commission of Survey.

For your further information and guidance, I send you a copy of the American Counter-Draft, with some marginal notes, which will put you in possession of the opinion of Her Majesty's Government, upon the points to which those notes refer.

In the Draft now sent, it is proposed that the Commission of Survey should meet at Quebec, and begin its exploration at the head of the Connecticut. This would be the most natural, and, in many respects, the most convenient arrange-

ment; and the Commissioners would thus have the advantage of beginning their operations on Highlands which have already been acknowledged by both parties as being the Highlands of the Treaty, and as constituting a part of the Boundary between the two countries. Her Majesty's Government attach, therefore, much importance to this arrangement, and would very unwillingly consent to give it up. You will, it is to be hoped, have the less difficulty in maintaining it, because the Draft stipulates that the Commission shall be bound to survey any other part of the disputed Territory which two Commissioners on either side may wish to visit; and, therefore, the question merely is, which part of the territory the Commissioners shall begin at, and no part is to be excluded from their subsequent examination.

I am, &c.,
(Signed) PALMERSTON.

Inclosure 1 in No. 3.

Draft of Convention between Great Britain and the United States, to ascertain and determine the North-Eastern Boundary.

PREAMBLE.

WHEREAS that portion of the Boundary between the British Dominions in North America and the United States of America, described in the Treaty of Peace signed at Paris on the 3rd September, 1783, as formed by a "line drawn due north from the source of the St. Croix River to the Highlands; along the said Highlands which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River; thence down along the middle of that river, to the 45th degree of north latitude; from thence by a line due west on said latitude until it strikes the River Iroquois or Cataraguay," has not yet been ascertained or determined; and whereas the point designated in the aforesaid Treaty, as the north-west angle of Nova Scotia, and which is to be formed by the intersection of the due north line from the head of the St. Croix, with the said Highlands, has therefore not been ascertained and defined; and whereas, by the stipulations of a Convention between Great Britain and the United States of America, signed at London on the 29th of September, 1827, the points of difference which had arisen out of the proceedings of the Board of Commissioners to whom the designation and demarcation of the said portion of boundary was intrusted under the Vth Article of the Treaty signed at Ghent, on the 24th December, 1814, were referred to the arbitration of the King of the Netherlands; and whereas, the decisions and opinions given by His Netherlands Majesty thereupon, as laid down in His said Majesty's Award, signed at the Hague, on the 10th January, 1831, failed to adjust the said points of difference; and whereas, Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States, have deemed it expedient to appoint a new Commission of Exploration and Survey, for the purpose of laying down the said Boundary, in conformity with the stipulations of the aforesaid Treaty of 1783, and have moreover agreed upon certain arrangements to provide for an equitable and final decision of all points upon which the British and American members of such Commission may not be able to agree; and whereas, Her Britannic Majesty, and the President of the United States, have with this view resolved to conclude a Convention for regulating the proceedings of the said Commission, they have therefore named as their Plenipotentiaries for this purpose, that is to say:—

Her Majesty the Queen of the United Kingdom of Great Brstain and Ireland, &c., &c., &c.

And the President of the United States of America, by and with the advice and consent of the Senate thereof, &c., &c., &c.

Who, after having communicated to each other their respective Full Powers, found to be in due form, have agreed upon and concluded the following Articles:—

ARTICLE I*.

Within . . . months after the exchange of the ratifications of the present Convention, the two High Contracting Parties shall appoint a Commission to be composed in the following manner: three Commissioners shall be named by Her Britannic Majesty, and three by the President of the United States of America, by and with the advice and consent of the Senate thereof; and these six Commissioners so appointed, shall have power to appoint a secretary, and such other assistants as they shall judge necessary to enable them to execute efficiently the duties of their commission.

ARTICLE II†.

The said Commissioners shall meet in the first instance at the town of [Quebec], and shall have power to adjourn their meetings to such other place or places as they shall think fit; but before they enter upon the duties of their offices, they shall each, in the presence of all the others, make oath or affirmation, before the principal magistrate residing or acting at the said town of [Quebec], that they will impartially examine, and decide, according to the best of their skill and judgment, all points relating to their duties as Commissioners; and having done this, they shall then forthwith enter upon the discharge of their duties as hereinafter defined.

ARTICLE III.

The Commissioners so appointed shall proceed, in the first place, to the sources of the Connecticut River, and shall fix and determine that source which is described in the Treaty of 1783 as the north-westernmost head of the said river, ascertaining the latitude and longitude of the same. From thence the Commissioners shall proceed along the Highlands near the sources of the Chaudière and Penobscot, which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, marking out along those Highlands that portion of the Boundary between the United States and the British possessions which was agreed to by the joint Commission appointed by the British and American Governments under the Treaty of Ghent.

The Commissioners shall then continue to explore the said Highlands eastward, as far as the meridian of the head of the St. Croix; and from thence they shall descend, in a southerly direction, to the monument at the head of that river.

The Commissioners having thus made a general survey of the country along which the line of Boundary is to run, shall proceed to lay that Boundary down accurately on the surface of the earth, and to mark it by monuments or other landmarks.

For this purpose they shall first proceed to lay down a due north line from the monument at the head of the St. Croix, and shall trace that line accurately in a due north direction until it meets the aforesaid Highlands, which they will have traced from the head of the Connecticut River.

From the point where the said due north line, astronomically drawn from the head of the St. Croix, shall be found to meet the said Highlands, (which point shall be deemed and taken to be the north-west angle of Nova Scotia, and the latitude and longitude whereof they shall ascertain,) the Commissioners shall proceed to lay down the Boundary along the said Highlands to the north-westernmost head of the Connecticut River, running the line, in conformity with the general usage which prevails as to boundary lines in North America, in as straight a direction from point to point as the nature and features of the country will allow.

From thence the Commissioners shall mark the Boundary in such manner as may be practicable, down the middle of the bed of the Connecticut River, to the 45th parallel of north latitude, which parallel they shall ascertain by the most

* As in Article I. of the British Draft, and in the American Counte -Draft.
† As in Article II. of British Draft, and in the American Counter-Draft.

accurate observations they may be able to make, and from the point where the Connecticut River intersects the said parallel, the Commissioners shall proceed to lay down, and mark out, that line, westward, along the said parallel, until it strikes the River St. Lawrence, called in the Treaty of 1783, the Iroquois or Cataraguay.

The Commissioners shall make a Report of their proceedings, and shall prepare a Map of the Boundary Line; or of such parts thereof which they may have agreed upon; such Report and Map shall be prepared in duplicate, and shall be signed and sealed by the Commissioners; and one copy of the said Report and Map shall be transmitted to the British Government, and the other copy to the Government of the United States.

ARTICLE IV.

It shall be the duty of the Commissioners to explore and survey all such other parts of the Disputed Territory, besides those mentioned in the preceding Article, which any two of the Commissioners on either side may think it would be useful to examine, in order the better to ascertain the true Boundary intended by the Treaty of 1783; and it is understood between the Contracting Parties, that the Disputed Territory is comprised within a space, bounded on the east by a line, drawn due north from the source of the River St. Croix, as marked by the monument described in the preamble of the present Convention, and on the south, the west, and the north, by the two lines of boundary extending to the westward of the said due north line, and which were claimed, on behalf of the two High Contracting Parties, respectively, by their Commissioners, appointed under the Vth Article of the Treaty of Ghent.

ARTICLE V.

Whenever two of the three British Commissioners, and two of the three American Commissioners, shall agree upon any point or matter, the unanimous opinion and decision of those four shall be deemed and taken to be the opinion and decision of the Commission; and such opinion and decision shall be recorded, and shall be signed by the four concurring Commissioners, and shall be reported by them to the two Governments; and it is hereby agreed between the Contracting Parties, that every opinion and decision so recorded and reported by the Commission, shall be deemed final, and shall be held binding by both the High Contracting Parties.

ARTICLE VI.

Each of the High Contracting Parties shall be at liberty to lay before the Commission, for its information, copies of any official documents, or of any maps or surveys, which such Contracting Party may think calculated to throw light upon the matters which the Commission is appointed to investigate, or likely to assist the Commission in the performance of its duties. But no such maps or surveys shall be deemed by the Commissioners to be other than *ex parte* statements, furnished in order to assist the Commission in its own investigations, unless such maps and surveys shall be acknowledged and signed by two Commissioners on each side, as authentic evidence of the facts upon which they may bear.

Each of the High Contracting Parties will give to the other, copies of any documents, maps, or surveys, which such Contracting Party may so lay before the Commission.

ARTICLE VII.

If it should happen that upon any points or matters which may come under the consideration of the Commission within the scope of its duties, four of the Commissioners as aforesaid, that is to say, two on each side, should be unable to

come to an united opinion or decision, the Commissioners shall draw up, either jointly or separately, a Report or Reports, stating and explaining in detail the points on which they differ, and the grounds upon which their respective opinions have been formed.

These Reports of the Commissioners on both sides, shall be prepared in duplicate, and one original copy of each, together with copies of all documents or maps annexed thereto, shall be transmitted by the British Commissioners to the British Government, and the other copy shall be transmitted by the American Commissioners to the Government of the United States.

ARTICLE VIII.

If the two Governments should not be able, upon a review of the statements of the Commissioners, to come to an undertanding upon the points about which the Commissioners shall have so differed, such points shall, at the desire of either of the two Governments, be referred for decision to a Commission of Arbitration, consisting of three persons eminent for their scientific attainments, and not being subjects of Great Britain or citizens of the United States.

Her Britannic Majesty and the President of the United States engage to choose three friendly Sovereigns or States, each of whom shall be invited by the High Contracting Parties, to name and appoint one of the aforesaid three Commissioners; and in order to prevent unnecessary delay, the two Governments shall at once proceed to take steps for establishing this Commission of Arbitration.

ARTICLE IX.

As soon as the Members of the Commission of Arbitration shall have been named and appointed, they shall meet at [Frankfort on the Maine].

They shall, in presence of each other, be sworn, impartially, and to the best of their judgment, to examine and decide according to the evidence laid before them, all matters which may be referred to them by the Governments of Great Britain and the United States jointly.

They shall have power to adjourn from time to time, and from place to place; and to appoint a Secretary and Clerks who shall not be subjects of Great Britain, or citizens of the United States.

ARTICLE X.

The documents to be submitted to the Commission of Arbitration, by the Governments of Great Britain and of the United States, shall be the reports made to those Governments, by the Commissioners of Exploration and Survey, of the points about which those Commissioners have differed, and of the points about which they have agreed, together with any observations which either Government may choose to make upon the statements and reports of the Commissioners of Exploration and Survey, on the matters about which those Commissioners may have differed; and if the Commission of Arbitration should need any further topographical information, to enable them to decide any of the points so submitted to them, they shall apply to the two Governments, who shall thereupon direct the Commission of Exploration to supply them with such information, in order to its being transmitted by the said Governments to the Commission of Arbitration.

ARTICLE XI.

The decisions of a majority of the Commission of Arbitration shall, upon being communicated to the two Governments, signed and sealed by the Commissioners, be held by the British and American Governments to be final and binding as to the points which such decisions may determine.

ARTICLE XII.

The salaries of the said Commissioners of Exploration and Survey to be appointed according to the preceding Article I., shall be defrayed by their respective Governments; but all other expenses attending the Commission shall be defrayed in equal portions by the two High Contracting Parties.

In case of the death, resignation, absence, or disability from any cause, of any Commissioner, the Government by which he was appointed shall name a successor with the least possible delay, and each new Commissioner shall be bound to take the same oath or affirmation, and to perform the same duties as his predecessor.

ARTICLE XIII.

The salaries and all expenses of the Commission of Arbitration to be appointed according to the preceding Article VIII., shall be defrayed in equal portions by the Governments of Great Britain and of the United States, upon accounts to be rendered periodically to each Government by the said Commission.

ARTICLE XIV.

The present Convention shall be ratified, and the ratifications shall be exchanged in London within a period of [six weeks.]

In witness whereof, the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at Washington, the day of in the year of our Lord, one thousand eight hundred and forty.

Inclosure 2 in No. 3.

North-Eastern Boundary.

American Counter-Project.

PREAMBLE.

WHEREAS neither that part of the Boundary between the United States and the British dominions in North America, which is on the Highlands lying due north of the source of the River St. Croix, and designated in the Treaty of Peace between the two Powers, signed at Paris, on the 3rd of September, 1783, as the north-west angle of Nova Scotia; nor that portion of said Boundary described in said Treaty, as commencing at the said north-west angle of Nova Scotia, viz., that angle which is formed by a line drawn due north from the source of the St. Croix River to the Highlands, along the said Highlands which divide those rivers that empty themselves into the River St. Lawrence, from those

which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River; thence down along the middle of that river, to the 45° of north latitude; from thence by a line due west on said latitude, till it strikes the Iroquois or Cataraguay; nor that other portion of the said Boundary which extends from the source of the River St. Croix, directly north to the above-mentioned north-west angle of Nova Scotia, have yet been ascertained or determined; and whereas, adverse claims founded upon conflicting constructions of the said Treaty of 1783, have been set up by the respective, parties; the United States claiming as the position of the said north-west angle of Nova Scotia, a point due north of the River St. Croix, on the Highlands lying north of the River St. John, and which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, and Great Britain, claiming as the position of said north-west angle of Nova Scotia, a point on a Highland called Mars Hill, lying south of the River St. John, and dividing those waters which empty themselves into the said River St. John, from those which fall into the Atlantic Ocean; and whereas, the President of the United States of America, and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, have deemed it expedient to attempt a settlement of said Boundary in conformity with the stipulations of the aforesaid Treaty of 1783, by the appointment of a new Commission of Exploration and Survey, upon principles agreed upon between their respective Governments, with provisions for the final adjustment of the controversy, if the said Commission should unfortunately prove ineffectual; and with that view to conclude a Convention, they have named as their Plenipotentiaries for this purpose, that is to say, the President of the United States, &c., &c., and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, &c., &c.

There is no use in recording former differences and conflicting claims in a Convention which is intended to put an end to the former and reconcile the latter.

This would be to admit, in the very outset of the Convention, the whole of the American claim.

This would be, virtually and by inference, to negative the British claim.

We want now to do more than merely to attempt *a settlement.*

Who, after having communicated to each other their respective full powers, found to be in due form, have agreed upon and concluded the following Articles:—

ARTICLE I.

Within months after the exchange of the ratifications of the present Convention, the two High Contracting Parties shall appoint a Commission, to be composed in the following manner:—

Three Commissioners shall be named by the President of the United States of America, and three by Her Britannic Majesty; and these six Commissioners, so appointed, shall have power to appoint a secretary, and such other assistants as they shall judge necessary, to enable them to execute efficiently the duties of their Commission.

ARTICLE II.

(Unchanged.)

ARTICLE III.

With a view to ascertain and determine the point designated in the Treaty of 1783 as the north-west angle of Nova Scotia, the Commissioners so appointed shall proceed, in the first instance, to explore and mark out that portion of the Boundary which, under the Treaty of 1783, is to be formed by a line drawn due north from the source of St. Croix River to the Highlands which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean.

It is very desirable that the Commissioners should begin at the other end, where a portion of the Highland Boundary has already been agreed to by both Parties; and as the Commissioners must first make a general survey of the country, before they actually lay down land-marks, it seems a good economy of time to make them survey from west to east, and then land-mark back again from east to west.

In running said line, they shall commence at the point designated by the monument erected by the Commissioners of the High Contracting Parties under the Treaty of 1794, as the true source of the St. Croix River.

It would be very desirable to reverse the decision of 1794, and to get back to the western head of the St. Croix, which is the real source of the river; but that cannot now be done, consistently with past transactions and with national good faith.

ARTICLE IV.

If two out of the three Commissioners on each side shall concur in tracing, on the ground, a line which, in their united opinion, corresponds with the description contained in the Treaty of 1783, of that portion of the Boundary

This principle of constituting four out of the six a deciding majority, is good, and has been adopted.

The rest of this Article is susceptible of improvement.

between the United States and the British dominions in America which is referred to in the third Article of this Convention, they shall draw up a report to that effect in duplicate, to which report each Commissioner shall affix his signature and seal in the presence of all the others; and one original of such report shall be forwarded by the United States' Commissioners to the Government of the United States, and the other original shall be forwarded by the British Commissioners to the Government of Her Britannic Majesty.

The two High Contracting Parties formally agree to consider the report of the Commissioners so authenticated, as final upon this point, and as binding upon both Parties.

ARTICLE V.

It being the object, as it is the earnest desire, of the High Contracting Parties, to effect a just and amicable settlement of the line of Boundary in question by the direct action of the Joint Commission hereby established, or if that shall prove impracticable, to obtain authentic evidence of all material facts that are connected therewith, for the better guidance of the future action of the High Contracting Parties upon the subject, it is agreed between them as follows:—

1st. That it shall be the further duty of the said Commissioners to explore, and when it is desired, to survey, such parts of the Disputed Territory other than the line due north from the monument aforesaid, and also of the contiguous territory, as they, or the Commissioners of either party, shall deem useful in ascertaining the true boundaries of that Treaty, and to note carefully the face of the country, the position and bearing of important relative objects, and all such other facts and circumstances, as they, or either of them, may deem important to a correct decision of the points in dispute.

There does not seem to be any use in authorizing the American Commissioners to explore and survey the territory of New Brunswick.

2ndly. To collect, as far as they may be able to obtain the same, and carefully authenticate all such maps and surveys of the disputed and contiguous territory, and all official documents having relation to the premises, as will, in the opinion of the Commissioners, or of any two on either side, serve to elucidate the true intent and meaning of the parties to the Treaty of 1783, upon the points in question; and to this

This, as worded, would enable the American Commissioners to place with an authentic character, upon the records of the Commission, the erroneous maps fabricated by American surveyors.

end the High Contracting Parties agree to furnish each other with authentic copies of all maps and surveys of the disputed and contiguous territories, and also with like copies of all official documents connected with the negotiation of the said Treaty, which are to be found in the public archives of the respective Governments, and which two of the said Commissioners on either side shall believe to have a bearing upon the subject under discussion; and

This is too vague.

3rdly. That in case of a final disagreement amongst the Commissioners, in respect to the true location of that portion of the Boundary between the United States and the British possessions in America, it shall be their further duty to draw up a full report of their proceedings, under this Treaty, and to include therein a specific statement of the facts and circumstances which it is by this Article made their special duty to note, and in respect to which, two out of three of the Commissioners on each side, have found themselves able to concur in opinion.

The said report shall be drawn up in duplicate, and signed and sealed by the Commissioners agreeing to the same in the presence of all the others; and one original of said report shall be forwarded by the British Commissioners to the Government of Her Britannic Majesty, and the other original shall be forwarded by the American Commissioners to the Government of the United States.

All this is needlessly wordy.

The two High Contracting Parties formally agree to consider the report of the Commissioners, so authenticated, as conclusive, in regard to the facts therein stated, in all future discussions upon the subject.

There ought to be no future discussions about points which the Commission shall have decided; and on points about which they cannot agree, the statement of facts by the Commissioners on the two sides may differ, and, in such cases, the reports cannot be conclusive as to facts.

ARTICLE VI.

As soon as the Commissioners shall have transmitted to their respective Governments the report prescribed by the Fourth Article, they shall at once proceed to mark out and make a map of such line as they shall have agreed to consider as fulfilling the conditions of the Treaty of 1783, agreeably to

such report as they shall have transmitted to their respective Governments; and the line, so drawn, shall be deemed and taken by the two Contracting Parties to be a portion of the boundary line between the American and British territories, as intended by the Treaty of Peace of 1783.

They shall certify the accuracy of such map by a declaration to be attached to it, under their hands and seals, and shall particularize the longitude and latitude of such points in the said line as they may deem proper.

One copy of such map shall be transmitted to each Government by its own Commissioners, and both the High Contracting Parties agree to consider such map and declaration as finally and conclusively fixing the said portion of the Boundary between their respective territories.

All this has been more concisely stated in the new Draft.

ARTICLE VII.

As Article VIII. of the British Project, leaving out the words "in as straight a direction as the features of the country shall admit," and inserting after the word "Commissioners," in the second line of the second paragraph, the words "or two on each side."

There can be no good reason for leaving out these words, and they ought to stand.

ARTICLE VIII.

As Article IX. of the British Project.

ARTICLE IX.

Article X. of the British Project.

ARTICLE X.

The map called Mitchell's Map, hitherto admitted to have regulated the joint and official proceedings of the framers of the Treaty of 1783, shall be considered as evidence mutually acknowledged by the Contracting Parties as bearing upon the question to be decided.

This is quite inadmissible. Mitchell's Map is not mentioned in the Treaty of 1783, and therefore has no diplomatic authority; and it is so notoriously wrong in latitudes and longitudes, that it can have no value or authority whatever as a geographical work.

ARTICLE XI.

And in case the joint Commission authorized under the preceding Articles should not be able to concur in opinion as to the true boundaries described in the said Treaty of 1783,

it is further agreed that the designation of that part of the Boundary line between the dominions of the United States and Great Britain, which extends from the source of the River St. Croix, directly north, to the north-west angle of Nova Scotia; thence along the said Highlands which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of the Connecticut River; thence down along the middle of that river to the 45th degree of north latitude; thence by a line due west in said latitude until it strikes the River Iroquois or Cataraguay, as described in the Fifth Article of the Treaty of Ghent, shall be referred to three Commissioners, (neither of whom shall be a citizen of the United States or a subject of Great Britain,) to be severally selected by three friendly Sovereigns or States, viz.: and and , who shall be invited by the President of the United States, and Her Britannic Majesty, to assume this office. And the said Commissioners so appointed, shall be sworn impartially to examine and decide upon the matters so referred to them, according to such evidence as shall be laid before them, on the part of the United States and of Great Britain respectively. The said Commissioners shall meet at , and shall have the power to adjourn to such other place or places as they shall think fit. The said Commissioners, or a majority of them, shall, by a declaration or report under their hands and seals, decide upon the matters referred to them, and shall designate the line of Boundary in conformity with the true intent of the definitive Treaty of Peace of 1783; and both the Contracting Parties shall consider such designation as final and conclusive.

If I understand this plan of arbitration, it goes to this, that if the Joint Commission cannot ayree upon everything, they shall be wholly set aside, and a Commission of Arbitration shall be appointed to determine the whole Boundary: the Report of the Commission of Survey and Exploration being submitted as evidence *to the Commission of Arbitration.*

It seems to me that a much better plan would be to let the decisions of the Commission of Survey be final, as far as they go, to give the two Governments, in the first instance, an opportunity of coming to an agreement about points on which the Commissioners of Survey shall have differed, and to submit to the Commission of Arbitration those points only upon which the Commission of Survey, and the two Governments shall have been unable to come to an agreement: the new Draft is framed upon this scheme.

It seems objectionable to allow the two Governments to submit to the Commission of Arbitration evidence which has not been submitted to the Commission of Survey.

ARTICLE XII

It is also agreed that the proceedings of the Joint Commission of Exploration and Survey, first above authorized, so far as they are concurred in by the Commissioners of both Parties as hereinbefore provided, shall be evidence before the Commission authorized by the last preceding Article.

Why re-open these points? Such decisions of the first Commission should at once be final, and should only be communicated to the second Commission for its information.

ARTICLE XIII.

And in case the last-mentioned Commission should find the topographical evidence laid before them insufficient for the purpose of a sound and just decision, they shall have the power of ordering additional surveys to be made of any portions of the Disputed Boundary Line or Territory as they may think fit, which surveys shall be made at the joint expense of the Contracting Parties, and be held as conclusive by them.

It would be very objectionable to empower this irresponsible Commission to make surveys by surveyors of their own. No reliance could be placed on the accuracy of such surveyors, and yet the Commissioners might be led to give more weight to the faulty reports and maps made by their surveyors, than to the correct ones made by the Surveyors of the first Commission. It would, moreover, be absolutely impossible that the British Government should consent to hold such surveys as conclusive.

ARTICLE XIV.

To provide compensation for the Commissioners who may be appointed under the provisions of the Eleventh Article, the expenses of the Commission, and the compensation of an Agent on each side to make explanations in behalf of the respective parties.

Inadmissible. This would be an Agent from Maine. No Agents on either side ought to be permitted to attend the Commission of Survey. This ought to be a sine quâ non, *or we shall have the encampments of the Commission a constant field of battle.*

ARTICLE XV.

As Article XI. of the British Project.

No. 4.

Viscount Palmerston to Mr. Fox.

Sir, *Foreign Office, July* 4, 1840.

LIEUTENANT-COLONEL MUDGE and Mr. Featherstonhaugh, the Commissioners appointed last year to explore and survey the territory in dispute between Great Britain and the United States of America, having been prevented by want of time and by the advanced period of the season from completing their examination and survey of a portion of the Boundary Line claimed by the United States, and lying north of the St. John, and in the vicinity of the River St. Lawrence; and Her Majesty's Government having determined that such examination and survey should now be completed, Lieutenant Broughton, of the Royal Engineers, and Mr. James D. Featherstonhaugh, have been selected as joint surveyors for this service.

These gentlemen will go out on board the "Britannia" steamer, which sails from Liverpool for Halifax on the 4th instant; and I herewith transmit for your information a copy of the Instructions with which they have been furnished.

You will make known to the Government of the United States the objects and purposes for which these surveyors are about to be sent.

I am, &c.,
(Signed) PALMERSTON.

No. 5.

Mr. Fox to Viscount Palmerston.—(Received July 16.)

My Lord, *Washington, June* 28, 1840.

I HAD the honour to receive on the 20th instant, your Lordship's important despatch of the 3rd of this month, inclosing copies of the Report and Map which have been delivered to Her Majesty's Government by the British Commissioners employed during the last season to survey the Disputed Territory, and conveying to me, for communication to the Government of the United States, the views and intentions of Her Majesty's Government with reference to the last American proposal for the adjustment of the Boundary Question.

I have accordingly presented to the United States' Secretary of State the inclosed official note, dated the 22nd instant, framed in conformity with your Lordship's instructions; and I have received from the Secretary of State, in reply, the satisfactory and amicable communication, dated the 26th instant, which is also herewith inclosed.

These documents have not yet been laid before Congress, or officially published by the United States' Government; neither consequently have the Report and Map of the Commissioners, which accompanied my note to Mr. Forsyth. I expect, however, that the whole will be communicated by Message to Congress before its adjournment.

The mode of arbitration, offered in the last American proposal, was to refer those points upon which the British and American Surveyors should not agree, to the decision of scientific persons to be appointed by three friendly Sovereigns or States. But I have reason to believe, as was stated by me in a former despatch, that the United States' Government are prepared to consent to a reference of such disputed points to the arbitration of friendly Sovereigns or States themselves, rather than of scientific persons by them appointed, if that course shall be more acceptable to Her Majesty's Government. I would venture very urgently to recommend to your Lordship that the mode of direct arbitration by Sovereigns should be preferred.

It is true that the Sovereign arbiters would have to form their opinion upon the faith principally of reports made to them by scientific persons; but yet the final judgment would be given by Governments and Statesmen, and not by mere Professors; and this appears to me, for many obvious reasons, to be a point of great importance.

I have, &c.,
(Signed) H. S. FOX.

Inclosure 1 in No. 5.

Mr. Fox to Mr. Forsyth.

Washington, June 22, 1840.

THE Undersigned, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, has the honour to transmit to the Secretary of State of the United States, by order of his Government, the accompanying printed copies of a Report and Map which have been presented to Her Majesty's Government by Colonel Mudge and Mr Featherstonhaugh, the Commissioners employed during the last season to survey the Disputed Territory.

The Undersigned is instructed to say, that it will, of course, have become the duty of Her Majesty's Government to lay the said report and map before Parliament; but her Majesty's Government have been desirous, as a mark of courtesy and consideration towards the Government of the United States, that

documents bearing upon a question of so much interest and importance to the two countries, should, in the first instance, be communicated to the President. The documents had been officially placed in the hands of Her Majesty's Government, only a few days previously to the date of the instruction addressed to the Undersigned.

Her Majesty's Government feel an unabated desire to bring the long-pending questions connected with the boundary between the United States and the British possessions in North America, to a final and satisfactory settlement, being well aware that questions of this nature, as long as they remain open between two countries, must be the source of frequent irritation on both sides, and are liable, at any moment, to lead to events that may endanger the existence of friendly relations.

It is obvious that the questions at issue between Great Britain and the United States, must be beset with various and really existing difficulties; or else those questions would not have remained open ever since the year 1783, notwithstanding the frequent and earnest endeavours made by each Government to bring them to an adjustment. But Her Majesty's Government do not relinquish the hope, that the sincere desire which is felt by both parties to arrive at an amicable settlement, will at length be attended with success.

The best clue to guide the two Governments in their future proceedings, may perhaps be obtained by an examination of the causes of past failure; and the most prominent amongst these causes has certainly been a want of correct information as to the topographical features and physical character of the district in dispute.

This want of adequate information may be traced as one of the difficulties which embarrassed the Netherlands' Government in its endeavours to decide the points submitted to its arbitration in 1830. The same has been felt by the Government of England; it has been felt and admitted by the Government of the United States, and even by the Local Government of the contiguous State of Maine.

The British Government, and the Government of the United States, agreed, therefore, two years ago, that a survey of the disputed territory by a joint Commission would be the measure best calculated to elucidate and solve the questions at issue. The President proposed such a Commission, and Her Majesty's Government consented to it; and it was believed by Her Majesty's Government that the general principles upon which the Commission was to be guided in its local operations, had been settled by mutual agreement, arrived at by means of a correspondence which took place between the two Governments in 1837 and 1838. Her Majesty's Government accordingly transmitted, in April of last year, for the consideration of the President, the Draft of a Convention to regulate the proceedings of the proposed Commission. The preamble of that Draft recited textually the agreement that had been come to by means of Notes which had been exchanged between the two Governments; and the articles of the Draft were framed, as Her Majesty's Government considered, in strict conformity with that agreement.

But the Government of the United States did not think proper to assent to the Convention so proposed.

The United States' Government did not indeed allege that the proposed Convention was at variance with the result of the previous correspondence between the two Governments; but it thought that the Convention would establish a Commission of "mere Exploration and Survey;" and the President was of opinion that the step next to be taken by the two Governments should be to contract stipulations bearing upon the face of them the promise of a final settlement, under some form or other, and within a reasonable time.

The United States' Government accordingly transmitted to the Undersigned, for communication to Her Majesty's Government, in the month of July last, a Counter-Draft of Convention, varying considerably in some parts, as the Secretary of State of the United States admitted in his letter to the Undersigned, of the 29th of July last, from the Draft proposed by Great Britain. But the Secretary of State added, that the United States' Government did not deem it necessary to comment upon the alterations so made, as the text itself of the Counter-Draft would be found sufficiently perspicuous.

Her Majesty's Government might certainly well have expected that some reasons would have been given, to explain why the United States' Government

declined to confirm an arrangement which was founded upon propositions made by that Government itself, and upon modifications to which that Government had agreed; or that, if the American Government thought the Draft of Convention thus proposed was not in conformity with the previous agreement, it would have pointed out in what respect the two were considered to differ.

Her Majesty's Government, considering the present state of the Boundary Question, concur with the Government of the United States in thinking, that it is on every account expedient that the next measure to be adopted by the two Governments should contain arrangements which will necessarily lead to a final settlement; and they think that the Convention which they proposed last year to the President, instead of being framed so as to constitute a mere Commission of Exploration and Survey, did, on the contrary, contain stipulations calculated to lead to the final ascertainment of the Boundary between the two countries.

There was, however, undoubtedly, one essential difference between the British Draft and the American Counter-Draft. The British Draft contained no provision embodying the principle of arbitration; the American Counter-Draft did contain such a provision.

The British Draft contained no provision for arbitration, because the principle of arbitration had not been proposed on either side during the negotiations upon which that Draft was founded; and because, moreover, it was understood at that time that the principle of arbitration would be decidedly objected to by the United States.

But as the United States'Government have now expressed a wish to embody the principle of arbitration in the proposed Convention, Her Majesty's Government are perfectly willing to accede to that wish.

The Undersigned is accordingly instructed to state officially to Mr. Forsyth, that Her Majesty's Govenment consent to the two principles which formed the main foundation of the American Counter-Draft; namely,—first that the Commission to be appointed shall be so constituted as necessarily to lead to a final settlement of the questions of Boundary at issue between the two countries; and, secondly, that in order to secure such a result, the Convention, by which the Commission is to be created, shall contain a provision for arbitration upon points as to which the British and American Commissioners may not be able to agree.

The Undersigned is, however, instructed to add, that there are many matters of detail in the American Counter-Draft which Her Majesty's Government cannot adopt. The Undersigned will be furnished from his Government, by an early opportunity, with an amended Draft, in conformity with the principles above stated, to be submitted to the consideration of the President. And the Undersigned expects to be at the same time furnished with instructions to propose to the Government of the United States a fresh local and temporary Convention, for the better prevention of incidental border collisions within the disputed territory during the time that may be occupied in carrying through the operations of survey or arbitration.

The Undersigned avails, &c.,

(Signed) H. S. FOX.

Inclosure 2 in No. 5.

Mr. Forsyth to Mr. Fox.

Washington, June 26, 1840.

THE Undersigned, Secretary of State of the United States, has had the honour to receive a note addressed to him on the 22nd instant, by Mr. Fox, Envoy Extraordinary and Minister Plenipotentiary of Great Britain, inclosing printed copies of the Report and Map laid before the British Government by the Commissioners employed during the last season to survey the territory in dispute between the two countries, and communicating the consent of Her Britannic Majesty's Government to the two principles which form the main

foundation of the counter-proposition of the United States for the adjustment of the question.

The Undersigned having laid Mr. Fox's note before the President, is instructed to say, in answer, that the President duly appreciates the motives of courtesy which prompted the British Government to communicate to that of the United States the documents referred to; and that he derives great satisfaction from the announcement that Her Majesty's Government do not relinquish the hope that the sincere desire which is felt by both parties to arrive at an amicable settlement will at length be attended with success; and from the prospect held out by Mr. Fox of his being accordingly furnished by an early opportunity with the draft of a proposition, amended in conformity with the principles to which Her Majesty's Government has acceded, to be submitted to the consideration of this Government.

Mr. Fox states that his Government might have expected that, when the American Counter-Draft was communicated to him, some reasons would have been given to explain why the United States Government declined accepting the British Draft of Convention, or that, if it thought the Draft was not in conformity with the previous agreement, it would have pointed out in what respect the two were considered to differ.

In the note which the Undersigned addressed to Mr. Fox on the 29th of July of last year, transmitting the American Counter-Draft, he states that, in consequence of the then recent events on the frontier, and the danger of collision between the citizens and subjects of the two Governments, a mere Commission of Exploration and Survey would be inadequate to the exigencies of the occasion, and fall behind the just expectations of the people of both countries, and referred to the importance of having the measure next adopted bear upon its face stipulations which must result in a final settlement under some form, and in a reasonable time. These were the reasons which induced the President to introduce in the new project the provisions which he thought calculated for the attainment of so desirable an object, and which, in his opinion, rendered obviously unnecessary any allusion to the previous agreements referred to by Mr. Fox. The President is gratified to find that a concurrence in those views has brought the minds of Her Majesty's Government to a similar conclusion; and from this fresh indication of harmony in the wishes of the two Cabinets, he permits himself to anticipate the most satisfactory result from the measures under consideration.

The Undersigned avails, &c.

(Signed) JOHN FORSYTH.

No. 6.

Mr. Fox to Viscount Palmerston.—(Received July 28.)

My Lord, *Washington, July* 5, 1840.

I HAVE the honour herewith to inclose a printed copy of a message from the President to Congress, transmitting the last correspondence upon the Boundary Negotiation between the United States' Secretary of State and myself, and which correspondence was forwarded to your Lordship in my despatch, of the 28th ultimo.

Although the President's message is dated the 27th of June, it was not transmitted to Congress until the Monday following, the 29th of the month, the next day after the date of my despatch of the 28th ultimo.

The message expresses, in satisfactory terms, the hope and expectation entertained by the President, of an amicable settlement of the Boundary Question; and it calls for the assistance of Congress, to enable the President to effect a new preparatory survey, by American Commissioners, of those parts of the disputed territory which are especially treated of in the report of the British Commissioners, Colonel Mudge and Mr. Featherstonhaugh. If Congress assent to this proposal, I presume that the preparatory survey, by American Commissioners, will be made, or at least, that it will be commenced, during the present season.

I have been surprised to find, that although the President refers in his

message to the contents of the Report of the British Commissioners, (two copies of which Repart, as well as of the Map, accompanied my note to the United States' Secretary of State of the 22nd ultimo,) yet neither the Report itself nor the Map have been officially communicated to Congress. It appears, from statements made by Mr. Buchanan, Chairman of the Committee of Foreign Affairs of the Senate, during two short dircussions which have taken place in the Senate subsequently to the transmission of the message, namely, on the 1st and 3rd of this month, (reports of which discussions are herewith inclosed,) that one copy of the Report and one copy of the Map have been communicated by the President, in a confidential form, to the Committee of Foreign Affairs, but not publicly to Congress. Mr. Ruggles, the opposition Senator from Maine, has moved for the official production of the Report: his motion will be discussed in the Senate to-morrow; it seems probable that it will be resisted by Mr. Buchanan and the administration party. Under these circumstances, I have not yet thought myself authorized to distribute among the members of Congress the copies of the Commissioners' Report and Map which were furnished to me for that purpose by your Lordship. Objections would be raised, perhaps technically just, against my doing so; and, moreover, it would not be prudent that I should run any risk of appearing to solicit readers for the British Report amongst the members of Congress. A desire apparently prevails with the United States Government to conceal the Report; the effect will be, to cause it to be sought after and read with great avidity when it arrives in print in the English newspapers, which I presume will happen by the next steam-packet.

I have, &c.,
H. S. FOX.

Inclosure 1 in No. 6.

President's Message to Congress.

NORTH-EASTERN BOUNDARY.

To the Senate:—

The importance of the subject to the tranquillity of our country makes it proper that I should communicate to the Senate, in addition to the information heretofore transmitted in reply to their resolution of the 17th of January last, the copy of a letter just received from Mr. Fox, announcing the determination of the British Government to consent to the principles of our last proposition for the settlement of the question of the North-Eastern Boundary, with a copy of the answer made to it by the Secretary of State. I cannot doubt that, with the sincere disposition which actuates both Governments to prevent any other than an amicable termination of the controversy, it will be found practicable so to arrange the details of a Conventional agreement on the principles alluded to as to effect that object.

The British Commissioners, in their report communicated to Mr. Fox, express an opinion, that the true line of the Treaty of 1783 is materially different from that so long contended for by Great Britain. The report is altogether *ex parte* in its character, and has not yet, as far as we are informed, been adopted by the British Government. It has, however, assumed a form sufficiently authentic and important to justify the belief, that it is to be used hereafter by the British Government in the discussion of the question of Boundary; and, as it differs essentially from the line claimed by the United States, an immediate preparatory exploration and survey on our part, by Commissioners appointed for that purpose, of the portions of the territory therein more particularly brought into view, would, in my opinion, be proper. If Congress concur with me in this view of the subject, a provision by them to enable the Executive to carry it into effect will be necessary.

M. VAN BUREN.

Washington, June 17, 1840.

Inclosure 2 in No. 6.

Discussion in the Senate on the Boundary Negotiations.

NORTH-EASTERN BOUNDARY.

THE resolution offered by Mr. Ruggles, calling on the President of the United States, if not inconsistent with the public interest, for a copy of the report and map presented to the British Government by their Commissioners for surveying the disputed territory, coming up in its order:—

Mr. Buchanan, as he must be absent from the Senate this morning, asked as an act of courtesy, that the Senator from Maine would let the resolution lie over till Monday. He proceeded to remark, that this was a subject of great delicacy; that but one copy of the report and map had been sent to this country, and that in a confidential manner, and as a mere act of courtesy, as the report had not yet been acted upon by the British Government; that to his certain knowledge, important information had been often withheld from this Government, from the apprehension that it would be made public. Under these circumstances, although the report was really no secret, Mr. B. thought it not proper to publish it. But, for the present, he wished merely that the resolution should lie over till Monday.

Mr. Ruggles said, it was not on his own account particularly that he had submitted the call for this map and report. But the President of the United States had warmly recommended a survey of the disputed territory on the part of the United States. That recommendation was ostensibly founded on the report and map in question; and Mr. Ruggles thought it due to the Senate that they should themselves see the ground on which they were called upon to act in relation to this subject.

Mr. Allen said there was a manifest impropriety in adopting this resolution, especially as the action of the Senate, even so far, on this map and report, would give them a sort of sanction which ought not to be given them, while it was known that they had not been accepted by the British Government, and no intimation had been given that they would be adhered to. Mr. Allen, therefore, moved to lay the resolution finally on the table; but on its being observed that Mr. Buchanan had left the Senate, and might wish to say something further on the subject on Monday, Mr. Allen withdrew his resolution, and the resolution was laid over till Monday.

No. 7.

Viscount Palmerston to Mr. Fox.

Sir, *Foreign Office, August* 19, 1840.

IN my despatch, of the 3rd of June last, I stated to you how desirable it seemed to be, that no time should be lost in endeavouring to settle with the Government of the United States, some temporary arrangement which should effectually prevent local collisions within the Disputed Territory, during the period which might yet elapse before the question of Boundary should be finally determined; and I instructed you to call the attention of the President to the inconveniences which were likely to result from the present state of things in that quarter, and to say that it was the opinion of Her Majesty's Government, that the best way of preventing the friendly relations between the United States and Great Britain from being interrupted by the indiscreet acts of local authorities, would be to place these matters in the hands of the two Governments; and that, for this purpose, Her Majesty's Government would propose that an agreement, to be recorded by a Protocol, or by an exchange of Notes, should

be come to between you, on the part of Her Majesty's Government, and Mr. Forsyth, on the part of the Government of the United States, purporting that two Commissioners should be appointed, one by each Government, who should have charge of maintaining order in the Disputed Territory, during the interval of time which might elapse before the question of Boundary should be finally settled.

I then pointed out the means which I considered best adapted to carry this object into effect by the employment, under the directions of the above-mentioned Commissioners, of a civil force in the capacity of constables, to consist of an equal number of British subjects and of American citizens.

With reference to that instruction, I now transmit to you a copy of a despatch marked Confidential, dated the 27th of June last, from the Governor-General of British North America, to the Secretary of State for the Colonial Department, stating his views with respect to the negotiation of a provisional agreement respecting the exercise of jurisdiction in the Disputed Territory, pending the settlement of the general question.

It appears from this despatch, that Mr. Thomson is of opinion, and his reasoning thereupon seems conclusive, that it would be much better that the force to be employed for these purposes should be composed of regular troops of the British and United States' Governments, than that the duties should be done by civil posse on either side.

I have consequently to instruct you to negotiate upon this matter with the United States' Government in accordance with the views stated in Mr. Thomson's despatch.

I am, &c.,
(Signed) PALMERSTON.

No. 8.

Mr. Fox to Viscount Palmerston.—(Received September 1.)

My Lord, *Washington, July* 30, 1840.

I HAVE had the honour to receive your Lordship's despatch of the 4th of this month, acquainting me, for communication to the Government of the United States, that Lieutenant-Colonel Mudge and Mr. Featherstonhaugh, the Commissioners appointed last year to explore and survey the Disputed Territory, having been prevented by want of time, and by the advanced period of the season, from completing their examination and survey of a portion of the Boundary Line claimed by the United States, lying north of the River St. John and in the vicinity of the River St. Lawrence; and that Her Majesty's Government having determined that such examination and survey should now be completed, Lieutenant Broughton, of the Royal Engineers, and Mr. James D. Featherstonhaugh, have been selected as joint surveyors for that service.

I have the honour herewith to inclose the copy of a letter which I have addressed to the Secretary of State of the United States, officially communicating to him the above information.

I have, &c.,
(Signed) H. S. FOX.

Inclosure in No. 8.

Mr. Fox to Mr. Forsyth.

Sir, *Washington, July* 28, 1840.

I HAVE been directed by Her Majesty's Government to acquaint you, for the information of the Government of the United States, that Lieutenant-Colonel

Mudge and Mr. G. W. Featherstonhaugh, the Commissioners appointed last year to explore and survey the territory in dispute between Great Britain and the United States, having been prevented by want of time and by the advanced period of the season, from then completing their examination and survey of a certain portion of the Boundary Line claimed by the United States lying north of the River St. John and in the vicinity of the River St. Lawrence; and Her Majesty's Government having determined that such examination and survey shall now be completed, Lieutenant Broughton of the Royal Engineers, and Mr. James D. Featherstonhaugh, have been selected as joint surveyors for that service. These gentlemen have arrived from England at Halifax, on board the steam-ship "Britannia;" and they will immediately proceed to execute the objects of their Commission.

I avail myself, &c.

(Signed) H. S. FOX.

No. 9.

Mr. Fox to Viscount Palmerston.—(Received September 1.)

My Lord, *Washington, July* 30, 1840.

IN my despatch of the 5th of this month, I had the honour to inclose a printed copy of the President's Message to Congress of the 27th of June, in which, after transmitting the last correspondence between the United States' Secretary of State and myself upon the subject of the Boundary Negotiation, and referring to the report of the British Commissioners Colonel Mudge and Mr. Featherstonhaugh, which had been communicated by me to the United States' Government, the President called upon Congress to enable the Executive to effect a new preparatory survey, by American Commissioners, of those parts of the Disputed Territory which are especially treated of in the Report of the British Commissioners.

An Act was accordingly passed by the two Houses of Congress, shortly before their adjournment on the 21st of this month, appropriating the sum of 25,000 dollars for the purpose required.

The nomination of the American Commissioners has been made without delay; and they will commence their labours early in the month of August.

I have the honour to inclose the copy of an official letter addressed to me by the Secretary of State, acquainting me with the appointment of the American Commissioners, and informing me of the mode in which it is intended they should prosecute their investigations. I likewise inclose the copy of my reply to Mr. Forsyth's letter. I transmit copies of this correspondence to his Excellency the Governor-General, and to the Lieutenant-Governor of New Brunswick.

I have, &c.,

(Signed) H. S. FOX.

Inclosure 1 in No. 9.

Mr. Forsyth to Mr. Fox.

Sir, *Department of State, Washington, July* 25, 1840.

I HAVE the honour to acquaint you for the information of the Government of Her Britannic Majesty and of the Authorities of the North American British Provinces, that the President of the United States, in accordance with the provisions of a recent Act of Congress, has appointed Mr. James Renwick, Mr. Parker Cleveland, and Captain Andrew Talcott, accompanied by a proper number of assistants, to proceed to the territory in dispute between the United States and Great Britain on the north-eastern frontier of this Republic, for the purpose of making, during the present summer, a topographical survey of various parts of

that and the adjoining regions for the use and information of the American Government. This step, it is proper to state, has been taken in consequence of the execution of a similar measure on the part of Her Majesty's Government, the results of which were lately communicated by yourself; the Commissioners above-named are instructed to meet at Portland, in the State of Maine, early in August next, and will thence proceed forthwith to the performance of the duties which have been assigned to them respectively. With a view to the prompt discharge of this service, the President has deemed it expedient to separate the Commission into three several field parties, and to direct that their operations be prosecuted simultaneously in different parts of the disputed and adjoining territory. The Commissioners will subsequently meet together at some convenient place, and make a joint report to this department of the result of their labours.

I avail myself, &c.,
(Signed) JOHN FORSYTH.

Inclosure 2 in No. 9.

Mr. Fox to Mr. Forsyth.

Sir, *Washington, July* 28, 1840.

I HAVE the honour to acknowledge the receipt of your letter of the 25th instant, in which you acquaint me, for the information of Her Majesty's Government, that, in accordance with the provisions of a recent Act of Congress, the President has appointed Mr. James Renwick, Mr. Parker Cleveland, and Captain Andrew Talcott, accompanied by other persons as assistants, to proceed to the territory in dispute between Great Britain and the United States on the north-eastern frontier of the United States, for the purpose of making during the present summer a topographical survey of various parts of that and the adjoining regions, for the use and information of the American Government.

I shall not fail duly to make known the above communication, and the information which you also convey to me of the method of proceeding which the American Commissioners are directed to adopt, both to Her Majesty's Government in England, and to Her Majesty's Colonial Authorities in North America.

I avail myself, &c.
(Signed) H. S. FOX.

No. 10.

Mr. Fox to Viscount Palmerston.—(Received September 1.)

(Extract.) *Washington, July* 30, 1840.

I HAD the honour to receive, by the Messenger Crotch, your Lordship's despatch of the 30th of June, conveying to me the Draft of a Convention prepared by Her Majesty's Government for acceptance by the Government of the United States, for the appointment of two Commissioners, the one to explore and survey the disputed Line of Boundary between the British possessions in North America and the Republic of the United States on the North-Eastern Frontier of the United States, and to lay down that Line of Boundary in conformity with the Treaty of 1783; the other, to arbitrate on those points with respect to which the first Commission may be unable to come to a decision.

I have officially transmitted the Draft of Convention to the United States' Government, and in making that communication I have addressed the inclosed note to the Secretary of State, embodying the instructions and the substance of the principal observations contained in your Lordship's despatch.

I cannot, of course, as yet pretend to say what will be the result of this just and pacific offer on the part of Her Majesty's Government.

No formal answer will probably be returned until consultation shall have been had between the President's Government and the State of Maine; possibly not until after the State of Maine shall have given its vote for the Presidential election in the beginning of next November. The position of things is undoubtedly at this moment more favourable to a satisfactory settlement of the Boundary Question, than it has been for the last few years preceding. The people of Maine, from several causes, have been made to stand aside, and to leave the Boundary negotiation in the hands of the National Government; and what is the most important, the restored tranquillity of Canada and the pacification of the Canadian Frontier, have for the present rendered the Question of the North-Eastern Boundary an isolated question, and therefore comparatively uninteresting and unimportant to the rest of the United States excepting Maine.

Although I think it probable, as is above stated, that no definite or formal answer will for some weeks, or perhaps months to come, be returned by the United States Government to the Draft of Convention now offered by Great Britain, yet I shall hope shortly to obtain, informally, some knowledge of the President's own wishes and opinions upon the subject. Congress adjourned on the 21st of this month, to meet again on the 4th of next December. The correspondence which is now passing between the two Governments will consequently not be made public in the United States until that period.

(Signed) H. S. FOX.

Inclosure in No. 10.

Mr. Fox to Mr. Forsyth.

Washington, July 28, 1840.

THE Undersigned, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, has the honour herewith, by direction of Her Majesty's Government, to convey to the Secretary of State of the United States the Draft of a Convention between the two Governments, for the appointment of two Commissions: the one, to explore and survey the line of Boundary between the British provinces of New Brunswick and Canada and the United States, and to determine and lay down that Boundary in conformity with the Treaty of 1783; the other Commission to arbitrate on those matters with respect to which the first Commission may be unable to come to a decision.

Her Majesty's Government are persuaded that the Draft of Convention now offered will be received as a fresh proof of the earnest desire of Her Majesty's Government to bring the long-pending question of disputed boundary to a just and satisfactory conclusion.

It will be recollected that the Government of the United States made a proposal to Great Britain in the year 1833, that a Commission of Survey should be appointed by the two Governments, to search for the highlands of the Treaty of 1783. Her Majesty's Government accepted that proposal in substance, but suggested certain modifications in its details. The most important of those modifications were assented to by the United States; and Her Majesty's Government prepared the Draft of a Convention, of which the preamble recited the agreement that had been come to by the two Governments, and of which the articles were so framed as in the opinion of Her Majesty's Government to secure the just execution of that agreement.

But when the Draft of Convention, so prepared, was received at Washington, the Government of the United States appeared materially to have changed its views; and, without assigning at the time any specific reason for not abiding by an agreement which had been come to with respect to a proposal first originating with itself, the Government of the United States transmitted to England in reply a Draft of Convention differing essentially from that in which the British Government thought they had embodied the result of an agreement previously negotiated.

The chief motive assigned, or rather implied at the time, by the Government of the United States for rejecting the British Draft of Convention, and which motive has since been more distinctly expressed in a recent note from the Secretary of State to the Undersigned, was, that in the actual state of things it

had become inexpedient for the two Governments to take any new measure in the negotiation of the Boundary Question which should not carry within itself the certainty of leading to a final settlement. Her Majesty's Government entirely concur in that opinion: and they think the Draft of Convention which they proposed last year will be found, upon examination, to have contained provisions which must necessarily have led to a final adjustment.

The British Draft did not, indeed, contain any provision for referring to arbitration those points whereon the members of the Commission, and the two Governments who were to appoint them, might be unable to agree; and it is undoubtedly true that such a provision is the best calculated, in questions like the present, to ensure a final settlement. But the chief cause why the British Draft of Convention did not contain a provision for the final adjustment of disputed points through the arbitration of friendly Sovereigns or States, was, that no such provision had been then definitely proposed by the Government of the United States; but that, on the contrary, it was understood that the State of Maine distinctly refused its consent to any further arbitration by a foreign Power.

The American Counter-Draft of Convention, transmitted to England in the summer of last year, contains a definite provision for arbitration; and Her Majesty's Government, earnestly desiring to see the question of Boundary finally settled, and aware that there is little prospect of its ever being so settled without the introduction, in some shape or other, of the principle of arbitration, now willingly agree to adopt that principle.

The Draft of Convention, therefore, now offered by Her Majesty's Government, contains a provision for establishing a Commission of Arbitration.

The American Counter-Draft has appeared to Her Majesty's Government, in other respects, and in many of its details, to be open to serious objections.

While Her Majesty's Government consent, as is above stated, to adopt the principle of arbitration, and are willing also to assent to the particular mode proposed by the President of the United States for constituting the arbitrating authority, Her Majesty's Government are, at the same time, of opinion that there will be no advantage in carrying beyond the limits of necessity the employment and application of the arbitrating Power.

The provisions of the American Draft appear to Her Majesty's Government to carry the application of the arbitrating Power beyond what the necessity of the case requires.

It is proposed in that Draft to stipulate, that if the Joint Commission to be appointed by the two Governments shall not be able to agree as to the whole Boundary, then the determination of the whole of the Boundary is to be referred to the Commission of Arbitration, who are to decide the entire line from the Monument at the head of the River St. Croix to the point where the 45th degree of north latitude strikes the River St. Lawrence.

Now it may happen that the arbitrating Commission may be obliged to decide and determine the whole of the line in question; in the event, that is to say, of the Commission of Survey being unable to agree upon any part of it. But it appears needless to assume that such will be the case: and Her Majesty's Government are of opinion that the preferable course will be, to provide that the Commissioners of Survey shall decide finally all points upon which they can agree; and that it shall be those points only upon which the Commission of Survey cannot agree, that the Commission of Arbitration shall be called upon to determine.

It is further proposed in the American Draft, that each Government shall make out a statement to be laid before the Commission of Arbitration. Her Majesty's Government are of opinion that it will be much better that the documents to be laid before the Commission of Arbitration shall be the Reports of the Commission of Survey, accompanied by any observations which each Government may think fit to make thereupon.

The American Draft of Convention proposes that the Commission of Arbitration shall be empowered to appoint surveyors to make surveys, and that the two Governments shall bind themselves to adopt, as conclusive, the Reports of these irresponsible surveyors. Such a proposal appears to Her Majesty's Government to be wholly inadmissible: and instead thereof, the Draft now offered provides, that any topographical information wanted by the Commission of Arbitration shall be obtained, through the two Governments, from the Commission of Survey.

The above are the most material points of detail, in which the provisions of the Draft of Convention now offered by Her Majesty's Government will be found to differ from the provisions of the Draft proposed by the Government of the United States in the summer of last year.

It is necessary, however, to notice two or three passages contained in the American Draft of last year, which have been omitted in the Draft now offered, having appeared to Her Majesty's Government altogether inadmissible.

The first is that part of the American preamble, in which, by what professes to be merely a topographical description, the Contracting Parties would, in fact, be made jointly to affirm, that the Line of Boundary claimed by the United States corresponds with the words of the Treaty of 1783, and that the Line claimed by Great Britain does not. The words referred to are these: "The United States claiming as the position of the said north-west angle of Nova Scotia, a point due north of the source of the River St. Croix, on the highlands lying north of the River St. John, and which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean; and Great Britain claiming as the position of said north-west angle of Nova Scotia, a point on a highland called Mars Hill, lying south of the River St. John, and dividing those waters which empty themselves into the River St. John from those which fall into the Atlantic Ocean." The wording of this passage of the Preamble,—of that part of the Convention, namely, which is intended to recite the points at issue without deciding them,—may, it is probable, have been adopted inadvertently; for it is not to be supposed that the Government of the United States could deliberately expect that the passage would be agreed to by the British Government.

The second passage, now omitted, occurs in the Xth Article of the American Draft, where it is proposed that Mitchell's map should be acknowledged as a document bearing upon the question of Boundary to be decided. But Mitchell's map is well known to be full of the grossest geographical faults, and to be remarkable, especially, for extraordinary errors in the latitude and longitude of places. As Mitchell's map is neither mentioned, nor in any way referred to, in the Treaty of 1783, and as that Treaty is the authority now to be expounded, Her Majesty's Government cannot consent to attribute any value to a work which is not in itself entitled to consideration, either upon diplomatic or scientific grounds.

The third is a passage in Article XIV. of the American Draft, which seems to imply that agents of the two Governments shall accompany the Commission of Survey, for the purpose, as it is said, of giving explanations on behalf of the respective parties. Her Majesty's Government cannot give its consent to such an arrangement. No such agents are necessary, and no such explanations are wanted. The face of the country, and the words of the Treaty are the things to be explained; and the Commissioners will be there to explain them. The presence of the proposed agents would only serve to maintain a perpetual quarrel, and would convert the encampments of the Commissioners into scenes of incessant conflict and debate. Her Majesty's Government, therefore, will be prepared to provide that no agent, either on the part of Great Britain or on the part of the British Colonial authorities, shall be permitted to accompany the Commission of Survey; and will require, in like manner, that the Commission of Survey shall not be accompanied by agents either from the Government of the United States, or from the State Government of Maine.

Lastly, it is provided in the Draft of Convention now offered, that the Commission of Survey shall meet at Quebec, and that it shall commence its labours of exploration at the head of the Connecticut River. This, in the opinion of Her Majesty's Government, will be the most natural, and for many reasons the most expedient arrangement. The Commissioners will thus have the advantage of beginning their operations upon highlands, which have already been acknowledged by both parties to be the highlands of the Treaty of 1783, and to constitute a part of the Boundary between the two countries. It is, however, at the same time proposed to be stipulated that the Commission shall be bound to survey any other part of the disputed territory which two Commissioners, on either side, may wish to visit; provision being thus effectually made for the successive examination, if required, of every part whatever of the Territory in dispute.

The Undersigned, &c.,

(Signed) H. S. FOX.

No. 11.

Mr. Fox to Viscount Palmerston.—(Received September 1.)

My Lord, *Washington, August* 4, 1840.

IN my despatch of the 30th ultimo I had the honour to inclose the copy of an official letter, in which I had informed the United States' Secretary of State, of the Commission entrusted to Lieutenant Broughton and Mr. James Featherstonhaugh, to make, during the present season, for the information of Her Majesty's Government, a supplementary survey of certain parts of the disputed territory lying north of the River St. John.

I have received from Mr. Forsyth the inclosed official letter in reply, in which he acquaints me that the President has communicated the information to the Executive Government of the State of Maine. I have forwarded copies of the correspondence to his Excellency the Governor-General, and to the Lieutenant-Governor of New Brunswick.

I have, &c.
(Signed) H. S. FOX.

Inclosure in No. 11.

Mr. Forsyth to Mr. Fox.

Department of State,
Sir, *Washington, August* 4, 1840.

I HAVE the honour to acknowledge the receipt of the note which you addressed to me on the 28th ultimo, by direction of Her Britannic Majesty's Government, acquainting me, for the information of that of the United States, that Lieutenant-Colonel Mudge and Mr. G. W. Featherstonhaugh, the Commissioners appointed last summer to explore and survey the territory in dispute between the United States and Great Britain, having been prevented from completing their survey and examination of a certain portion of the Boundary Line claimed by the United States, and Her Majesty's Government having determined that such examination and survey shall now be completed, Lieutenant Broughton, of the Royal Engineers, and Mr. James D. Featherstonhaugh, have been selected as joint surveyors for that service; and that these gentlemen had arrived at Halifax, and would immediately proceed to execute the objects of their commission.

I have duly submitted your communication to the President, and will, by his direction, transmit a copy of it to the Executive of the State of Maine.

I avail myself, &c.,
(Signed) JOHN FORSYTH.

No. 12.

Mr. Fox to Viscount Palmerston.—(Received September 1.)

My Lord, *Washington, August* 15, 1840.

Mr. FORSYTH invited me to a conference two days since, when he read to me the draft of an informal note, herewith inclosed, which the President had directed him to address to me, together with a second American Counter-Draft of Convention (also herewith inclosed), for the establishment of the North-Eastern Boundary Commission, in reply to the Official Note and British Draft of Convention, which I had presented to him on the 28th of last month, as I had the honour to report to your Lordship in my despatch of the 30th ultimo.

Mr. Forsyth appeared to expect, that if I approved myself of the modifications introduced into this second American Draft, I should consider myself

authorized to accept it, and to sign the Convention, without further reference to Her Majesty's Government, with the exception of the XVIth and XVIIth Articles, which he thought might be agreed to and signed as a separate or supplementary contract, *sub spe rati.*

I immediately, however, saw, that the changes and additions proposed in this new Counter-Draft were much too important to admit of such a course, even if, in my own opinion, I acquiesced in or approved of them, which most assuredly I do not.

I have, therefore, only consented to receive and to transmit this new proposal to Her Majesty's Government, and I shall await your Lordship's orders.

The principal and most objectionable alterations are those introduced in Articles II., III., IV., VII., and X., of the present Draft. The new and additional arrangement proposed in Articles XVI. and XVII., above referred to, will not perhaps be judged inadmissible, although the Articles themselves, as now worded, do not express with sufficient distinctness that which I believe to be the object aimed at by the President in proposing them.

It is in some degree satisfactory to find, that the subjects of difference between the proposals of the two Governments are now much narrowed, in comparison with what they formerly have been; and that as they relate to details, and not to principles, the hope of finally reconciling them is not precluded.

As the present American Draft, however, was not furnished to me in a complete and official form until yesterday, I have not yet had time to examine and compare all the Articles with sufficient attention. I shall forward to your Lordship a duplicate copy by the steam-packet which leaves New York on the 1st of September, and shall at the same time have the honour to address your Lordship more at large upon the subject.

I have, &c.,
(Signed) H. S. FOX.

Inclosure 1 in No. 12.

Mr. Forsyth to Mr. Fox.

Department of State,
Washington, August 13, 1840.

Sir,

IN order to facilitate the transaction of the important business committed to them,—the negotiation of a Convention of Exploration and Survey, and of Arbitration between the United States and Great Britain,—the Secretary of State, in place of a formal answer to Mr. Fox's Note of the 28th ultimo, submits to his consideration the following observations upon it, and upon the respective projects of the two Governments:—

With regard to the change of views of the President respecting the Commission of Exploration and Survey again brought forward in Mr. Fox's letter, it is not necessary to add anything to the satisfactory explanation already given, except to remind Mr. Fox of the time which elapsed between the period when the parties came to an understanding upon the subject, and that at which the British Draft of Convention was communicated,—an interval of more than twelve months. The circumstances which occurred in the meanwhile connected with the question in dispute, necessarily modified the views of both parties,—circumstances which, it is believed, would not have occurred, had measures been immediately taken by Her Majesty's Government for carrying into effect the agreement between the parties.

The points to be submitted to the Commission of Arbitration in the accompanying American Draft, will be found to be identical with those contained in the British Draft. Her Majesty's Government has mistaken the intention of the American project, which was to submit to the Arbitrators for decision merely those points on which the Commission of Exploration should have disagreed, the Vth Article providing that the facts on which four of them concurred in opinion should be held to be conclusive.

The change proposed by Her Majesty's Government that, instead of a statement to be laid before the Commission of Arbitration by each of the Contracting Parties, which is assumed to be the American proposition, the

reports of the Commission of Survey accompanied by such observations as each Government may think fit to make thereupon should be substituted, is adopted by the American Government, it being not substantially different from the proposition imputed to it.

With regard to the three passages in the American Counter-Project which Her Majesty's Government has deemed inadmissible, the Undersigned has to remark with respect to the first, that it was intended simply as a statement of what was understood in fact to be the claims of the respective parties: it was prepared certainly without any view of inducing the British Government to make any injurious admissions, or to bind her down to the line stated to be claimed by her. The American Government has no objection to the substitution of a general description of the line as proposed by Her Majesty's Government.

With regard to the second omitted passage relating to Mitchell's map, the Secretary of State does not comprehend the precise force of the objection made to the introduction of it in the Xth Article of the American Counter-Draft. In the former Treaty of Arbitration, it is acknowledged by the two Governments, that the map called Mitchell's map regulated the framers of the Treaty of 1783 in their joint and official proceedings, and is agreed to be considered by the Contracting Parties as evidence of the topography of the country. Although, therefore, Mitchell's map may be full of geographical faults, and is neither mentioned nor referred to in the Treaty of 1783, it is not perceived how Her Majesty's Government can refuse to attribute to the work any value either upon diplomatic or scientific grounds, or deny that it is a document bearing upon the question of boundary to be decided. Mr. Fox will see that the Xth Article of the American Counter-Project does not go as far as the admission of Her Majesty's Government in 1827 would authorize, but simply contains an acknowledgment, that it is a document bearing upon the question without reference to its general or particular geographical accuracy. The President of the United States, therefore, instructs the Undersigned to say, that under this view of the matter he presumes Her Majesty's Government will not refuse to admit the Xth Article as now again proposed.

The President acquiesces in the modification produced by the third omission with respect to agencies.

With regard to the place of meeting of the Commission of Survey which Mr. Fox remarks upon, the proposition in the Counter-Project of the American Government was copied from the first Draft offered by the Government of Her Britannic Majesty; and the President does not perceive that there can be any particular benefit derived from the change proposed. On the best reflection, it has been deemed better to suggest, if any change is to be made, a new place for the preparatory meeting of the Commissioners, where they shall, themselves, decide at what point of the Boundary Line they will begin. For this purpose the Draft of a new Article is submitted.

There is one omission in the British Counter-Draft of which no notice is taken in Mr. Fox's Note. It is that of the Article in the American Project which authorizes either party to seek in the records of the other for evidence as to the intentions of the framers of the Treaty of 1783. Whether this omission is inadvertent or intentional is matter of conjecture. The Article is now reintroduced with the view of ascertaining whether Her Majesty's Government will find any insuperable objection to agreeing to it, as the President considers it of great importance both as a means of reaching the truth and approving the perfect confidence of the two Governments in the justice of their respective pretensions, and of their sincere desire to ascertain the true line of boundary, by all the means within their power.

Mr. Fox will observe that there are two Additional Articles inserted in the American Draft now presented. They have been introduced with the simple view of ascertaining the possibility of terminating, in the shortest possible time, this long-protracted and vexatious dispute, in a manner that might be acceptable to all the parties interested.

The Undersigned, &c.,

(Signed) JOHN FORSYTH.

Inclosure 2 in No. 12.

Second American Counter-Draft of Convention for the establishment of North-Eastern Boundary Commissioners.

PREAMBLE.

WHEREAS that portion of the boundary between the British dominions in North America and the United States of America, described in the Treaty of Peace signed at Ghent, on the 24th of December, 1814, as extending "from the source of the River St. Croix, directly north, to the north-west angle of Nova Scotia, thence along the said highlands which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River; thence down along the middle of that river to the 45th degree of north latitude; thence by a line due west on said latitude, until it strikes the River Iroquois or Cataraguy," has not yet been determined; and whereas the point designated in the Treaty of Peace of 1783, between the two Powers, as the north-west angle of Nova Scotia, and which is to be formed by the intersection of the due north line from the head of the St. Croix with the said highlands has not been ascertained; and whereas by the stipulations of a Convention between the United States of America and Great Britain, signed at London on the 29th of September, 1827, the points of difference which had arisen out of the proceedings of the Board of Commissioners to whom the designation and demarcation of the said portion of boundary was entrusted under the Vth Article of the aforesaid Treaty of 1814, were referred to the arbitration of the King of the Netherlands; and whereas the decisions and opinions given by His Netherlands' Majesty thereupon, as laid down in His said Majesty's award, signed at the Hague, on the 10th of January, 1831, failed to adjust the said points of difference; and whereas Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States, have deemed it expedient to appoint a new Commission of Exploration and Survey, for the purpose of laying down the said boundary in conformity with the stipulations of the aforesaid Treaty of 1783, and have moreover agreed upon certain arrangements to provide for an equitable and final decision of all points upon which the British and American members of such Commission may not be able to agree; and whereas Her Britannic Majesty and the President of the United States have, with this view, resolved to conclude a Convention for regulating the proceedings of the said Commission, they have therefore named as their Plenipotentiaries for this purpose, that is to say: Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, &c., and the President of the United States of America, &c., who, after having communicated to each other their respective Full Powers, found to be in due form, have agreed upon and concluded the following Articles:—

ARTICLE I.

Within months after the exchange of the ratifications of the present Convention, the Two High Contracting Parties shall appoint a Commission, to be composed in the following manner:—Three Commissioners shall be named by Her Britannic Majesty, and three by the President of the United States of America, by and with the consent of the Senate thereof. And these Six Commissioners so appointed, shall have power to appoint a Secretary and such other assistants as they shall judge necessary to enable them to execute efficiently the duties of their Commission.

ARTICLE II.

The said Commissioners shall meet in the first instance at the City of Boston, and shall have power to adjourn their meetings to such other place or places as they shall think fit. But before they enter upon the duties of their

offices, they shall each, in the presence of all the others, make oath or affirmation, before the principal Magistrate residing, or acting, at the said city of Boston, that they will impartially examine and decide, according to the best of their skill and judgment, all points relating to their duties as Commissioners; and having done this, they shall then forthwith enter upon the discharge of their duties as hereinafter defined.

ARTICLE III.

The line of boundary having been already ascertained and agreed upon from the mouth of the St. Croix River to its source, as marked by the monument placed there by the joint Commission appointed for that purpose by the two Governments, the Commissioners to be appointed according to the preceding Article I., shall proceed to explore those portions of the boundary between the United States of America and the British Dominions in North America, which are described as extending "from the source of the River St. Croix directly north to the north-west angle of Nova Scotia, thence along the said Highlands which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River; thence down along the middle of that river to the 45th degree of north latitude; thence by a line due west on said latitude, until it strikes the River Iroquois or Cataraguy."

In the performance of the duty hereby assigned to them, they shall commence at such point to explore the several portions of said boundary, as two of the three American, and two of the three British, Commissioners shall determine; and in case of disagreement between them, then at such point as may be decided by lot.

The Commissioners, having made a general survey of the country along which the line of boundary is to run, shall proceed to lay that boundary down accurately on the surface of the earth, and to mark it by monuments and other landsmarks.

For this purpose they shall first proceed to lay down the line from the monument at the head of the St. Croix to the north-west angle of Nova Scotia; and from thence along the highlands described in the Treaty of 1783, to the north-westernmost head of Connecticut River; thence down the middle of that river to the 45th degree of north latitude; thence by a line due west on said latitude, until it strike the River Iroquois or Cataraguy.

The Commissioners shall make a report of their proceedings, and shall prepare a map of the Boundary Line, or of such parts thereof as they may have eed upon: such report and map shall be prepared in duplicate, and shall be signed and sealed by the Commissioners; and one copy of the said report and map shall be transmitted to the Government of the United States, and the other copy to the British Government.

ARTICLE IV.

It shall be the duty of the Commissioners to explore and survey all such other parts of the disputed and contiguous territory, besides those mentioned in the preceding Article, as any two of the Commissioners on either side may think it would be useful to examine, in order the better to ascertain the true boundary intended by the Treaty of 1783.

ARTICLE V.

Whenever two of the three British Commissioners and two of the three American Commissioners shall agree upon any point or matter, the unanimous opinion and decision of those Four shall be deemed and taken to be the opinion and decision of the Commission, and such opinion and decision shall be recorded, and shall be signed by the Four concurring Commissioners, and shall be reported by them to the two Governments; and it is hereby agreed between the Contracting Parties, that every opinion and decision so recorded and reported by the Commission shall be deemed final, and shall be held binding upon both the High Contracting Parties.

ARTICLE VI.

Each of the High Contracting Parties shall be at liberty to lay before the Commission, for its information, copies of any official documents, or of any maps or surveys which such Contracting Party may think calculated to throw light upon the matters which the Commission is appointed to investigate, or likely to assist the Commission in the performance of its duties. But no such maps or surveys shall be deemed by the Commissioners to be other than *ex parte* evidence, furnished in order to assist the Commission in its own investigations, unless such maps and surveys shall be acknowledged and signed by two Commisssioners on each side, as authentic evidence of the facts upon which they may bear.

Each of the High Contracting Parties will give to the other copies of any documents, maps, or surveys, which such Party may so lay before the Commission.

ARTICLE VII.

It being the object, as it is the earnest desire, of the High Contracting Parties to effect a just and amicable settlement of the line of boundary in question, by the direct action of the joint Commission hereby established; or if that shall prove impracticable, to obtain authentic evidence of all material facts that are connected therewith for the better guidance of the future action of the High Contracting Parties upon the subject, it is agreed between them that it shall be the duty of the said Commissioners to collect as far as they may be able to obtain the same, and carefully authenticate all such maps and surveys of the disputed and of the contiguous territory, and all official documents having relation to the premises, as will, in the opinion of the Commissioners, or of any two on either side, serve to elucidate the true intent and meaning of the parties to the Treaty of 1783 upon the point in question; and to this end, the High Contracting Parties further agree to furnish each other with authentic copies of all maps and surveys of the disputed and contiguous territory, and also with like copies of all official documents connected with the negotiation of the said Treaty which are to be found in the public archives of the respective Governments, and which two of the said Commissioners on either side shall believe to have a bearing upon the subject under discussion.

ARTICLE VIII.

If it should happen that upon any points or matters which may come under the consideration of the Commission within the scope of its duties, four of the Commissioners aforesaid, that is to say, two on each side, should be unable to come to an united opinion or decision, the Commissioners shall draw up, either jointly or separately, a report or reports, stating and explaining in detail the points on which they differ, and the grounds upon which their respective opinions have been formed.

The reports of the Commissioners on both sides shall be prepared in duplicate, and one original copy of each, together with copies of all documents or maps annexed thereto, shall be transmitted by the British Commissioners to the British Government, and the other copy shall be transmitted by the American Commissioners to the Government of the United States.

ARTICLE IX.

If the two Governments should not be able, upon a review of the statements of the Commissioners, to come to an understanding upon the points about which the Commissioners shall have so differed, such points shall, at the desire of either of the two Governments, be referred for decision to a Commission of Arbitration, consisting of three persons eminent for their scientific attainments, and not being citizens of the United States or subjects of Great Britain.

The President of the United States and Her Britannic Majesty engage to choose three friendly Sovereigns or States, each of whom shall be invited by the High Contracting Parties to name and appoint one of the aforesaid three Commissioners; and in order to prevent unnecessary delay, the two Governments shall at once proceed to take steps for establishing this Commission of Arbitration.

ARTICLE X.

The map called Mitchell's Map, hitherto admitted to have regulated the joint and official proceeding of the framers of the Treaty of 1783, shall be considered as evidence mutually acknowledged by the Contracting Parties as bearing upon the question to be decided.

ARTICLE XI.

As soon as the Members of the Commission of Arbitration shall have been named and appointed, they shall meet at [Frankfort on the Maine?]

They shall, in the presence of each other, be sworn, impartially, and, to the best of their judgment, to examine and decide, according to the evidence laid before them, all matters which may be referred to them by the Governments of the United States and Great Britain, jointly.

They shall have power to adjourn, from time to time, and from place to place, and to appoint a secretary and clerks, who shall not be citizens of the United States or subjects of Great Britain.

ARTICLE XII.

The documents to be submitted to the Commission of Arbitration by the Governments of the United States and of Great Britain, shall be Reports made to those Governments by the Commissioners of Exploration and Survey, of points about which those Commissioners have differed, and of the points about which they have agreed, together with any observations which either Government may choose to make upon the statements and reports of the Commissioners of Exploration and Survey on the matters about which those Commissioners may have differed; and if the Commission of Arbitration should need any further topographical information to enable them to decide any of the points so submitted to them, they shall apply to the two Governments, who shall thereupon direct the Commission of Exploration to supply them with such information, in order to its being transmitted by the said Governments to the Commission of Arbitration.

ARTICLE XIII.

The decision of a majority of the Commission of Arbitration shall, upon being communicated to the two Governments signed and sealed by the Commissioners, be held by the American and British Governments to be final and binding as to the points which such decisions may determine.

ARTICLE XIV.

The salaries of the said Commissioners of Exploration and Survey, to be appointed according to the preceding Article I., shall be defrayed by their respective Governments; but all other expences attending the Commission shall be defrayed in equal portions by the two High Contracting Parties.

In case of the death, resignation, or disability, from any cause, of any Commissioner, the Government by which he was appointed shall name a successor with the least possible delay; and each new Commissioner shall be bound to take the same oath or affirmation, and to perform the same duties as his predecessor.

ARTICLE XV.

The salaries and all expences of the Commission of Arbitration to be appointed according to the preceding Article IX., shall be defrayed in equal portions by the Governments of the United States and of Great Britain, upon accounts to be rendered periodically to each Government by the said Commission.

ARTICLE XVI.

It being possible, and, if so, highly desirable, that a Conventional Line may be agreed upon which will be satisfactory to all the parties in interest, and the necessity of a final umpirage of their conflicting claims be thereby superseded, it is with that view agreed by the immediate parties to this Convention, that it shall be at the option of the State of Maine to appoint, in such manner as her Legislature shall direct, two Commissioners who shall be associated with the Board of Commissioners of Exploration hereby established, for the purpose of making, receiving, discussing, and settling, in conjunction with the said Board, propositions for the establishment of a Conventional Line, upon the territory in dispute between the United States and Her Majesty's Colonies, but for no other purpose.

ARTICLE XVII.

It is further provided, that if the Commissioners appointed under this Convention, shall be able, in conjunction with those appointed by the State of Maine, to agree on a line upon the territory hereinbefore described, which shall be satisfactory to the Governments of the United States and Great Britain, and also to the State of Maine, and her assent to the same be given in such manner as her Legislature shall direct, at any time before a final decision is made in the matter by the Umpires hereby created, that then and in such case the Governments of the United States and Her Britannic Majesty will carry such agreement into full effect, and solemnly and finally ratify the same.

ARTICLE XVIII.

The present Convention shall be ratified, and the ratifications shall be exchanged in , within a period of .

In witness whereof, the respective Plenipotentiaries have signed the same and have affixed thereto the seals of their arms.

Done at Washington, the day of , in the year of our Lord one thousand eight hundred and forty .

No. 13.

Mr. Fox to Viscount Palmerston.—(Received September 18.)

My Lord, *Washington, August* 29, 1840.

I FORWARD by the present packet a duplicate of my despatch, of the 15th of this month, in which I had the honour to inclose the copy of a second Counter-Draft of Convention for the establishment of the North-Eastern Boundary Commissions, offered by the United States' Government in place of the British Draft of Convention transmitted to me in your Lordship's despatch, of the 30th of June; and the copy of a letter from Mr. Forsyth, dated the 13th of this month, communicating to me the said new American Counter-Draft, and containing various observations upon the points of difference between the present proposals of the two Governments.

I now further inclose the copy of a letter which I addressed to Mr. Forsyth on the 17th instant, in reply to his communication of the 13th. I have in the reply declined entering into a full discussion of the articles of the new American Draft, until they shall have been submitted to the consideration of Her Majesty's Government.

It will be seen that the present American Draft differs from the British Draft in the Preamble, and in Articles II., III., IV., VII., and X.; and that it contains two additional Articles, XVI. and XVII., embracing new matter, and providing for an entirely new object. I refer here, of course, to the Articles as numbered in the American Draft.

The new Preamble proposed by the United States' Government does not, in substance, materially differ from the Preamble of the British Draft: and it is far less objectionable than the Preamble of the former American Draft. But it begins by reciting the points at issue between the two countries from the Treaty of Ghent of 1814, instead of recurring to the original description of the Boundary in the Treaty of 1783, which original description it will be the business of the Commissioners now to be appointed to reconcile with the natural face of the country if they can. I am also surprised to find, upon referring to the Treaty of Ghent, that the text of the Vth Article of that Treaty, which the New American Preamble professes to quote, is incorrectly quoted. The text is not actually altered, but it is curtailed in such manner as to draw attention more pointedly to the north-west angle of Nova Scotia, and to lead an unwary reader to the inference, that the north-western angle of Nova Scotia, so pointed out, is a known and acknowledged position. With regard, however, to the final wording of the Preamble, if the differences now existing cannot be reconciled, it will perhaps be sufficient to adopt a still shorter and less pointed description of the Boundary in dispute, recording merely, "that the line of frontier between the two countries, according to the Treaty of 1783, has not yet been defined and ascertained to the satisfaction of both parties," or words to that effect. If, on the contrary, Her Majesty's Government do not object to the recital of the points at issue from the Treaty of Ghent, it is hardly to be supposed that the Government of the United States can find fault with having the Vth Article of that Treaty accurately and textually recited, instead of partially and cursorily.

In the IInd Article it is proposed that the Commissioners shall meet at Boston, instead of at Quebec. This change has been proposed apparently with a view to second and support a more important and objectionable change, contained in the next succeeding Article, the IIIrd, where the former proposal of beginning to mark the line of boundary from the eastern extremity, rather than from the western, is renewed. If the meeting of the Commissioners at Boston, rather than at Quebec, were insisted upon by the American Government merely as a point of etiquette, without any view of ulterior advantage, Her Majesty's Government might perhaps consent to the point being decided between the Commissioners themselves by lot.

In the IIIrd Article there is repeated, in the first paragraph, the same curtailed recital from the text of the Treaty of Ghent, which I have before had occasion to observe upon in treating of the Preamble. It is next proposed, in the second paragraph of the IIIrd Article, with regard to the point of departure to be taken by the Commissioners (namely, whether they shall commence their labours, as provided for in the IIIrd Article of the British Draft, at the head of the Connecticut River, or whether, as is desired by the United States' Government, at the source of the River St. Croix,) that this important question shall be decided by the Commissioners themselves, if a majority of two out of three on both sides can agree; and if they cannot agree, that it shall then be decided by lot. From the observations upon this point which are contained in Mr. Forsyth's letter to me of the 13th instant, as well as from what he has stated to me verbally, I am inclined to think that it will be very difficult, if not impracticable, to bring the United States' Government to a nearer approach to the British proposal than what is now offered, namely, to have the point decided by lot. It might perhaps be proposed with advantage, that the preliminary question now raised, namely, the point of departure of the Commissioners of Survey, should be decided, not by lot, but by reference to the Commissioners of Arbitration, if those Commissioners be named and selected before the Commissioners of Survey commence their labours. In whichever way the question may be decided, provision is equally made in the IVth

Article, in accordance with the IVth Article of the British Draft, that all other parts of the disputed line shall be explored which two out of the three Commissioners on either side desire. In the fourth paragraph of the IIIrd Article it is proposed, that the Commissioners "shall first proceed to lay down the line from the monument at the head of the St. Croix to the north-west angle of Nova Scotia, &c." But this can, of course, only be understood as a provision dependent upon the decision in favour of the American side, whether by lot or otherwise, of the main point already referred to in the second paragraph of the IIIrd Article.

In the IVth Article it is again proposed, that the Commissioners of Survey shall, at the option of a majority on either side, proceed to explore the territories contiguous to the disputed territory, as well as the disputed territory itself. This extension of survey appears to be entirely unnecessary, and might lead to endless continuation and adjournment of the labours of the Commission. As far, however, as I can at present judge, it does not appear likely that the United States' Government will attach much importance to retaining this part of the Article.

The VIIth Article and the Xth Article will be found to contain matter of considerable importance. Their contents are likewise referred to in Mr. Forsyth's letter to me of the 13th instant. The Xth Article renews the proposal of admitting Mitchell's map as evidence bearing upon the question of boundary to be decided. The VIIth Article proposes, amongst other things, that it shall be the duty of the Commissioners, at the option of a majority of two out of three on either side, to collect and authenticate former maps and surveys of the disputed and contiguous territory; and that the two Governments shall mutually furnish to the Commission copies of such former maps and surveys as are to be found in their respective public archives. As the same objections, or nearly so, apply to both these proposals, they may best be treated of together. I very distinctly stated to Mr. Forsyth, when he first communicated to me the new Draft of Convention, that I was certain Her Majesty's Government would under no circumstances consent to admit either Mitchell's map, or any other map or chart, the topographical accuracy of which is challenged and denied by responsible surveyors who have been upon the ground, as evidence bearing upon the question of Boundary to be decided. And I did not conceal my astonishment that, after those objections had been raised, any party should persist in desiring to force such evidence into Court. The Surveying Commissioners are themselves to go upon the ground, and to make their own map of it. Any previous map will be either superfluous evidence, or false evidence. I am sorry to find, however, that the United States' Government are likely to lay great stress upon this point, and to insist to the last upon bringing these condemned charts and maps into play. The acknowledging them as evidence appears to me altogether inadmissible. If a clause were inserted in the Convention, permitting Mitchell's and other former maps to be laid before the Commission, but stipulating that no geographical position laid down in such maps, of which the accuracy were questioned by the Commissioners on either side, should be received as evidence until jointly verified anew upon the ground by the present Commission, the mischievous effect of the introduction of the maps would certainly be in a great measure done away with, but the clause or Article so qualified would become almost nonsense.

I inquired from Mr. Forsyth, whether an Article admitting the introduction of Mitchell's Map, qualified in the above form, would be likely to meet the approbation of the United States' Government; but I did not obtain any positive answer upon the subject. The other part of the proposal, renewed in the VIIth Article,—namely, that the two Governments shall mutually communicate to the Commission such official papers and documents, connected with the negotiation of the Treaty of 1783, as may exist in their respective archives,—does not appear to be open to the same objections as the proposed stipulation for the production of maps. But upon this part of the subject I cannot presume to offer a decided opinion, not being aware of what documents are in existence on either side.

I shall have the honour, in a further despatch, to address some observations to your Lordship with reference to the XVIth and XVIIth Articles of the present American Draft, and to the new matter therein proposed, after I shall have had some additional conversation with the United States' Secretary of State

upon the subject. These new Articles contain, it will be seen, an entirely separate proposal; and if the principle of that proposal should be acceded to by Her Majesty's Government, the arrangement will probably be better carried into effect by providing for it in a separate and supplementary contract, than by embodying it in the main Convention for the establishment of the two Commissions.

I have, &c.,

(Signed(H. S. FOX.

Inclosure in No. 13.

Mr. Fox to Mr. Forsyth.

Sir, *Washington, August* 17, 1840.

I HAVE the honour to acknowledge the receipt of your letter of the 13th instant, in which you offer to my consideration certain observations upon the contents of an Official Note in relation to the Boundary Negotiation, which I had the honour to address to you on the 28th of last month, and upon the respective projects of the British and United States' Governments for the establishment of Commissions of Survey and of Arbitration with a view to the final settlement of the controversy; and in which you likewise inclose to me a new Draft of Convention proposed by the Government of the United States for the establishment of those Commissions.

I regret to find that the modifications and changes introduced in the present Draft, and the points of variance between its provisions and those of the British Draft which was inclosed in my note of the 28th ultimo, are too important to allow of my entering fully into a discussion thereof until the proposal shall have been referred to the consideration of Her Majesty's Government at home. I have lost no time in officially transmitting the documents to Her Majesty's Government.

Although I do not expect that Her Majesty's Government will acquiesce in the terms of the Convention now offered, yet it is satisfactory to find that the points of difference between the conflicting proposals are brought within a narrower compass than they have hitherto been; and that, as they relate chiefly to details, and not to principles, the hope of finally reconciling them need not be abandoned.

I avail myself, &c.

(Signed) H. S. FOX.

No. 14.

Mr. Fox to Viscount Palmerston.—(Received November 28.)

(Extract.) *Washington, October* 30, 1840.

I HAD the honour to receive last month your Lordship's despatch of the 19th of August, authorizing me, in addition to former instructions, to enter into negotiation with the United States' Government for the conclusion of a new temporary arrangement within the disputed territory, upon the basis of occupying the opposite portions of that territory, respectively, by a stipulated force of British and United States' regular troops, in preference to the employment on either side of constables and civil posses.

I had for some time previously been in correspondence with the Governor-General of North America, and in communication with the United States' Government, upon the subject of the proposed temporary arrangement as contemplated under my first instructions. I have found, on the part of the United States' Government, a marked unwillingness to proceed with this provisional negotiation at all, until such time as the principal Convention for the establishment of Commissions of Survey and of Arbitration shall have been concluded. A further motive for delay, and a more forcible one, has existed I believe in the President's reluctance to adopt or to propose any arrangement which might risk

giving offence to the people of Maine, until after the result of the Presidential election in November.

The Secretary of State, Mr. Forsyth, has been absent in Georgia for the last month. Upon his return to Washington I shall again address Mr. Forsyth, both verbally and in writing, upon the subject of the desired agreement; but I do not expect that any definite answer will be obtained until after the Presidential election, nor, perhaps, until after the conclusion of the principal Boundary Convention now under negotiation. I shall have the honour, by an ensuing packet to forward to your Lordship copies of the correspondence which has already passed between the United States' Government, the Governor-General, and myself, with reference to the present topic.

The Presidential election, which naturally now occupies the whole of public attention in this country, will be held through the different States, on various days during the first and second weeks of November. The entire result will not be known at Washington until the latter end of the month. Both Parties profess to be equally sanguine of success: the partial elections that have been recently held, and other signs and indications up to the present moment, lead me to look upon the result as altogether doubtful: it presents I believe as even a chance as any great political event that ever occurred; and this circumstance, considering the vast political and personal interests at stake, renders the contest peculiarly exciting and animated. The excitement, however, and the interest are entirely confined to the domestic politics of the Republic: the foreign affairs of the United States, and the conduct of the important public questions pending with Great Britain, are not likely to be in any degree affected by the result of the election.

No. 15.

Mr. Fox to Viscount Palmerston.—(Received January 2, 1841.)

My Lord, *Washington, December* 10, 1840.

I HAVE the honour herewith to inclose three copies of the Message from the President of the United States, which was yesterday transmitted to the Two Houses of Congress, at the opening of the annual Session.

I have, &c.,
(Signed) H. S. FOX.

Inclosure in No. 15.

Extract from the Message from the President of the United States, to the two Houses of Congress, at the commencement of the Second Session of the Twenty-sixth Congress.

A SERIES of questions of long standing, difficult in their adjustment, and important in their consequences, in which the rights of our citizens and the honour of the country were deeply involved, have, in the course of a few years, (the most of them during the successful administration of my immediate predecessor,) been brought to a satisfactory conclusion; and the most important of those remaining are, I am happy to believe, in a fair way of being speedily and satisfactorily adjusted.

With all the Powers of the world our relations are those of honourable peace. Since your adjournment, nothing serious has occurred to interrupt or threaten this desirable harmony. If clouds have lowered above the other hemisphere, they have not cast their portentous shadows upon our happy shores. Bound by no entangling alliances, yet linked by a common nature and interest with the other nations of mankind, our aspirations are for the preservation of peace, in whose solid and civilising triumphs all may participate with a generous emulation. Yet it behoves us to be prepared for any event, and to be always ready to maintain those just and enlightened principles of national intercourse, for which this Government has ever contended. In the shock of contending

empires, it is only by assuming a resolute bearing, and clothing themselves with defensive armour, that neutral nations can maintain their independent rights.

The excitement which grew out of the territorial controversy between the United States and Great Britain having in a great measure subsided, it is hoped that a favourable period is approaching for its final adjustment. Both Governments must now be convinced of the dangers with which the question is fraught; and it must be their desire, as it is their interest, that this perpetual cause of irritation should be removed as speedily as practicable. In my last annual message you were informed that the proposition for a Commission of Exploration and Survey promised by Great Britain had been received, and that a Counter-Project, including also a provision for the certain and final adjustment of the limits in dispute, was then before the British Government for its consideration. The answer of that Government, accompanied by additional propositions of its own, was received through its Minister here, since your separation. These were promptly considered; such as were deemed correct in principle, and consistent with a due regard to the just rights of the United States and of the State of Maine, concurred in; and the reasons for dissenting from the residue, with an additional suggestion on our part, communicated by the Secretary of State to Mr. Fox. That Minister, not feeling himself sufficiently instructed upon some of the points raised in the discussion, felt it to be his duty to refer the matter to his own Government for its further decision. Having now been for some time under its advisement, a speedy answer may be confidently expected. From the character of the points still in difference, and the undoubted disposition of both parties to bring the matter to an early conclusion, I look with entire confidence to a prompt and satisfactory termination of the negotiation. Three Commissioners were appointed shortly after the adjournment of Congress, under the act of the last session providing for the exploration and survey of the Line which separates the States of Maine and New Hampshire from the British Provinces; they have been actively employed until their progress was interrupted by the inclemency of the season, and will resume their labours as soon as practicable in the ensuing year.

It is understood that their respective examinations will throw new light upon the subject in controversy, and serve to remove any erroneous impressions which may have been made elsewhere prejudicial to the rights of the United States. It was, among other reasons, with a view of preventing the embarrassments which, in our peculiar system of government, impede and complicate negotiations involving the territorial rights of a State, that I thought it my duty, as you have been informed on a previous occasion, to propose to the British Government, through its Minister at Washington, that early steps should be taken to adjust the points of difference on the Line of Boundary from the entrance of Lake Superior to the most north-western point of the Lake of the Woods, by the arbitration of a friendly Power, in conformity with the VIIth Article of the Treaty of Ghent. No answer has yet been returned by the British Government to this proposition.

No. 16.

Mr. Fox to Viscount Palmerston.—(Received February 6, 1841.)

My Lord, *Washington, December* 29, 1840.

I HAVE the honour herewith to inclose copies of official communications with various correspondence annexed, which have been addressed to me by his Excellency the Governor-General of British North America, and by the Lieutenant-Governor of New Brunswick, respecting the recent movement of a small detachment of Her Majesty's troops, by order of the Governor-General, into the Madawaska Settlement, within the limits of the disputed territory.

I have also the honour to inclose the copy of a letter addressed to me a few days since upon the same subject by the Secretary of State of the United States, to which is annexed the copy of a communication from the Governor of Maine to the Lieutenant-Governor of New Brunswick.

I shall consider it most prudent to delay returning an official reply to Mr. Forsyth's letter until I am further informed which course of proceeding will be finally adopted by the Governor-General, whether to retain the detachment of Her Majesty's regular troops within the Madawaska Settlement, or to replace that detachment, according to the wish of Major-General Sir John Harvey, by an armed civil posse under the orders of the Provincial Government. In either case my reply to the United States' Government will be easy and obvious, referring them to the official declarations made on the part of Her Majesty's Government in the beginning of the present year, which declarations have not been retracted; and to the continual petty acts of encroachment persisted in by parties from the State of Maine in defiance of those declarations.

I have, &c.,
(Signed) H. S. FOX.

Inclosure 1 in No. 16.

Lord Sydenham to Mr. Fox.

Government House,
Montreal, November 23, 1840.

Sir,

I HAVE the honour to transmit herewith copies of two despatches which reached me yesterday from the Lieutenant-Governor of New Brunswick, and also one of my reply, from which you will learn that in accordance with Sir John Harvey's wish, I have taken measures for affording support to the civil authorities of the Queen, and protection to Her Majesty's subjects in the Madawaska Settlement.

I do this with a view of putting you in possession of the circumstances of this case, as well as of the proceedings which I have deemed it my duty to take, in the event of your being applied to for information in the matter; but leaving it altogether to yourself whether you consider it advisable to originate any communication to the Presidential Government.

The insult offered to the Queen's civil authorities, and the declared determination of the person in command at the Fish River to obstruct them in the exercise of their duty, afford undoubtedly the strongest grounds of complaint; but experience has shown how little effect is produced by any representation against the acts of the State Authorities, and I agree in your opinion of the inutility of mere protests. Perhaps, when it is clearly seen that we are prepared to resist further encroachments, the Government of the United States may perceive that further delay in the adjustment of the question of temporary jurisdiction, pending an arrangement for the final adjudication of the right to the territory, will not be productive of advantage.

I have, &c.,
(Signed) SYDENHAM.

Inclosure 2 in No. 16.

Sir John Harvey to Lord Sydenham.

Government House, Fredericton,
New Brunswick, November 3, 1840.

My Lord,

WITH reference to the accompanying communication, I have the honour to state that the Warden and the magistrates have been instructed to attend the proceedings, if they should take place, to warn those engaged in them of their illegality, and if persevered in, either to arrest the leaders or to report their names, and those of such as may take a prominent part, to the Attorney General, (as was done in the case of Baker and others, in 1828 and 1831,) in order to legal measures being instituted against them in the supreme courts of this province.

Although these proceedings may be, as suggested by the Warden, in some measure connected with the approaching Presidential election, yet may other and

more mischievous designs be cloaked under that plea; (such, per example, as the apparent establishment of a co-ordinate jurisdiction with Great Britain within the disputed territory;) I would therefore respectfully submit to your Lordship the necessity of a strong remonstrance, through Her Majesty's Minister at Washington to the Presidential Government, against proceedings which may have the effect of renewing border excitement, in spite of every disposition and exertion on the part of the provincial authorities to guard against it.

I have, &c.,
(Signed) J. HARVEY.

Inclosure in No. 16.

Sir John Harvey to Lord Sydenham.

Government House, Fredericton,
My Lord, *New Brunswick, November* 13, 1840.

I HASTEN to lay before your Lordship copies of a Report and its inclosure, which have this day been placed in my hands by the Warden of the Disputed Territory, and to solicit your Lordship's instructions upon the occasion of this high-handed proceeding on the part of the individual in the command of the armed party of the state of Maine stationed at Fish River.

Your Lordship is doubtless aware that the construction put by me, and, I have reason to believe, by General Scott, upon the agreement entered into between the Governor of Maine and myself, in March, 1839, was, that the Maine posse should confine itself to the occupation of the valley of the Aroostook, leaving that of the St. John to New Brunswick, each party denying the right of the other to ultimate possession. The Government and Legislature of Maine contended for a different construction, and claimed the joint right of occupation for the purpose of protecting the timber of all the disputed territory south of the St. John, above the Madawaska Settlement; and in accordance with this view, it pushed a party of its armed posse to the mouth of the Fish River, thus establishing itself, *de facto*, upon the Upper St. John. This movement was immediately and strongly protested against on my part; but it not being deemed expedient to have recourse to force for the purpose of dislodging this party, the question became immediately narrowed to the definition of the actual limits of the Madawaska Settlements. These were asserted and shown, on our part, to extend up the St. John as far as British settlements extended; and it was proved that British jurisdiction had repeatedly been exercised as far as the River St. Francis, the very individual—John Baker—who is now again taking a prominent part in the present proceedings, having been made amenable to and punished by the laws of New Brunswick, which he had audaciously violated. On the part of Maine, it was asserted that the Settlement of Madawaska does not extend beyond the Fish River on the south and the mouth of the Madawaska River on the north bank of the River St. John. Upon the true construction of the agreement I had understood that a conventional arrangement was to be entered into between the two general Governments, and I have for some time past been in the expectation of learning the result; no such information has, however, reached me, and I am consequently left in doubt as to whether the present proceedings on the part of Maine be the consequence of any such agreement, or are to be viewed as merely the assertion of its own pretensions.

If the latter, the points for consideration would appear to be, whether it may be deemed to consist with the dignity or the rights of Great Britain to rest satisfied by merely protesting against this open and forcible assumption of sovereignty by the State of Maine over a part of Her Majesty's subjects of the Madawaka Settlements, and the insult offered to one of the magistrates of this province, or by promptly moving a military force into the settlements to give confidence and protection to the Queen's subjects, and support to the civil authorities.

In the event of your Lordship's deciding upon the adoption of the latter course, I trust I may be pardoned in recommending that it may be carried into effect from the side of Canada, by means of a detachment from the Temisquata barracks, in which there is good accommodation (to the extent of 150 men) at

Simon Nibbert's, on the right or south bank of the St. John, about eighteen miles below the Fish River (the place where two companies of the 11th Regiment were posted in the winter of 1839). Encouraged by the presence of such a force, (which would look for its support to the Dégelé and the Temisquata on the one side, and the Grand Falls on the other,) the alarm of the French settlers would subside, and the magistrates would be in a position to enforce the execution of the laws. The detachment from this province at the Grand Falls could be augmented, if found necessary, from this garrison; but that is a measure which, as it might tend to create uneasiness to the officer in command of the troops at Houlton, it might be prudent to defer until the necessity should actually arise.

The Warden informs me that my letter to Major Graham, of which a copy accompanied my despatch of the 7th instant, immediately produced the intended effect.

I have, &c.,
(Signed) J. HARVEY.

Inclosure 4 in No. 16.

Sir John Harvey to Lord Sydenham.

Government House, Fredericton,
My Lord, *New Brunswick, November* 17, 1840.

SINCE addressing to your Lordship my letter of the 13th instant, I have received a document which ought to have reached me many months ago, viz., the correspondence relative to the North American Boundary Question, part I., printed for the use of the Imperial Parliament, and after a perusal, or it may be rather called a re-perusal, of that correspondence, it has occurred to me that you may feel indisposed to sanction any measure which may have the effect of reviving the outcry of "military occupation" by Great Britain of the disputed Territory, into which even the movement of a serjeant's or subaltern's guard of Her Majesty's troops might be perverted. Under this view, I would propose so far to modify my proposition as to substitute for the Queen's troops a sufficient party or posse of armed labourers or attendants, to be placed under the orders of the warden and magistrates. This description of force being strictly analogous to that employed by the State of Maine, cannot possibly be objected to by them; the objection to which it certainly is liable on our part is, that it is less amenable to control and may lead to collision, which, however, if it should occur, cannot compromise the General Governments, or constitute the ground of national dispute, as would a single act, however trifling, on the part of the smallest party of Her Majesty's troops. Moreover, great care must be used in the selection of the men to compose the posse.

I have, &c.,
(Signed) J. HARVEY.

Inclosure 5 in No. 16.

Mr. Maclauchlan to Sir John Harvey.

May it please your Excellency, *Fredericton, October* 28, 1840.

I HAVE the honour to acquaint your Excellency that on leaving the Madawaska Settlement a few days since, a report reached me of an intention, on the part of the Authorities of the State of Maine, of calling a town meeting, so termed in that settlement, either about the close of this month or the beginning of the next, for the purpose of taking votes for the election of a President for the United States.

I endeavoured to ascertain if the meeting was to be held above the Block-House occupied by the armed posse at Fish River, or between the Fish River and the Little Madawaska, as the latter, I had understood, was lately incorporated and considered as part of the county of Penobscot, State of Maine. However, this

information I was unable to obtain, and, therefore, I considered it advisable during my absence to leave directions with Mr. Wright, the magistrate, and also Mr. Tighe, the person there employed in taking the census of the Madawaska Settlement under an Act of Assembly of this province, to attend the meeting, if held between the Fish River and the Little Madawaska, and to protest against the proceedings; also noting down the names of all persons found taking an active part at the same, which, together with the result of the meeting, to be transmitted to me by express for the information of your Excellency.

I have, &c.,

(Signed) J. A. MACLAUCHLAN,

Warden of the Disputed Territory.

Inclosure 6 in No. 16.

Mr. Maclauchlan to Sir John Harvey.

Madawaska Settlement,
November 9, 1840.

May it please your Excellency,

WITH reference to my communication of the 28th ultimo, I have now the honour of transmitting, for your Excellency's information, a letter which I received on my arrival in this settlement to-day from Mr. Rice, one of Her Majesty's Justices of the Peace for the County of Carleton, giving a detailed account of the proceedings of a town meeting, so termed, held by authority of the State of Maine on the St. John, near the entrance of Fish River, and under the protection of the armed posse occupying a strong block-house at that place.

By the statement of Mr. Rice it appears, that the meeting was convened for the purpose of electing a President and Vice-President for the United States, and was held on the 2nd instant at a house adjoining the block-house of the armed posse, under the command of Captain Ryans, who on that day made publicly known the instructions which he had received from his Government, giving him the exclusive jurisdiction on the St. John's River, from its source to the entrance of the Little Madawaska. And, in order to show the power vested in him, did treat with great disrespect one of Her Majesty's peace officers, (Mr. Rice,) by removing him from the meeting on his protesting against their proceedings.

With respect to arresting the persons observed taking a prominent part at this meeting, and alluded to in a letter from your Excellency's private Secretary to me of the 3rd instant, I beg to state it as my opinion, and also that of the magistrates in the settlement, that it would be altogether useless interfering with any of them whilst under the protection of the armed posse, unless your Excellency will authorize our calling upon the military for assistance.

It affords me very great satisfaction that I am enabled to acquaint your Excellency, that none of the respectable settlers of Madawaska attended this meeting; but the persons were chiefly Americans, headed by the notorious John or General Baker, and the lowest order of Canadians who have been but a short time in the settlement, and are, generally speaking, without principle or property.

But, in order to satisfy your Excellency of the good feeling that at present exists among the inhabitants of Madawaska towards Her Majesty's person and Government, I hope shortly to forward an address from them to your Excellency, disapproving of the line of policy pursued by the Americans, and, further, calling upon your Excellency to afford them that protection which your Excellency may deem necessary for the security of their persons and property, and the maintenance of the laws they have been governed by for upwards of fifty years.

I have, &c.,

(Signed) J. A. MACLAUCHLAN,

Warden of the Disputed Territory.

Inclosure 7 in No. 16.

Mr. Rice to Mr. Machlauchlan.

Sir, *Madawaska, November* 3, 1840.

UPON my arrival from Quebec on the 20th ultimo, I was informed by Mr. Tighe, that, on the Friday previous, the Americans held what they term a town meeting, at the house of one Joseph Nedeau, next above the American block house, at the outlet of Fish River, the purpose of which was to elect town officers They accordingly did so, and have elected Barnabas Hanawell, Miles Emery and Elias Baker, Americans, to be Assessors; Elias Baker was also elected Town Clerk; and John Baker, the well-known agitator of Madawaska, Moderator for the day. A lawyer of the name of Sewell, from Bangor, opened the meeting, by making a long speech to the people. Previous to this meeting there had been notices put up in the settlement, notifying the inhabitants to attend. After they had finished their meeting, they fired three discharges from a field piece, hoisted the American flag, drums beat, music played, and a general rejoicing took place.

On receiving your letter directing me to attend the meeting, and to protest against these proceedings, I made further inquiry, and found that hand-bills had been up in the settlement, notifying the people to attend another meeting to be holden at the same place on the 2nd of November. Early in the morning of that day I left home, and arrived at Nedeau's about one o'clock, P.M.: met Captain Ryans, the officer in command at the American block-house, and told him that my business up here was to protest against those proceedings. He answered me, "If you do so officially, I will be under the necessity of arresting you, and sending you to Augusta." I told him that I was determined to do what I considered my duty. There were about one hundred persons present, principally Americans, there were a few French Canadians of the lower class; shortly after my arrival, Barnabas Hanawell, Miles Emery, and Elias Baker, Americans, proclaimed order, and that they were about to open the meeting; Elias Baker commenced, by opening a packet, and read to the following effect:—

"In the name of the State of Maine, we open this meeting, pursuant to an order to us directed for the purpose of electing a President and a Vice-President for the United States of America, and in the name of the said State, come forward and give your votes. Signed, Barnabas Hanawell, Miles Emery, Elias Baker."

I then asked if I would be allowed to speak. I was answered, "No; that the meeting had opened, and that I should not be allowed to say one word." I then stood up and said: "As the Queen's civil officer, and in Her Britannic Majesty's name, I protest against your proceedings and meetings as unlawful, illegal, and uncalled for." I was then ordered out of the room, or rather taken out by the arm by Captain Ryans, when I was roughly used by John Baker, Joseph Wiles, and others. Baker made different attempts to strike me, but was prevented by Captain Ryans. Captain Ryans also stated publicly at the meeting, that if any peace officer of New Brunswick should attempt to arrest any person, or serve any writ, or exercise any act of jurisdiction whatever, from the Madawaska River upwards, that he would arrest them, and send them off to Augusta prisoners; that that was the order he had recently received, and that he would actually put it in force.

I have, &c.,
(Signed) FRANCIS RICE,
Justice of the Peace.

N.B.—In further conversation with Captain Ryans, he plainly and distinctly told me, that if the Warden of the Disputed Territory should attempt for the future above the entrance of the Madawaska River, that he would most certainly make him his prisoner, according to his instructions.

I have, &c.,
(Signed) FRANCIS RICE,
Justice of the Peace.

Inclosure 8 in No. 16.

Lord Sydenham to Sir John Harvey.

Government House,
(Extract.) *Montreal, November* 23, 1840.

YOUR despatches of the 3rd and 13th instant, with their inclosures, reached me yesterday.

Under the circumstances which you detail I cannot hesitate to authorize such measures as appear requisite for the protection of Her Majesty's subjects against a repetition of the insults which appear to have been offered, and are again threatened, by the servants of the State of Maine; and I have accordingly addressed myself to the Commander of the forces, who will direct a military force sufficient for the purpose to repair to the Madawaska Settlement, to be placed wherever they can be most advantageously and conveniently accommodated.

Sir Richard Jackson will communicate with you upon the matter, and the officer in command of the party will be directed to report to you.

Your Excellency will of course put this officer immediately in communication with Mr. Maclauchlan or the other civil authorities of Her Majesty at the Settlement, whom he will be prepared to support in the discharge of their duties, and for the protection of the Queen's subjects; but I rely on your taking every possible precaution against any unnecessary interference with the citizens of the United States, and avoiding to the utmost any collision.

My instructions from Her Majesty's Government are, not to permit Maine to occupy or possess land to the north of the St. John's, and to maintain in perfect security the communication by the Madawaska between Fredericton and Quebec; whatever, therefore, is indispensable for that purpose must be done.

Inclosure 9 in No. 16.

Sir John Harvey to Mr. Fox.

Government House, Fredericton,
Dear Sir, *New Brunswick, November* 18, 1840.

I DEEM it proper that your Excellency should be put in possession of communications which the proceedings of the armed posse of the State of Maine have imposed upon me the necessity of addressing to the Governor-General, as doubtless your Excellency will be requested to protest against conduct so entirely at variance with that perfect good understanding which it has never ceased to be my earnest desire to maintain with the Government and Authorities of that State, in all matters relating to the joint occupation of the disputed territory, under the Agreement entered into in March 1839.

I avail myself of this occasion to acquaint your Excellency that Major Graham, of the United States' service, having represented to me that he had met with obstruction from the proprietors of some of the lands situated on the British side of the line, from the Monument towards Mars' Hill, in consequence of being under the necessity of cutting down timber for the purpose of following out that which he has been directed to explore, I lost no time in addressing such a letter to him, in reply to his representation to me, as has had the effect of putting an end to the opposition referred to. (Copy of the correspondence is inclosed.) On this subject it is proper that I should apprize your Excellency that I am informed by Mr. Maclauchan, the Warden, who remained with Major Graham's party for twentyfour hours, and witnessed all their proceedings during that time, that the due north line which they are engaged in tracing on the ground, with the aid, as he states, of the best instruments and frequent astronomical observations, is gradually, but steadily diverging to the eastward of that which constitutes the present boundary, and up to which the lands have been very generally

granted on either side, will run considerably (as much as half-a-mile) to the east of "Mars' Hill," and intersect the St. John nearly two miles nearer to the "Grand Falls," than the present one;—a circumstance which is naturally creating in the minds of the British settlers and inhabitants residing in that neigbourhood a degree of alarm which the assurance that the survey is entirely an *ex parte* one does not dissipate.

I have, &c.,
(Signed) JOHN HARVEY.

Inclosure 10 in No. 16.

Mr. Forsyth to Mr. Fox.

Department of State,
Washington, December 26, 1840.

Sir,

BY direction of the President, I have the honour to communicate to you the accompanying copy of a correspondence (transmitted to him by Governor Fairfield) between the Governor of Maine and the Lieutenant-Governor of New Brunswick, on the subject of a detachment of troops ordered into the Disputed Territory by the Governor-General of the British provinces of North America.

The President indulges a confident hope that his Excellency the Governor-General will have seen the propriety of promptly complying with the wise and judicious representations of Sir John Harvey, by withdrawing these troops, whose presence is not only a violation of the existing agreement, but also a source of dangerous irritation. Nevertheless, he deems it his duty to bring the subject to your notice, in order to enable you, if necessary, to add your representations to those of the Governor of New Brunswick, and thus relieve the Government of the United States from the unpleasant duty of taking any further steps in relation to the act which has called forth the correspondence I have the honour to communicate.

I avail myself, &c.,

(Signed) J. FORSYTH.

Inclosure 11 in No. 16.

Governor Fairfield to Sir John Harvey.

Executive Department,
Saco, December 15, 1840.

Sir,

I HAVE the honour to acknowledge the receipt of your Excellency's communication of the 10th instant, containing an explanation of a late movement on the part of the Governor-General of the provinces, in ordering a detachment of troops to the Madawaska Settlement. Your Excellency says, it "has no other object than to give support to the civil authorities of that settlement, one of whose magistrates, Francis Rice, Esq., has been grossly insulted, threatened with personal violence, and obstructed in the discharge of his duty by persons professing themselves to be citizens of the State of Maine; and another, James Maclauchlan, Esq., also a magistrate of this province, and holding the office of Warden of the disputed territory, has been threatened by the person in charge of the armed posse stationed at Fish River, with being arrested and sent as a prisoner to Augusta, in the event of his persevering in the performance of the duties imposed upon him by the Government of the Queen and that of this province."

While entertaining a just sense of the frankness and courtesy in which this explanation is made, I deem it my duty to say, that I cannot regard the quartering of troops at the Madawaska Settlement at this time by the British Government, in any other light than as a direct and palpable infringement of the subsisting

arrangement; and that the circumstances above detailed afford no sufficient excuse or justification for such an act. Nor is it the less aggravated by the circumstance that it is the repetition of a similar movement made since the arrangement was entered into, and which was at the time the subject of complaint and remonstrance, not only on the part of the State Authorities, but by the General Government. The first was sought to be justified on the ground of apprehensions, that Maine intended to do the like. The latter upon the grounds which, if not less substantial, certainly afford no reasonable pretence that any military force was necessary, much less a force in addition to the 200 troops already stationed at Temiscouata Lake. In regard to this point, that is, the absence of all necessity for a military force, I am happy to perceive that we do not disagree; and I trust that your Excellency's suggestion to the Governor-General touching its withdrawal will not be without effect.

In relation to the facts alleged, I am unable to say whether your Excellency has been misinformed or not, but I have taken measures to have them correctly ascertained and reported. I can assure your Excellency that you but do me justice in refusing to believe that I am disposed to authorize any acts "inconsistent with existing engagements." If, however, the facts relate to a transaction of which I have casually heard, but of which I have not been officially informed, I think your Excellency will find that the allegations require much qualification. It has been reported, that when certain of the citizens of this State were assembled at the Fish River Settlement, to give in their votes for electors of President and Vice-President, under a late law of this State authorizing it, a magistrate from a Madawaska Settlement presented himself, and attempted, in the exercise of his official authority, to disperse them. If such were the facts, instead of finding any cause for reprehension in the resisting his authority by the residents at that place, I can only wonder at their forbearance in not causing him to be arrested and subjected to trial and punishment, according to the laws of this State in such case made and provided.

Of the threats supposed to have been made to arrest James Maclauchlan, esquire, and send him to Augusta, I know nothing. But your Excellency, I suppose, is aware, that the right of that gentleman to act as "Warden of the Disputed Territory" has never been recognized or sanctioned by the authorities of this State; and I would respectfully add, that, as far as the present Executive is concerned, never will be, especially in regard to that portion of it in our exclusive possession and occupancy.

What particular movements of Mr. Maclauchlan have induced the supposed threats, I am not apprised of. The facts, however, in this, as well as the other case, I have taken measures to have correctly reported; when I can assure your Excellency no disposition shall be wanting on my part to do what a just regard for existing agreements, as well as the honor and interests of the State, may require.

I have, &c.,
(Signed) JOHN FAIRFIELD,
Governor of Maine.

No. 17.

Mr. Fox to Viscount Palmerston.—(Received February 16.)

My Lord, *Washington, January* 26, 1841.

I HAVE the honor herewith to inclose a printed copy of the Message transmitted by Mr. Kent, the newly-elected Governor of Maine, to the Legislature of the State, at the opening of the Annual Session, on the 15th of this month.

It will be seen that the latter part of this Message treats largely of the Question of the North-Eastern Boundary; but the tone is less offensive, and less calculated to lead to mischief, than that of former executive documents proceeding from the State Government of Maine.

Governor Kent, as was to be expected, asserts the usual claim of Maine to the whole of the territory in dispute, and complains loudly of the stationing of

British troops within any part thereof; but at the same time he distinctly relinquishes to the General Government of the United States the right of action in these matters, and neither invites, nor even hints, at the possibility of a separate interference on the part of the people of Maine, during the time that the principal negotiation shall be pending.

Governor Kent, who has been elected this year by a small majority over his predecessor, Fairfield, belongs to the party of General Harrison and the coming administration. Both Houses of the Maine Legislature are of the same politics; and at the Presidential election, the State gave also its electoral votes for General Harrison. There appears, therefore, to be a better prospect, than at some former periods, of the Boundary Negotiation being left in the hands of the two national Governments.

I have, &c.,
(Signed) H. S. FOX.

Inclosure in No. 17.

Extract from the Message of the Governor of Maine to the Legislature of the State, at the opening of Session, on the 15th of January.

I REGRET that it is not in my power to congratulate you and the State upon the final settlement of the long-vexed question relating to our North-Eastern Boundary. On a former occasion I expressed my views fully upon the justice of our claim, and the obligations of the Federal Government to afford us aid and protection in enforcing it. I have seen no reason to alter the views then expressed. Our claim to the whole territory is perfect and unanswerable, and no sophistry or evasion can avoid or annul it. But it is needless to waste words upon this point, as it is universally conceded by every American that the Treaty of 1783, fairly interpreted and honestly executed, would sustain all our claim. The unanimity of sentiment is well calculated to inspire us with confidence, that although diplomacy may interpose its delays, there is an abiding conviction pervading our whole country which may be relied upon for final support in the assertion of our just rights. It was, indeed, confidently believed that after the solemn expression of Congress in 1838, and the events which occurred on the frontier in 1839, the English Government would be satisfied that delay in the settlement of this question was dangerous to the peace of the two countries.

The promptness and energy with which the Government and people of Maine, with one heart and voice, met the threat to expel us from the Aroostook, the ready obedience with which our citizen-soldiery responded to the call of their commander, and the unshrinking zeal with which they marched from their comfortable homes, in the depth of winter, into the interior forests, and the firm determination which was manifested by every man to sustain the assertion of our rights, must have satisfied all, that although Maine for the sake of the peace and quiet of the country, and in her anxious desire to avoid collisiou with a foreign Power, might forbear to enforce her extreme rights, pending negotiation, there was yet a point beyond which she would not submit to encroachments; and there was a spirit in her people which would not shrink before threats of military expulsion. And whatever arrangements have been assented to, in regard to the jurisdiction of different portions of the territory, pending negotiations, must be regarded merely as temporary in their nature, and under a protest always that we relinquish no claim and no right to the absolute and undisputed ownership and jurisdiction of every inch of our State. Maine has certainly deserved the sympathy and support of her sister States, by her long-continued forbearance and patience, under circumstances so well calculated to awaken indignation and incite to hostilities. A mere request for a grant has ripened into an absolute claim, and year after year our State has witnessed her hopes blasted and her reasonable expectations unfulfilled, and this question of vital importance undetermined and unadjusted.

The arrangement assented to on the part of Maine in 1839, by which, on condition that Maine should remain in undisturbed possession of part of the territory, it was stipulated that we should not "attempt to disturb by arms the province of New Brunswick, in the possession of the Madawaska Settlements,"

was acquiesced in by the people, only on the ground and the belief, that immediate and determined efforts were to be in good faith adopted by both General Governments, to bring the matter to a speedy, just, and final determination. Indulging such hopes, Maine has certainly yielded much in the matter of temporary arrangements, influenced by the wish to preserve the peace of the country, and to remove all obstacles to the progress of negotiation. But she has a right to ask, when she yields so much, that her motives should be appreciated and her cause become the cause of the whole country, and pressed with vigour and energy to a final settlement. In the mean time it is our duty to keep our eyes and our thoughts upon the starting-point of the Treaty,—the north-west angle of Nova Scotia, and the highlands from thence so plainly specified in the Treaty, —and not suffer ourselves to be drawn away into discussions whether the monument at the source of the St. Croix, which was located by both Governments, more than forty years since, and fully established, is at the true point, or whether it is not possible that antediluvian mountains existed, which by some geological process have become "abraded" and worn down, and have now become the beds of large rivers. The earth, as it existed in the year of our Lord 1783, is to determine the location of the highlands of the Treaty, and the mere speculations of self-styled geologists concerning imaginary or theoretical highlands, which probably never had existence except in the fancies of speculative theorists, cannot fairly and legitimately have the slightest influence upon the pending question, more especially when, if it could be demonstrated that the assumed line now exists, it would not answer any of the requirements of the Treaty.

To mystify what is plain, and draw attention from the main subject to collateral issues, is sometimes a diplomatic mode of procrastinating a final decision, and of making up a plausible case from the mere duration of the controversy.

The statement of the progress and present state of the negotiations between the two Governments, communicated by the President of the United States, in his late annual message, would lead us to indulge the hope of a "prompt and satisfactory termination of the negotiation," and "a certain and final adjustment of the limits in dispute." The delays and obstacles, which have appeared to us unreasonable and unnecessary, cannot but still influence our feelings and lead us to moderate our hopes by our experience. If, however, the President has cause to say that there is an undoubted disposition of both parties to bring the matter to an early conclusion, we may, without the charge of being too sanguine in our anticipations, confidently trust that a fair, equal, and honourable proposition for a commission, with final powers to end the dispute, will be readily and fully assented to by the English Government, unless there is a fixed determination on its part to bring the matter to the last resort of nations. The time cannot be far distant when the question must assume a more definite shape, either peaceable or warlike; and much as we may deprecate the awful evils and miseries of war, we ought to be prepared to meet the issue, if such after all is the determination of our opponents, with the firmness of men who feel that they have the right, and who will not yield to threats or force the inheritance of our fathers and the rightful territory of our State. The unanimity which has characterized our State on this question, in the midst of all our political excitements, is a sure guarantee that the people are ready to sustain their rulers in all judicious, temperate, yet firm and decided measures, and that it is regarded by them as too sacred and too solemn a subject to be made the instrument of any mere party schemes or movements. Let us in the spirit of patriotism continue to regard this controversy as one eminently national in its character, involving both our immediate interests as a State and our duty to the whole Union, placed as we are in the front line of the disputed ground. Cherishing such sentiments, Maine, in this her great question, will stand on high and honourable ground, and command the respect and attention to which she is entitled, and secure the aid and protection guaranteed by the constitution.

The survey and scientific examination of the line claimed by us, which was commenced by the State in 1838, but which has since been suspended, has at last been undertaken by the General Government; and from the high character of the gentlemen engaged, we are fully justified in indulging the confident belief that we shall soon have the evidence of competent witnesses, based upon actual examination, and embodied in a formal report, to the existence of those facts

which a knowledge of the laws of nature and the physical necessities of the case have long since satisfied every reasoning man must exist upon the face of the earth. It is in my apprehension a source of regret that this examination has been so long delayed; especially since the singular positions and remarkable assertions and assumptions in the report of Messrs. Featherstonhaugh and Mudge to the British Government. That report ought not to have had two years' priority of public attention over a counter-examination and report on our part.

The correspondence which has recently been communicated to you by my predecessor, discloses another movement on the part of the British authorities, well calculated to arrest attention and call forth indignant remonstrance on the part of Maine and the Union. If I am correctly informed, in a very short time after the conclusion of the agreement, by which it was in effect stipulated that the British authorities should not attempt to take military possession of what is termed by them the disputed territory, during the existence of that arrangement, a detachment of Her Majesty's troops was stationed at Temiscouata Lake, within that territory, and has been continued there ever since; and we are now informed that another detachment has been moved to and stationed at the Madawaska Settlement, for the purpose of sustaining the jurisdiction and supporting the exercise of authority on the part of the British magistrates. This movement has been made by the Governor-General of the British provinces, without any prior modification or correspondence, seeking information or explanation from the authorities of this State or the United States; and assuming as the ground of action, the reports of acts and threats of individuals, without inquiring whether those assumed facts, if in any part true, were in pursuance of orders or justified by the Government of Maine. I cannot but view this proceeding, as my predecessor does in his reply to Sir John Harvey, as "a direct and palpable infringement of the subsisting arrangement," and as taking military possession of that portion of the contested territory. And if the suggestion of Lieutenant-Governor Harvey, who seems not to have been consulted in relation to this new act of jurisdiction, and who evidently regards it with regret, if not as an infringement of subsisting arrangements, is disregarded, and the British troops are permanently located at Madawaska, I shall feel it my duty to reiterate the request already made to the General Government, and to urge upon that Government the justice and expediency of taking military possession on the part of the United States of the territory in dispute. The General Government owes it to Maine to move forward in this matter with promptness and energy, with a sincere and even anxious desire to preserve peace, but with an equally firm determination to maintain subsisting engagements on our part, and to insist upon a full performance from the other party.

No. 18.

Mr. Fox to Viscount Palmerston.—(Received March 17.)

My Lord, *Washington, February* 21, 1841.

I AM informed, that two resolutions have been introduced in the Sarte Legislature of Maine, and are now under discussion, of the following tenor; First, that the Executive Government of the State shall be directed to call upon the General Government of the United States to take measures for procuring the removal of the British troops from the Lake Temiscouata and the MadawaskaSettlements: secondly, that the sum of one million of dollars shall be appropriated by the State to the purpose of erecting sufficient defences and fortifications along the seaboard and inland frontier. It is probable that both these resolutions will be adopted; but it will depend upon other events, and upon future circumstances, whether they lead to mischievous consequences or not. The call upon the General Government to take measures for procuring the removal of the British troops from the disputed territory will produce no result, if the new administration at Washington shall be disposed to proceed reasonably to a conclusion of the Boundary Negotiation. With regard to the other resolution for the construction of frontier fortifications, it appears very uncertain whether the State of Maine will be

able to raise the sum of money required. But if the money should be procured, and the works actually ordered to be undertaken, the interference of Her Majesty's Government may become necessary. For there is little doubt that the Executive authorities of Maine will assume the inland frontier of the State to inclose a part, if not the whole, of the disputed territory, and that their first proceeding will be to construct permanent fortifications at the posts now temporarily occupied by the armed civil posse. I shall hope to be able to inform Her Majesty's Government further upon these subjects, when the resolutions in question shall have been finally determined upon.

I have, &c.
(Signed) H. S. FOX.

No. 19.

Mr. Fox to Viscount Palmerston.—(Received March 17.)

(Extract.) *Washington, February* 24, 1841.

I HEREWITH inclose a printed copy, published in a New York newspaper, of the cursory Report which has been made to the United States' Government by the American Surveyors, Messrs. Renwick, Graham, and Talcott, of the result of their labours on the North-Eastern Boundary during the past summer and autumn. This Report, which is addressed to the Secretary of State, was transmitted to Congress,—at the same time with an application from the President for a further appropriation of money wherewith to pursue the survey during the next season,—about ten days ago; but it has not yet been printed by order of Congress, and I doubt whether it was the wish of the Government that it should be printed or published for the present. The Report appears to have been given to the editor of a newspaper by the Surveyors themselves, one of whom, Mr. Renwick, resides at New York, and had already, upon a previous occasion, communicated to the same paper a part of the results of his survey.

It will be seen that this document does not profess to contain an accurate urvey of any part of the Boundary line, but only a cursory Report or Narrative of the operations of the Surveyors as far as they went.

Inclosure in No. 19.

Cursory Report by the American Surveyors of their Labours on the North-Eastern Boundary during the Autumn of 1840.

THE annexed Report of the Commissioners appointed by the President of the United States, under the Act of 20th July last, for the purpose of exploring and surveying the Boundary Line between the States of Maine and New Hampshire and the British provinces, was submitted to Congress on the 9th instant, referred to the Committee on Foreign Relations, and ordered to be printed.

REPORT, &c.

Sir, *New York, January* 6, 1841.

THE Commissioners having assembled in this city, in conformity with your orders, under date of 29th July, beg leave respectfully to report:—

That the extent of country and the great length of the Boundary Line included in the object of their commission would have rendered it impossible to have completed the task assigned them within the limits of a single season. In addition to this physical impossibility, the work of the present year was entered upon under circumstances very unfavourable for making any great progress. The law under which they have acted was passed at the last period of a protracted session, when nearly half of the season during which working parties can be kept in the field had elapsed; and although no delay took place in the appointment of Commissioners to carry it into effect, the organization of the Board was not effected, in consequence of the refusal of one of the Commissioners and the Agent to accept of their nomination. The Commissioners, acting under these disadvantages, have

done all that lay in their power to accomplish the greatest practicable extent of work, and have obtained many results which cannot but be important in the examination of the vexed and important question which has been committed to them; but after having fully and maturely considered the subject, and interchanged the results of their respective operations, they have come to the conclusion that it would be premature to embody the partial results which they have attained, in a general report, for the purpose of being laid before the political and scientific world.

The meridian-line of the St. Croix has not been carried to a distance of more than than fifty miles from the monument at the source of that river; and the operations of the other Commissioners, although they have covered a wide extent of country, have fulfilled but one part of the duty assigned them, namely, that of exploration: while, in the parts explored, actual surveys will be necessary for the purpose of presenting the question in such form as can admit of no cavil. In particular, the results of the examination of the most northern part of the line, appear to differ in some points from the conclusions of the late British Commission. Satisfied that the latter have been reached in too hasty a manner, and without a sufficient time having been expended upon comparative observations, they are cautioned by this example against committing a like error. In respect to the argumentative part of the report of the British Commissioners, the duty of furnishing a prompt and immediate reply to such parts of it as rest upon the construction of treaties, and the acts of diplomacy, has been rendered far less important than it might at one time have appeared, by the publication of the more important parts of the argument laid before the King of the Netherlands as umpire. This argument, the deliberate and studied work of men who well understood the subject, is a full exposition of the grounds on which the claim of the United States to the whole of the disputed territory rests. It has received the sanction of successive administrations, of opposite politics; and may, therefore, be considered, in addition to its original official character, as approved by the whole nation. To this publication your Commission beg leave to refer as embodying an argument which may be styled unanswerable.

The operations of the parties under the command of the several Commissioners were as follows:

The party under the direction of Professor Renwick left Portland in detachments, on the 26th and 27th of August. The place of general rendezvous was fixed at Woodstock, or, failing that, at the Grand Falls of the St. John's. The Commissary of the party proceeded as speedily as possible to Oldtown, in order to procure boats and engage men. Professor Renwick passed by land through Brunswick, Gardiner, and Augusta. At the former place barometer No. 1 was compared with that of Professor Cleaveland; at Gardiner, with that of Hallowell Gardiner, Esq.; and arrangements were made with them to keep registers, to be used as corresponding observations with those of the expedition. At Augusta, some additional articles of equipment were obtained from the authorities of the State; but the barometer which it had been hoped might have been procured, was found to be unfit for the service. At Houlton, two tents and a number of knapsacks, with some gunpowder, were furnished, by the politeness of General Eustis, from the Government stores.

The boats and all the stores reached Woodstock on the 3d September; and all the party were collected, except one engineer, who had been left behind at Bangor, in the hopes of obtaining another barometer; a bateau was therefore left to bring him on. The remainder of the boats were loaded, and the party embarked on the St. John's, on the morning of the 4th of September. This, the main body, reached the Grand Falls at noon on the 8th of September. The remaining bateau, with the engineer, arrived the next evening, having ascended the rapids of the St. John's in a time short beyond precedent. On its arrival it was found that the barometer, on whose receipt reliance had been placed, had not been completed in time; and although, as we learned afterward, it had been committed, as soon as finished by the maker, to the care of Major Graham, the other Commissioners felt compelled to set out before he had joined them. The want of this barometer, in which defects observed in the others had been remedied, was of no little detriment.

A delay of eighteen days had occurred in Portland, in consequence of the refusal of Messrs. Cleveland and Jarvis to accept their appointments; and it was known from the experience of the Commissioners sent out in 1838 by the State

of Maine, that it would require at least three weeks to reach the line claimed by the United States, from Bangor. It was, therefore, imperative to push forward, unless the risk of having the whole of the operations of this party paralyzed by the setting in of winter, was to be encountered. It was also ascertained at the Grand Falls that the streams which were to be ascended were always shallow and rapid, and that, at the moment, they were extremely low, so that the boats would not carry more stores than would be consumed within the time required to reach the region assigned to Professor Renwick as his share of the duty, and return. It became therefore necessary, as it had been before feared it must, to be content with an exploration instead of a close and accurate survey. Several of the men employed had been at the northern extremity of the meridian line, but their knowledge was limited to that single object. Inquiry was carefully made for guides through the country between the sources of the Grande Fourche of Restigouche and of Tuladi, but none were to be found. One Indian only had passed from the head of Green River to the Grande Fourche, but his knowledge was limited to a single path, in a direction not likely to shed any light on the object of the Commission; he was however engaged. The French hunters of Madawasca had never penetrated beyond the sources of Green River: and the Indians who formerly resided on the upper waters of the St. John's, were said to have abandoned the country for more than twelve years.

The party was now divided into four detachments; the first to proceed down the Restigouche, to the tide of the Bay of Chaleurs; the second to ascend the Grande Fourche of Restigouche to its source; the third to be stationed on Green River Mountain; the fourth to convey the surplus stores and heavy baggage to Lake Temiscouata, and thence to ascend the Tuladi and Abagusquash, to the highest accessible point of the latter. It was resolved that the second and fourth detachments should endeavour to cross the country, and meet each other, following as far as possible the height of land. A general rendezvous was again fixed at Lake Temiscouata.

In compliance with this plan, the first and second detachments ascended the Grand River together, crossing the Wagansis portage, and reached the confluence of the Grande Fourche and south-west branch of the Restigouche.

The first detachment then descended the united stream, returned by the same course to the St. John's, and reached the portage at Temiscouata on the 7th October. All the intended objects of the detachment were happily accomplished.

The second detachment, under the personal direction of the Commissioner, reached the junction of the north and south branches of the Grande Fourche on the 22nd September. Two engineers, with two men to carry provisions, were then despatched to cross the country to the meridian line, and thence to proceed westward to join the detachment at Kedgwick Lake. This duty was performed, and many valuable observations obtained; but an accident by which the barometer was broken, prevented all the anticipated objects of the mission from being accomplished.

All the stores which could possibly be spared were now placed in a depôt at the junction of the south branch, and the Commissioner proceeded with the boats thus lightened toward Kedgwick Lake. The lightening of the boats was rendered necessary in consequence of the diminution of the volume of the river and the occurrence of falls, over which it would have been impossible to convey them when fully loaded. For want of a guide, a branch more western than that which issues from the lake was entered. One of the boats was, therefore, sent round into the lake, to await the return of the engineers dispatched into the meridian line. The stores, which were all that could be brought up in the state of the waters, were now found to be wholly insufficient to allow of committing the party to the unexplored country between this stream and Tuladi. Even the four days which must intervene before the return of the engineers could be expected, would do much to exhaust them. The Commissioner therefore resolved to proceed across the country, with no other companion than two men, carrying ten days' provisions. It was hoped that four or five days might suffice for the purpose; but ten, of great toil and difficulty, were spent before Lake Tuladi was reached. The remainder of the detachment, united by the return of the engineers, descended the north branch of the Grande Fourche, to the junction of the south branch, ascended the latter, and made the portage to Green River. In this the boats were completely worn out, and the last of their food exhausted, just at

the moment that supplies, sent up the Green River to meet them, arrived at their camp.

No arrangement which could have been made would have sufficed to prevent the risk of famine which was thus encountered by the second detachment. A greater number of boats would have required more men, and these would have eaten all they could have carried. No other actual suffering, but great fatigue and anxiety, were encountered; and it is now obvious, that, had the rains, which were so abundant during the first week of October, been snow (as they sometimes are in that climate,) there would have been a risk of the detachment perishing.

The third detachment reached their station, on Green River Mountain, on the 13th September, and continued there until the 12th of October. A full set of barometric observations was made; the latitudes well determined by numerous altitudes, and the longitudes approximately by some lunar observations.

The fourth detachment, after depositing the stores intended for the return of the party in charge of the British Commissary at Fort Ingall, who politely undertook the care of them, ascended the Tuladi, and taking the northern branch, reached Lake Abagusquash. Here one of the engineers wounded himself severely, and was rendered unfit for duty. The Commissary then proceeded a journey of five days towards the east, blazing a path, and making signals to guide the second detachment. The difference between the country as it actually exists, and as represented on any maps, prevented the Commissioner from meeting this party. It found the source of the central or main branch of Tuladi to the north of that of the Abagusquash; and, following the height of land, reached the deep and narrow valley of the Rimouski at that point where, on the British maps, that stream is represented as issuing from a ridge of mountains far north of the line offered to the King of the Netherlands as the bounds of the American claim. The Commissary, therefore, found it impossible to ascend Rimouski to its source; and, crossing its valley, found himself again on a dividing ridge, where he soon struck a stream running to the south-east.

This, from a comparison of courses and distances, is believed to be the source of the main branch of the Grande Fourche of Restigouche; and thus the second and fourth detachments had reached points within a very short distance of each other. The greater breadth of the dividing ridge has thus been explored: but it will remain to trace the limits of the key of the Rimouski, which will form a deep indenture in the boundary line. This line having been explored, a party was formed, after the assemblage of the several divisions at Temiscouata, for the purpose of levelling it with a barometer; but the expedition was frustrated by a heavy snow-storm, which set in on the 12th of October. This, the most important part of the whole northern line, therefore remains for future investigation. It can only be stated, that strong grounds exist for the belief that its summits are not only higher than any point which has been measured, but that, although cut by the Rimouski, it exceeds in average elevation any part of the disputed territory.

The levelling of the Temiscouata portage appeared to be an object of great importance, not only on its own account, but as furnishing a base for future operations. As soon as a sufficient force had been assembled at Lake Temiscouata, a party was therefore formed to survey the portage with a theodolite. Orders were also given by the Commissioner, that the first barometer which should be returned should be carried over the portage. It was believed that this double provision would have secured the examination of this point beyond the chance of failure. A snow-storm, however (the same which interrupted the last operation referred to), set in after the level had been run to the mountain of Biort; and one of the labouring men (worn out by his preceding fatigues) fell sick. The party being thus rendered insufficient, the engineer in command found himself compelled to return. The contemplated operation with the barometer was also frustrated; for, on examination at Temiscouata, it was found that all were unfit for farther service.

In order that the desired object might be accomplished, a new expedition was despatched from New York, on the 12th of November, furnished with four barometers. This party, by great exertions, reached St. André, on the St. Lawrence, on the eighth day, and accomplished the object of its mission. The operation was rendered possible, at this inclement season, by its being confined to a beaten road, and in the vicinity of human habitations.

The country which has been the object of this reconnoissance is, as may already be understood, of very difficult access from the settled parts of the State of Maine. It is also, at best, almost impenetrable, except by the water-courses. It furnishes no supplies, except fish and small game; nor can these be obtained by a surveying party, which cannot be strong enough to allow for hunters and fishermen as a constituent part, The third detachment alone derived any important benefit from these sources. The best mode of supplying a party moving on the eastern section, would be to draw provisions and stores from the St. Lawrence. It is, indeed, now obvious, although it is contrary to the belief of any of the persons professing to be acquainted with the subject, that had the Commissioner proceeded from New York, by the way of Montreal and Quebec, he might have reached the district assigned to him a fortnight earlier, and accomplished twice as much work as his party was able to perform.

Although much remains to be done in this region, an extensive knowledge of country hitherto unknown and unexplored has been obtained; and this not only sheds much light upon the Boundary Question in its present state, but will be of permanent service in case of a farther *ex parte* examination, or of a joint commission being agreed upon by the Governments of Great Britain and the United States.

The season was too late for any efficient work, as the line to be explored was not reached before the 22nd of September. Not only were the rivers at their lowest ebb, but ice was met in the progress of the parties, as early as the 12th of September, and snow fell on the 21st and 22nd of September. The actual setting in of winter, which sometimes occurs in the first week of October, was therefore to be dreaded. From this time the country becomes unfit for travelling of any description, until the streams are bound with solid ice, and a crust formed on the snow of sufficient firmness to make it passable on snow-shoes. The only road is that along the St. John's River, and it would be almost impossible for a party distant more than ten or twelve miles from that stream to extricate itself after the winter begins.

No duty could be well imagined more likely to be disagreeable than that assigned to Professor Renwick. The only feasible modes of approach lay, for hundreds of miles, through the acknowledged limits of the British territory; and the line he was directed to explore was within the military posts of that nation. It may be likened to the entry upon the land of a neighbour for the purpose of inquiring into his title. Under these circumstances of anticipated difficulty, it becomes his duty as well as his pleasure, to acknowledge the uniform attention and civilities he experienced from all parties, whether in official or in private stations. All possibility of interruption by the local authorities was prevented by a proclamation of his Excellency Sir John Harvey, K.C.B., Lieutenant-Governor of the Province of New Brunswick; and the British Warden, Colonel Maclauchlan, was personally instrumental in promoting the comforts of the Commissioner and his assistants. Similar attentions were received from the officers of the garrison at Fort Ingall, the Commandandant of the citadel of Quebec, and from his Excellency the Governor-General. Even the private persons, whose property might be affected by the acknowledgment of the American claim, exhibited a generous hospitality.

The party under the direction of Captain Talcott left the settlements on Hall's stream on the 6th of September. The main branch of this was followed to its source in a swamp, in which a branch of the St. Francis also had its origin. From this point the party followed the ridge dividing the Atlantic from the St. Lawrence waters, until it was supposed that all the branches of Indian stream had been headed. In this work the party was employed until the 14th of September. It had now arrived at a point where the Megalloway River should be found to the left, according to the most authentic maps of the country, especially that prepared by the New Hampshire Commissioner, appointed in 1836 to explore the boundary of that State, and accompanying that Report. The party accordingly bore well north, to avoid being led from the true "height of land," by the dividing ridge between the Connecticut and Androscoggin Rivers. After crossing several small streams it came on the afternoon of the 15th, to a rivulet about twelve feet wide, running to the east, which was supposed to be the main Megalloway; the 16th was spent in exploring it to its source. The next day it was discovered that what had been taken for the Megalloway was a tributary of Salmon River, a large branch of the St. Francis; and consequently the party was considerably to the north of the boundary.

The supply of provisions did not allow the party to retrace its steps to the point where it had diverged from the true dividing ridge. The course was therefore changed until it bore a little south; but it was not until the 22nd that the party found itself again on the dividing ridge, and then upon the waters of the Megalloway.

The party reached Arnold River, or Chaudière, above Lake Megantic, on the 24th September. After having recruited, and taken a fresh supply of provisions from the depôt established there, the party was divided into two detachments. One returned westward, to find the corner of the State of New Hampshire, as marked by the Commission in 1789, appointed to trace the Boundary Line.

It was there ascertained that the corner was on the true dividing ridge, and not from eight to ten miles south, as has been erroneously reported by the surveyor employed by the New Hampshire Commissioners in 1836, and reiterated in several official papers. From the State corner, the dividing ridge was followed to where it had been previously explored by the party. Thence a course was taken north-east, so as to reach the head of Lake Megantic, and thence to Lake Megaumac, where, on the 8th October, the two detachments were again united. The detachment led by the assistant, Mr. Gutts, had successfully followed the dividing ridge from the camp of the 24th, on Arnold River to this place.

It was now ascertained that the provisions remaining were not sufficient to subsist all of the company until the Kennebec road could be reached by following the *height of land*. It was found advisable again to separate into detachments, —one to follow the ridge, supplied with provisions for twenty days, and the other to strike for the nearest settlement, which it was supposed could be reached in four or five days. This movement commenced on the 10th of October, and the detachment, following the high land, reached the Kennebec road on the 23rd; and on the following day, provisions for the party for fifteen days were placed there, and a like quantity at the mouth of the Metjarmette. It was intended that the two detachments should move simultaneously from these two points on the 26th, to explore the Boundary Line as far as Lake Etchemin. A deep snow, which commenced falling on the night of the 25th, compelled the Commissioner to abandon farther exploration at that time; and there was not the slightest probability that they could be resumed before another year.

The result of these explorations may be stated as follows:—

About 160 miles of country along or near the "height of land" have been traversed, the travelled distances carefully estimated, and the courses measured with a compass. Barometrical observations were made as often as necessary for giving a profile of the route from the head of Hall's stream to Arnold's, or the Chaudière river, and thence to Lake Megaumac, *viâ* the corner of the State of New Hampshire. Some farther barometrical observations were made between this lake and the Kennebec road,—but, for a portion of that distance, the barometer was unserviceable in consequence of air having entered the tube. Astronomical observations were made as often as there was an opportunity, but, owing to the prevalence of clouds, not as often as was desirable. They will serve for correcting the courses and estimated distances as travelled. Barometrical observations for comparison were made at the intersection of the Kennebec road and height of land, hourly, from seven A.M. to five P.M., while the parties were on the dividing ridge.

The only discovery of interest made by this party, is, that the Megalloway river does not head any of the branches of the Connecticut, as it was generally believed it did; and, consequently, our claim to Hall's stream is deprived of the support it would have had, from the fact that all the other branches were headed by an Atlantic river, and, consequently, could not be reached by the line along the height or land from the north-west angle of Nova Scotia.

The other Commissioner (Major J. D. Graham) did not receive his appointment until the 16th of August, to fill the place left vacant by the non-acceptance of Professor Cleaveland; and to him was assigned the survey and examination of the due north line, commencing at the source of the River St. Croix, and extending to the highlands which divide the waters that flow into the River St. Lawrence, from those which flow into the Atlantic Ocean.

Immediately after receiving his appointment, he took the necessary steps for organizing his party; and, in addition to two officers of the corps of topographical

engineers, assigned to him by the commandant of the corps of this service, he called to his aid two civil engineers possessing the requisite qualifications for the duties to be performed. So soon as the requisite instruments could be procured and put in proper order, he left New York for Portland, Maine, where he arrived on the 5th of September, expecting there to join his colleagues of the Commission. They had, however, proceeded to the points designated for the commencement of their respective duties; the season being too far advanced to justify their incurring any further delay.

At Portland, a short conference was had with Mr. Stubbs, the agent of the State Department, who furnished the necessary means for procuring an outfit for the party, in provisions, camp equipage, &c.

The party then proceeded to Bangor, where it was occupied until the 12th, in procuring the necessary supplies of provisions, camp equipage, transportation, &c., to enable it to take the field; and a few astronomical observations were made here for the purpose of testing the rates of the chronometers which were used upon this service, as well as of obtaining additional data for computing the longitude of the place, which, together with the latitude, had been determined by the Commissioner, by a very near approximation, in the summer of 1838, while occupied upon the military reconnoissance of the north-eastern frontier.

On the 12th, the party left Bangor for Houlton, where it arrived on the evening of the 13th. A depôt of provisions was established here, for supplying the line of their future operations, and the services of the requisite number of men, as axe-men, chain-bearers, instrument carriers, &c., were engaged.

Pending these preparations, and the time necessarily occupied in cutting a roadway through the forest from a convenient point on the Calais road, to the monument at the source of the River St. Croix, a series of astronomical observations was made, both by day and by night, by which the latitude and longitude of Houlton were satisfactorily determined, and the rates of the chronometers farther tested.

By the 24th of September, the roadway was sufficiently opened to permit a camp to be established upon the experimental meridian line traced by the United States' and British surveyors in the year 1817, when an attempt was made to mark this portion of the boundary between the two countries, agreeably to the provisions of the Treaty of Ghent of 1815.

The provisions and camp equipage were transported upon a strong, but roughly-constructed sled, drawn by horses, while the instruments were carried by hand; the surface of the country over which this roadway was opened being too rough for any wheel vehicle to pass.

The point decided upon as the true source of the River St. Croix, by the United States' and British Commissioners appointed for that purpose, under the 5th Article of the Treaty of 1794, was found and identified, both by the inscriptions upon the monument erected there to mark the spot, and also by the testimony of a living witness of high respectability, who has known the locality since it was first designated by the Commissioners under the Treaty of 1794.

The avenue, which had been cleared through a dense forest from the monument to a distance of twelve miles north of it, by the surveyors in 1817, was easily recognized by the new and thick growth of young timber, which, having a width of from forty to fifty feet, now occupied it. Axe-men were at once set at work to re-open this avenue, under the supposition that the due north line would at least fall within its borders for a distance of twelve miles. In the mean time, the first astronomical station and camp were established, and the transit instrument set up at a distance of 4,578 feet north of the monument upon an eminence 45½ feet above the level of its base. This position commanded a distinct view of the monument to the south, and of the whole line to the north for a distance of eleven miles, reaching to Park's Hill.

While the work of clearing the line of its young growth of timber was progressing, a series of astronomical observations was commenced at this first camp, and continued both day and night without intermission (except when interrupted by unfavourable weather,) with the sextants, the repeating circle of reflection, and the transit instrument, until the latitude and longitude of the monument and of this first camp were satisfactorily ascertained, and also the direction of the true meridian from the said monument, established. For this latter purpose, several observations were in the first place made upon the polar star (*Alpha* Ursæ

Minoris) when at its greatest eastern diurnal elongation; and the direction thus obtained was afterwards verified and farther corrected, by numerous transit observations upon stars passing the meridian at various altitudes both north and south of the zenith. These were multiplied with every degree of care, and with the aid of four excellent chronometers, whose rates were constantly tested, not only by the transit observations, but also by equal altitudes of the sun in the day, to correct the time at noon and midnight, and by observed altitudes of east and west stars, for correcting the same at various hours of the night.

The direction of this true meridian, as thus established by the Commissioner, was found to vary from the experimental line traced by the surveyors of 1817, by running in the first place to the west of their line, then crossing it, and afterward deviating considerably to the east of it.

At the second principal station erected by the party, distant 6 miles and 3,952 feet north of the first camp, or 7 miles and 3,240 feet north of the monument, it found itself sixty feet to the west of the line of 1817. This appeared to be the maximum deviation to the west of that line, as near as its trace could be identified, which was only marked by permanent objects recognized by the party, at the termination of each mile from the monument. Soon after passing this station, the line of 1817 was crossed; and the party did not afterward touch it, but deviated more and more to the east of it as it progressed north, but by an irregular proportion to the distance advanced.

In order to obtain a correct profile or vertical section along the whole extent of this meridian-line, in the hope of furnishing data for accurate comparisons of elevations, so far as they might be considered relevant to the subject in dispute between the two Governments, and also to afford an accurate base of comparison for the barometers along an extended line, which must traverse many ridges that will be objects of minute exploration for many miles of lateral extent, an officer was detailed to trace a line of levels from the base of the monument, marking the source of the River St. Croix, to tide-water, at Calais, in Maine, by which means the elevation of the base of the monument, above the planes of mean low and mean high water, and also the elevation of several intermediate points of the River St. Croix on its expanded lake surface, have been accurately ascertained.

Another officer was, at the same time, charged with tracing a line of levels from the base of the same monument along the due north line, as marked by the Commissioner, by which it is intended that every undulation, with the absolute heights above the plane of mean low water at Calais, shall be shown along the whole extent of that line.

At Park's Hill, distant nearly twelve miles from the monument, a second station for astronomical observations was established, and a camp suitable for that purpose was formed. On the 26th day of October, while occupied in completing the prolongation of a meridian line to that point, and in establishing a camp there, the party was visited by a snow storm, which covered the ground to a depth of four inches in the course of six hours. This was succeeded by six days of dark, stormy weather, which entirely interrupted all progress, and terminated by a rain, with a change to a milder temperature, which cleared away the snow. During this untoward event, the parties made themselves as comfortable as practicable in their tents, and were occupied in computing many of the astronomical and other observations previously made.

On the 2nd of November, the weather became clear, and the necessary astronomical observations were immediately commenced at Park's Hill. From this elevated point, the first station could be distinctly seen by means of small heliotropes during the day, and bright lights erected upon it during the night. Its direction, with that of several intermediate stations due south of Park's Hill, was verified by a new series of transit observations upon high and low stars, both north and south of the zenith. By the same means, the line was prolonged to the north.

In one week after commencing the observations at Park's Hill, the weather became again unfavourable; the sky was so constantly overcast as to preclude all astronomical observations, and the atmosphere so thick as to prevent a view to the north, which would permit new stations to be established with sufficient accuracy in that direction. Unwilling to quit the field while there was a prospect of the weather becoming sufficiently favourable for the party to reach the latitude of Mars' Hill, or even proceed beyond it, it was determined that some of the party should continue in the tents, and there occupy themselves with such calculations

as ought to be made before quitting the field. The officers charged with the line of levels, and with the reconnoissances in advance for the selection of new positions for stations, continued their labours in the field, notwithstanding they were frequently exposed to slight rain and snow storms, as these portions of the work could go on without a clear sky.

On the 13th of November a severe snow storm occurred, which, in a single night and a portion of the following morning, covered the surface of the whole country, and the roofs of the tents, to a depth of sixteen inches. The northern extremity of the avenue, which had been cleared by the surveyors of 1817, was now reached, and, in addition to the young growth which had sprung up since that period upon the previous part of the line, several miles had been cleared through the dense forest of heavy timber, in order to proceed with the line of levels, which had reached nearly to the Meduxnakeag. The depth of snow now on the ground rendered it impracticable to continue the levelling, with the requisite accuracy, any farther; and that part of the work was accordingly suspended for the season. The thermometer had long since assumed a range extending during the night, and frequently during a great portion of the day, to many degrees below the freezing-point.

The highlands bordering on the Aroostook, distant forty miles to the north of the party, were distinctly seen from an elevated position, whenever the atmosphere was clear; and a long extent of intermediate country, of inferior elevation to the position then occupied, presented itself to the view, with the two peaks of Mars' Hill rising abruptly above the general surface which surrounded their base. The eastern extremity of the base of the easternmost peak was nearly two degrees of arc, or nine-tenths of a mile in space, to the west of the line as it passed the same latitude.

To erect stations opposite to the base of Mars' Hill, and upon the heights of the Aroostook, in order to obtain exact comparisons with the old line at these points, were considered objects of so much importance, as to determine the Commissioner to continue the operations in the field to the latest practicable period, in hopes of accomplishing these ends.

On the 18th day of November the party succeeded in erecting a station opposite Mars' Hill, and very near the meridian line. It was thus proved that the line would pass from nine-tenths of a mile to one mile east of the eastern extremity of the base of the north-easternmost peak of Mars' Hill.

On the 30th of November, a series of signals was commenced to be interchanged at night, between the position of the transit instrument on Park's Hill and the highlands of Aroostook. These were continued at intervals, whenever the weather was sufficiently clear, until, by successive approximations, a station was, on the 9th of December, established on the heights one mile south of that river and on the meridian line. The point thus reached is more than fifty miles from the monument at the source of St. Croix, as ascertained from the land surveys made under the authority of the States of Maine and Massachusetts. The measurements of the party could not be extended to this last point, owing to the depth of the snow, which lay upon the ground since the middle of November; but the distance derived from the land surveys must be a very near approximation to the truth. A permanent station was erected at the position established on the Aroostook heights, and a measurement made from it, due west to the experimental or exploring line of 1817, by which the party found itself 2,400 feet to the east of that line.

Between the 1st and 15th of December the observations were carried on almost exclusively during the night, and frequently with the thermometer from zero to ten and twelve degrees below that point by Fahrenheit's scale. Although frequently exposed to this temperature in the performance of their duties in the open air at night, and to within a few degrees of that temperature during the hours of sleep, with no other protection than the tents and camp-beds commonly used in the army, the whole party, both officers and men, enjoyed excellent health.

During the day, the tents in which the astronomical computations were carried on were rendered quite comfortable by means of small stoves, but at night the fire would become extinguished, and the temperature reduced to within a few degrees of that of the outward air. Within the observatory tent, the comfort of a fire could not be indulged in, in consequence of the too great liability to produce serious errors of observation by the smoke passing the field of the tele-

scope. The astronomical observations were therefore always made in the open air, or in a tent open to the heavens at the top during the hours of observation, and without a fire.

On the 16th of December the tents were struck, and this party retired from the field for the season; there being then more than two feet of snow on the ground. To the unremitting zeal, amidst severe exposures, and to the scientific and practical attainments of the officers both civil and military, who served under the orders of the Commissioner on this duty, he acknowledges himself in a great measure indebted for the progress that he was enabled to make, notwithstanding the many difficulties encountered.

Observations were made, during portions of three lunations, of the transit of the moon's bright limb, and of such tabulated stars as differed but little in right ascension and declination from the moon, in order to obtain additional data to those furnished by chronometrical comparisons with the meridian of Boston, for computing the longitude of this meridian line.

At the first station, 4,578 feet north of the monument, and also at the Park's Hill station, the dip of the magnetic needle was ascertained by a series of observations: in the one case upon two, and in the other upon three separate needles. The horizontal declination was also ascertained, at both these stations, by a full set of observations upon six different needles.

The details of these, and of all the astronomical observations alluded to, will be prepared as soon as practicable for the use of the Commission, should they be required. To his Excellency Major-General Sir John Harvey, K.C.B., Lieutenant-Governor of the province of New Brunswick, Major Graham acknowledges himself greatly indebted for having, in the most obliging manner, extended to him every facility within his power for prosecuting the examinations. From Mr. Connell, of Woodstock, a member of the Colonial Parliament, and from Lieutenant-Colonel Maclauchlan, the British land-agent, very kind attentions were received.

Major Graham has also great pleasure in acknowledging his obligations to General Eustis, Commandant of the Eastern Department; to Colonel Pierce commanding the garrison at Houlton, and to his officers; and also to Major Ripley, of the ordnance department, commanding the arsenal at Augusta, for the prompt and obliging manner in which they supplied many articles useful in the prosecution of the labours of his party.

The transit instrument, with which the meridian line was traced, had been loaned to the Commissioners by the Hon. William A. Duer, President of Columbia College, New York; and the Commissioners feel bound to return their acknowledgments for the liberality with which the use of this astronomical instrument was granted, at a time when it would have been difficult, and perhaps impossible, to have procured one as well suited to the object.

All which is respectfully submitted.

JAMES RENWICK,
JAMES D. GRAHAM,
A. TALCOTT, } *Commissioners.*

Hon. John Forsyth, Secretary of State.

No. 20.

Mr. Fox to Viscount Palmerston.—(Received April 16.)

My Lord, *Washington, March* 15, 1841.

I HEREWITH inclose the printed copy of a Report from a Committee of the State Legislature of Maryland, upon the present state of the North-Eastern Boundary Question. The Report was presented at the session of this year, now recently closed, and the resolutions which it concludes by recommending, were adopted by the two houses of the Legislature.

These documents profess to support, with the usual American arguments and assertions, the right of the State of Maine to the whole of the territory

in question, but conclude with recommending a settlement of the dispute by negotiation or compromise, rather than by war. They contain nothing either new or particularly worthy of remark, but have attracted some attention in this country in consequence of the Report being drawn up by Mr. Howard, of Baltimore, now a Senator of the State Legislature of Maryland, but who for some years past, and until the last year, was a member of Congress from Maryland, and Chairman of the Committee of Foreign Affairs of the House of Representatives. Mr. Howard is an adherent of the defeated Van Buren party, and has lately been delivering public lectures to a Mechanics' Institute at Baltimore, upon the subject of the Boundary dispute, in a tone of great animosity against Great Britain.

I have, &c.
(Signed) H. S. FOX.

Inclosure in No. 20.

Report of the Select Committee of Maryland, to whom were referred Resolutions of the States of Maine, Indiana, and Ohio, in relation to the North-Eastern Boundary.

THE Resolutions of the State of Maine are as follows:—

"*Resolved*, That the patriotic enthusiasm with which several of our sister States the past year tendered us with their aid to repel a threatened foreign invasion, demand our grateful recollection, and whilst this spirit of self-sacrifice and self-devotion to the national honour pervades the Union, we cannot doubt that the integrity of our territory will be preserved.

"*Resolved*, That the promptness and unanimity with which the last Congress, at the call of this State, placed at the disposal of the President, the arms and treasures of the nation, for our defence, the firmness of the Executive in sustaining the action of this State, and repelling the charge of an infraction of the arrangement made with the British Lieutenant-Governor in March last, and charging back upon the British Government the violation of that agreement—their decision in demanding the removal of the British troops now quartered upon the disputed territory as the only guarantee that they sincerely desire an amicable adjustment of the Boundary Question, afford us confident assurance that this State will not be compelled single-handed to take up arms in defence of our territory and the national honour, and that the crisis is near, when this question will be settled by the National Government, either by negotiation or by the ultimate resort.

"*Resolved*, That unless the British Government, during the present session of Congress, make, or accept a distinct and satisfactory proposition for the immediate adjustment of the Boundary Question, it will be the duty of the General Government to take military possession of the disputed territory; and in the name of a sovereign State, we call upon the National Government to fulfil its constitutional obligations to establish the line, which they have solemnly declared to be the true boundary, and to protect this State in extending her jurisdiction to the utmost limits of our territory.

"*Resolved*, That we have a right to expect the General Government will extend to this member of the Union, by negotiation or by arms, the protection of her territorial rights, guaranteed by the federal compact, and thus save her from the necessity of falling back upon her natural and reserved rights of self-defence and self-protection—rights which constitutions can neither give nor take away; but, should this confidence of a speedy crisis be disappointed, it will become the imperative duty of Maine to assume the defence of our State and national honour, and expel from our limits the British troops now quartered upon our territory.

"*Resolved*, That the Governor be requested to forward copies of these resolutions to the President and Heads of Departments, and to the Senators and Representatives in Congress from this State, with a request to the latter to lay them before the respective bodies of which they are members, also to the Governors of the several States with a request to lay them before their several Legislatures."

The Legislatures of Ohio and Indiana have passed resolutions responsive to the above; expressing hopes that the dispute between the United States and Great Britain will be amicably settled, but tendering "the whole means and resources of the respective States to the authorities of the Union in sustaining our rights and honour."

Invited by the State of Maine to express an opinion upon a subject deeply interesting to that State and also to the United States, the Legislature of Maryland cannot do this with propriety unless after a careful examination into the merits of the case. The question is one which cannot be clearly understood, without a reference to numerous State papers, but which, when disembarrassed of the refinements which diplomatic subtlety has thrown around it, is easily intelligible. It is the intention of the Committee to give a succinct statement of the different views entertained by the Governments of the United States and Great Britain, without entering into the details of the arguments by which they are respectively sustained, for which a volume would be requisite instead of the ordinary limits of a report. Nothing, however, which is deemed material to a fair exposition of the case, will be intentionally omitted. Three maps are annexed to the Report, without which the Committee could not make themselves understood.

The Second Article of the Provisional Treaty of Peace executed on the 30th of November, 1782, and the Second Article of the Definitive Treaty of Peace between the United States and Great Britain, executed on the 3rd day of September, 1783, use the same language in describing the boundaries of the United States, viz.:—"From the north-west angle of Nova Scotia, viz., that angle which is formed by a line drawn due north from the source of the St. Croix river to the highlands; along the said highlands which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of the Connecticut river," &c.; and after tracing the boundary round to the north and west, the description concludes with the eastern line as follows:—"East by a line to be drawn along the middle of the River St. Croix, from its mouth in the Bay of Fundy to its source, and from from its source directly north to the aforesaid highlands which divide the rivers that fall into the Atlantic Ocean from those which fall into the River St. Lawrence."

These lines have never yet been traced and marked upon the surface of the earth. The north-eastern corner of the United States, and north-western part of Nova Scotia offered few inducements to settlers, on account of the comparative unproductiveness of the soil. The people of Massachusetts and Maine moved to the fertile regions of the west, and those who desired to settle in the British dominions, passed on to Lower or Upper Canada. No practical inconvenience was, therefore, felt by the want of precise knowledge as to the actual position of the Boundary Line, except on the seaboard, where the population was more dense. To remove this difficulty, the Vth Article of the Treaty of 1794 recites, "that doubts had arisen what river was truly intended under the name of the River St. Croix, mentioned in the Treaty of Peace, and forming a part of the boundary therein described," and provides for the appointment of three Commissioners who should "be sworn impartially to examine and decide the said question." Both nations agreed to "consider such decision as final and conclusive, so as that the same should never thereafter be called into question, or made the subject of dispute or difference between them."

In execution of this Article a Board of Commissioners was appointed, who not only decided which was the true head of the St. Croix, but placed a monument there, which has, until the last few months, been admitted on all sides to be the place of departure in running the Eastern Boundary Line of the United States. The Report of Messrs. Featherstonhaugh and Mudge proposes to the British Government to rescind all its action under that Treaty, alleging that the Commissioners erred in their decision. Of that Report it will be necessary to speak more particularly hereafter, and it is alluded to here only to express the surprise which is felt that any public functionaries of the Government of Great Britain should deliberately make to that Government such a reckless proposal. It is now more than forty years since that monument was erected, under a guarantee from Great Britain that the decision should never thereafter be called into question, or made the subject of dispute or difference between the two nations. If the theory of Messrs. Featherstonhaugh and Mudge will not stand,

consistently with the continuance of the monument, it is the theory and not the monument which must be removed.

The Treaty of Ghent, signed on the 24th of December, 1814, in its Vth Article, after reciting that "neither that point of the highlands lying due north from the source of the River St. Croix, and designated in the former Treaty of Peace between the two Powers as the north-west angle of Nova Scotia, nor the north-westernmost head of Connecticut river had yet been ascertained, nor that part of the boundary line between the dominions of the two Powers which extends from the source of the River St. Croix, directly north, to the above-mentioned north-west angle of Nova Scotia, thence along the said highlands which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean," had been surveyed, provided for the appointment of Commissioners to ascertain and determine the points above-mentioned, and cause the boundary to be surveyed and marked. If they differed in opinion, a reference of the disputed points was to be made to some friendly Sovereign or State, who should be requested to decide on the differences which might be stated in the Reports of the Commissioners.

In the execution of this duty, the Joint Commissioners started from the monument which they found at the head of the St. Croix river, and proceeded to run the line due north, as called for by the Treaty of 1783. It is remarkable that in the performance of this important service, neither set of Commissioners was furnished with the instruments necessary to run the line with astronomical precision. They used only a surveyors' compass, correcting it by such indecisive observations of the stars as they were able to make without the appliances of accurate philosophical instruments; and the line which they ran has been since proved to be entirely wrong. After proceeding in what they thought to be a due north course for about forty miles, they came to an insulated hill, called Mars Hill, where the British Commissioners insisted upon stopping; alleging that they had found the north-west angle of Nova Scotia, and also the highlands which divided those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean. They then turned westwardly, and traced a very crooked line around the heads of these streams which flow into the Aroostook river, which discharges itself into the St. John's, and those which fall into the Atlantic rivers. This line, they said, was the Northern Boundary of the United States; and separate Reports being made by the Commissioners to the two Governments, it was agreed on the 29th day of September, 1827, to refer the matter to some friendly Sovereign or State, and various stipulations were entered into for the purpose of facilitating the decision of the arbiter. Mitchell's map, which is annexed to this Report, is admitted, upon both sides, to be "the map by which the framers of the Treaty of 1783 are acknowledged to have regulated their joint and official proceedings," and another map, also annexed to this Report, was "agreed upon by the contracting parties as a delineation of the water courses and of the boundary lines in reference to the said water courses, as contended for by each party respectively."

The King of the Netherlands, the selected arbiter, decided on the 10th of January, 1831, "that he could not adjudge either of the lines to one of the said parties, without wounding the principles of law and equity with regard to the other," and proposed a new Boundary Line, running from the monument due north to the middle of St. John's river, up that river to the St. Francis, one of its branches, thence to its south-westernmost source, and thence due west to the line claimed by the United States. This proposition was, in June, 1832, declined by the American Government. Great Britain was willing to accept it, but, after some time yielded to the wish of the United States, that the question should be again open for negotiation. Since that time numerous diplomatic notes have been exchanged between the two Governments, a minute examination of which would lead the committee too far from the purpose which they have in view. Great Britain first assumed the ground that an attempt to find the Treaty line was declared by the arbiter to be hopeless; but afterwards agreed to the proposition of the American Government to institute a new survey, coupled, however, with a condition that the Commissioners should be instructed to consider the St. John's River, as not being one which emptied itself into the Atlantic Ocean. It was in vain that the American Government remonstrated against this, as requiring a preliminary abandonment of its whole argument; the condition

was insisted upon, until the disturbances upon the frontier, in February, 1839, placed the peace of both nations in great peril. The latest exhibition of the state of the negotiation which the Committee can find in the papers within their reach, is a Note from Mr. Fox to Mr. Forsyth, containing the following extract:—

Mr. Fox to Mr. Forsyth.

"*June* 22, 1840.

"The Undersigned is accordingly instructed to state officially to Mr. Forsyth, that Her Majesty's Government consent to the two principles which form the main foundation of the American Counter-Draft, namely: first, that the Commission to be appointed shall be so constituted as necessarily to lead to a final settlement of the question of Boundary at issue between the two countries; and, secondly, that in order to secure such a result, the Convention by which the Commission is to be created, shall contain a provision for arbitration upon points, as to which the British and American Commissioners may not be able to agree.

"The Undersigned is, however, instructed to add, that there are many matters of detail in the American Counter-Draft which Her Majesty's Government cannot adopt," &c.

This prospect of a final settlement is far from being satisfactory. The "matters of detail" which "Her Majesty's Government cannot adopt," may be spun out by diplomatic finesse to an inextinguishable length. All the practical good which Great Britain could derive from the ownership of the soil, she draws from its possession under the existing temporary arrangement between the two Governments. The road from the Capital of New Brunswick to Quebec, passes through the corner of the Disputed Territory, and the right of transit constitutes its chief value. As long, therefore, as Great Britain enjoys under a temporary understanding all the benefit which an ultimate settlement in her favour could bestow, it is her policy to protract the negotiation. She has all the advantages of success, without the hazard of loss. It is to be apprehended that "matters of detail" will be discussed until they become matters of substance. In the mean time, the population of the State of Maine is spreading over a portion of the disputed territory. The geological investigations of that State have shown that the Aroostook River waters some of the finest lands in the State. Roads are constructed from the seaboard northwardly into these fertile regions, and settlements are extending. The danger of border conflicts is annually increasing; armed bodies of men are near each other, with mutually exasperated feelings. Men who will live in the woods, enduring the severity of a northern winter, and follow a pursuit pregnant with danger to life, are apt to be constitutionally brave. This is the case with the lumber-men of Maine. They transport upon the snow to the banks of the frozen streams the lumber which they have prepared in the forest, and wait until those same snows, by their melting, swell the rivers sufficiently to float down their hardly acquired property to a market. This sort of life invigorates men's bodies and courage, but endangers the peace of a disputed frontier. A chance affray which may happen at any time would be likely to result in loss of life; and if blood once be shed it will be difficult, if not impossible, to assuage the popular feeling. With a strong desire to preserve peace on the part of the Governments and people of the United States and Great Britain, still they are in too much danger of accidental collisions between the inhabitants of this border, which they may find themselves unable to restrain. A war between the United States and Great Britain is an evil greatly to be deprecated. It would be an arduous, bloody, and long struggle. The Eastern States, instead of holding back, would upon this Boundary Question be the foremost in the fight. The whole northern frontier of the United States is in an inflammable condition, and would cheerfully respond to a call of their Government; whilst upon the seaboard, the modern improvements in war vessels and gunnery, would spread the horrors of war over our extensive Atlantic coast. The peculiar situation of Maryland must cause its Legislature to look with great anxiety upon any question which is calculated to jeopard the peace of the country. In a question of national honour there is no room for choice or hesitation; neither in the course which Great Britain has pursued in her negotiation with the United States, nor

in the multitude of disciplined troops which she has spread over our northern frontier, nor in the establishment of a speedy communication by steam between England and the provinces; a communication which the good people of Boston have hailed with such pleasure, unobservant of the motives which have led to its introduction, can the Committee see any purpose but that of resolutely maintaining the supremacy of Great Britain over her North American provinces, and the enjoyment of the military road between Halifax and Quebec. In this attitude of things, the Legislature of Maryland look upon the prospect before us with deep interest. The geographical position of our State makes it more than commonly vulnerable; we have a right, therefore, to express our opinions frankly to the State of Maine and to the Federal Government. To do this with propriety, it becomes necessary to re-examine the Boundary Question carefully, and see whether national prejudices may not have influenced the opinion of the State of Maine as to her rights.

The first mention of our northern boundary is found in the 2nd Volume of the "Secret Journal of Congress," page 133, under the date of February 23, 1779, in a Report of a Committee, of which Mr. G. Morris was chairman:—

"Your Committee are of opinion that the following Articles are absolutely necessary for the safety and independence of the United States, and therefore ought to be insisted on as the ultimatum of these States. 1. That the bounds of the United States be acknowledged and ratified as follows: Northerly by the ancient limits of Canada, as contended for by Great Britain, running from Nova Scotia south-westerly, west, and north-westerly to Lake Nessessing, thence a west line to the Mississippi; easterly by the boundary settled between Massachusetts and Nova Scotia; southerly, &c."

After discussing the Report of this Committee, Congress adopted (March 19, page 138,) a more precise description of the northern boundary, in which the north-west angle of Nova Scotia first makes its appearance, with even more perspicuity than is found in the Treaty itself.

"Congress took into consideration the Report of the Committee of the whole, and agreed to the following ultimata:—1. That the thirteen United States, are bounded, north, by a line to be drawn from the north-west angle of Nova Scotia, along the highlands which divide those rivers which empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean to the north-westernmost head of Connecticut River, thence, &c., and east, by a line to be drawn along the middle of St. John's from its source to its mouth in the Bay of Fundy, or by a line to be settled and adjusted between that part of the State of Massachusetts' Bay, formerly called the Province of Maine, and the colony of Nova Scotia, agreeably to their respective rights, &c."

The offer here made of varying the boundary so as to make the St. John's River the line, from its source to its mouth, has been recently repeated to the British Government, but then, as formerly, declined. The alternative proposition was carried into effect, and Massachusetts and Nova Scotia left, by the Treaty, where their previously existing rights placed them. The north-west angle of Nova Scotia is assumed in this instruction as the starting point, and this was exactly conformed to by the Commissioners who negotiated the Treaty, except that they undertook to define what that angle was, and where it could be found. Their description of it was accurate, and coincident with the old boundaries of the two Provinces of Massachusetts and Nova Scotia; and both conform to the present claim of the United States.

It is perfectly clear that there must then have been, and must now be, a north-west angle of Nova Scotia somewhere. If Nova Scotia reached to the North Pole on one side, and the Pacific Ocean on the other, it would be difficult to get to the north-west angle, although there would still be one. But with an extent more limited than this, it is only necessary to pursue the northern and western boundaries until they meet, in order to find the angle. The specification, therefore, in the instruction of Congress, would, of itself, have been sufficient, without the superadded description in the Treaty; and this will appear from a reference to the limits of Nova Scotia as they existed at the commencement of the revolutionary war. But it so happens that the addition made by the Commissioners corresponds, even in language, with the then existing public documents and grants, and shows that they were entirely familiar with all those papers which have been drawn into the discussion at a more recent period. It may not be amiss to take a cursory glance at the characters and qualification of these Commissioners.

Dr. Franklin is too well known in the United States to make it necessary or expedient to speak of him. His life is a text-book in our schools; and his name, given as it is to steam-boats, and stages, and inns, and banks, and libraries, and societies, has made his history universally and thoroughly known.

Mr. Jay was his associate for some time before they were both joined by Mr. Adams. The high honour must be given to him of refusing to negotiate with the Envoy of Great Britain until the independence of the United States was acknowledged, and the commission of the British Minister changed accordingly. During the time when the question of peace or war remained suspended upon the determination of Great Britain to continue or change the credentials which she had issued, his responsibility was of the heaviest character, because, in this he differed from his usually sagacious and trusted colleague, Dr. Franklin. And the reputation of Mr. Jay for firmness and sagacity cannot be fully appreciated, until we remember that the course which he then pursued, furnished the basis of the argument by which the Honourable John Quincy Adams afterwards vindicated and preserved the American right to the fisheries of Newfoundland. In the present dispute respecting the boundary, we are met with a repetition of the same idea on the part of Great Britain, that the independence of the United States was granted in the Treaty of 1783; and in both cases, we are indebted to the inflexible spirit of Mr. Jay for affording us the same ground of indignant denial which he made amidst responsibilities which would have shaken a less stout heart.

When Mr. Adams arrived in Paris, it must be mentioned to his honour, that he took sides promptly with Mr. Jay. But Mr. Adams brought also to the negotiation an intimate acquaintance with the boundaries and history of Massachusetts, derived from his active participation in the affairs of the Province. He has left a record of this in his correspondence. Immediately after his arrival in Paris, (October 31, 1782,) we wrote thus to Robert R. Livington, (Sparks' "Diplomatic Correspondence," vol. vi., p. 437)—

"Yesterday we met Mr. Oswald at his lodgings; Mr. Jay, Dr. Franklin, and myself, on one side, and Mr. Oswald, assisted by Mr. Strachey, a gentleman whom I had the honour to meet in company with Lord Howe, upon Staten Island, in the year 1776, and assisted also by a Mr. Roberts, a clerk in some of the public offices, with books, maps, and papers, relative to the boundaries.

"I arrived in a lucky moment for the boundary of Massachusetts, because I brought with me all the essential documents relative to that object, which are this day to be laid before my colleagues in conference at my house, and afterwards before Mr. Oswald."

And again, page 452:—"The Count [Count de Vergennes] then asked me some questions respecting Sagadehock (now Maine), which I answered by showing him the records, which I had in my pocket, particularly that of Governor Pownall's solemn act of possession in 1750; the grants and settlements of Mount Desert, Machias, and all the other townships east of Penobscot river; the original grant of James the First to Sir William Alexander, of Nova Scotia, in which it is bounded on St. Croix river (this grant I had in Latin, French, and English); the dissertations of Governor Shirley and Governor Hutchinson, and the authority of Governor Bernard, all showing the right of Massachusetts to this tract to be incontestible. I added, that I did not think any British Minister would ever put his hand to a written claim of that tract of land, their own national acts were so numerous and so clear against them."

It is impossible that these men should not have known where the north-west angle of Nova Scotia was. Where they thought it was, the United States say it is now. Great Britain has sometimes said, that it was not to be found anywhere; and at other times has placed it at a point beyond which the Province of New Brunswick (carved out of Nova Scotia) has always exercised jurisdiction, which continues, according to the Report of Featherstonhaugh and Mudge, to the present day; for they say, that the jurisdiction of New Brunswick reaches to the Restigouche River, a hundred miles north of where the north-west angle is said to be. The practice of Great Britain, therefore, always has contradicted her own argument. It is not possible to discard from the Treaty the plain reference to the then existing boundary of Nova Scotia. Wherever its northern and western lines intersected each other, there the boundary of the United States commenced; and yet we find eminent British statesmen asserting, that the Treaty had no regard to previously existing lines, but that it adopted a new description altogether.

Even as late as 1838, this idea is again repeated in a letter, from which the following is an extract:—

"*Lord Palmerston to Mr. Stevenson.*

"*Foreign Office, April* 16, 1838.

"In answer to the argument which is employed by Mr. Stevenson, with respect to the boundaries between the British possessions and the United States, the Undersigned begs leave to observe, that the Treaty of 1783 laid down the boundary between the United States and the British possessions, not by reference to the then existing, or to the previously existing, boundaries of the British provinces, whose independence was then acknowledged, but with reference to a geographical description contained in the Treaty itself, &c., &c."

Massachusetts and Nova Scotia were contiguous to each other, for there was nothing between them. Of course, the north-west angle of Nova Scotia, and the north-east angle of Massachusetts were the same mathematical point; and the ancient charters clearly demonstrated where that point was to be found.

The charter of Nova Scotia, granted by James the First to Sir William Alexander, in 1621, with which Mr. Adams was so familiar as to carry in his pocket a copy of it in Latin, French, and English, run thus;—

"Beginning at Cape Sable, &c., &c., to the river, commonly called St. Croix, and to the most remote spring or source, which, from the western part thereof, first mingles with the river aforesaid; from thence, by an imaginary direct line, which may be conceived to stretch through the land, or to run towards the north to the nearest road, river, or spring, emptying itself into the great river of Canada, &c."

Upon a comparison of this line with that, which, in the Treaty, is declared to be the Eastern Boundary of the United States, it will be found to differ only in the following three points:—

1. It adopts the "western source" of the St. Croix, whereas the Treaty merely says "source," as the point from which to run the northern line.

2. It runs the line towards the north, and the Treaty uses two expressions, "due north" and "directly north."

3. It extends the line to the St. Lawrence, and the Treaty stops it at the intermediate highlands.

The two first of these differences are of little consequence. In fact, they may more properly be considered as different descriptions of the same line, the latter in date correcting, by subsequent geographical knowledge, the error of the former, than as the adoption of different lines. The third difference followed as a necessary consequence, from the excision of the northern portion of the line by the annexation of that part of the country to Canada, in 1763, after its conquest.

The Report of Messrs. Featherstonhaugh and Mudge advances the extravagant proposition, that the original grant of Nova Scotia was from the source of the St. Croix to the River Chaudière, thus running a north-westerly direction, instead of "towards the north." It may be proper to bestow a passing notice upon this pretension.

The idea is not original with these Commissioners. It was alluded to in the British argument before the King of the Netherlands, as a position which might be taken, but they did not assume it. Availing themselves of this hint, and desirous of destroying the identity of the present American claim with the original chartered boundary of Nova Scotia, the Commissioners boldly advance the doctrine for the three following reason:—

1. That the translation of the Latin grant justifies the ground.

2. That the grant calls to run "ad proximam navium stationem," which must mean Quebec.

3. That an ancient map so places the line.

It is alleged by these Commissioners that the words "versus Septentrionem," in the original Latin grant, are not to be strictly construed "towards the north," because in a preceding passage of the grant, the same words are found as applying to the line from Cape Sable to St. Mary's Bay, which line, it is admitted, is in a course nearly west; and the argument is, that if these words describe a line nearly

west in one part of the grant, they may do so in another. To furnish a basis for this argument, the same liberties are taken with the rules of the Latin Grammar, that are brought to bear upon ranges of mountains; both are unceremoniously moved out of their established position, in order that the theory of the Commissioners may have room to stand. It may possibly be the case that the translation which they give, was inconsistent with the rules of the Latin tongue, when the "abraded mountains," which they put upon their line stood erect; but it finds no sanction in the genius of that language as it was understood by Horace, and Virgil, and Cicero.

The following is the extract which they give from the grant:

"Omnes et singulas terras Continentis ac insulas situates et jacentes in America intra caput sen promontorium communiter Cap de Sable appellat. Jacen prope latitudinem quadraginta trium graduum ant eo circa ab equinoctiali linea versus Septentrionem, a quo promontoris versus littus maris tenden ad occidentem ad tationem Sanctae Mariae navium vulgo Sanctmareis Bay."

Their literal translation:—All and each of the lands of the continent, and the islands situated and lying in America, within the headland or promontory, commonly called Cape Sable, lying near the forty-third degree of latitude from the equinoctial line or thereabouts. From which promontory stretching westwardly towards the north, by the sea shore, to the naval station of St. Mary, commonly called St. Mary's Bay."—*Report*, pages 24 and 25.

To separate the words "versus septentrionem" from "ab equinoctiali linea," to which they properly belong, and thrust them into the middle of the succeeding paragraph, is to do violence to all the rules of grammar. The plain meaning of the phrase is, "from the equinoctial line towards the north," that is, "northern latitude."

2. The second reason is, that the termination of the line from the source of the St. Croix, must be, by the grant of 1621, at some "navium statio," which the Commissioners translate "naval station," or a place where ships are accustomed to ride. Quebec, they say, was the only naval station on the St. Lawrence, and therefore to Quebec the line must go. But they omit to state that these same words are twice used in the preceding part of the grant, and applied successively to "St. Mary's Bay" and the Bay of Fundy. To neither of these places can, or could ever be applied the epithet of "naval station," in the sense of the Commissioners. Quebec was not then in a situation to be called a naval station in the modern acceptance of the term. Selected as a site about 1603, it was not begun until 1608, and then some "rude cottages were framed, a few fields cleared, and one or two gardens planted."—1 *Bancroft*, p. 23.

"In 1620, Champlain began a fort, and in a few years (1624) the castle of St. Louis, so long the place of council against the Iroquois and against New England, was durably founded on a commanding cliff."—1 *Bancroft*, p. 29.

It belonged to France; and whatever inducement there might have been to make a boundary line terminate at a "naval station" of the same country, there could have been no possible motive for its striking the St. Lawrence opposite to a post occupied as such by another nation.

3. The third reason is the existence of an old map made in 1689, by Coronelli, a Venetian, which places the boundary line of Nova Scotia from the St. Croix to the mouth of the Chaudière opposite to Quebec. Where this map was found does not appear. It was not used in the argument before the arbiter, but it is manifestly entitled to no confidence, because it places Nova Scotia on the south instead of the north side of the line.

The reasons against this position of the Boundary Line of Nova Scotia, are as follows:—

1. In 1663, Charles the Second granted to his brother James, Duke of York, the following land, viz.: beginning at a certain place, called or known by the name of St. Croix, adjoining to New Scotland, in America, to the river of Kennebec, and so up by the shortest course to the river of Canada, northwards. This grant would divide Nova Scotia into two separate parts, according to the location of the latter by the Commissioners; but if the American line be adopted, the two grants are in harmony with each other, lying on opposite sides of a line running from the source of the St. Croix, north.

2. The line is contradictory to all the official acts of the British Government anterior to the American Revolution, and to the maps which were recognized as authority. Mitchell's map, for example, made in 1755, was held in such high

esteem, that the negotiators of the Treaty of 1783 were governed entirely by it. It has been already stated that "Mr. Roberts, a clerk in some of the public offices" in London, crossed the channel with "books, maps, and papers relative to the boundaries," which were used by the Ministers. If then, Mitchell's map was selected from all these as the most orthodox, and the Boundary Line of Nova Scotia was represented upon that map as running due north, it is inconceivable that the true line should have gone to the Chaudière.

Mr. Gallatin, after giving a list of nineteen different maps published in England between 1763 and 1783, "being all the maps that could be found after a diligent search both in England and America," says, "in every instance the course of the line from the source of the River St. Croix is northward; in every instance that line crosses the River St. John and terminates at the highlands in which the rivers that fall into the St. Lawrence have their sources; in every instance, the north-west angle of Nova Scotia is laid down on those highlands and where the north line terminates; in every instance, the highlands, from that point to the Connecticut River, divide the rivers that fall into the River St. Lawrence from the tributary streams of the River St. John and from the other rivers that fall into the Atlantic Ocean."

Mr. Gallatin also enumerates four maps published in England between the preliminary and definitive Treaties, (November, 1782, and September, 1783,) in all of which "the boundaries of the United States are laid down as now claimed by the United States, and are the same with those delineated in the preceding maps, as the boundaries of the Provinces of Quebec and Nova Scotia."

Assuming then that the Boundary Line of Nova Scotia, by its original charter, ran due north as it is laid down in Mitchell's map, we have reached one very important stage of the investigation; because this original line was never changed by the British Government, and we are thus enabled to see very clearly what is the Western Boundary of Nova Scotia. To find the north-west angle, where the American Boundary is made to begin by the Treaty of 1783, we have only to ascertain where the Northern Boundary is; and the solution of the problem must be ascertained. If Nova Scotia had a circular boundary like the northern part of the State of Delaware, it might have no angle. But as its boundaries are straight lines, its north-west angle can be found with as much certainty as one of the corners of a square chamber. Where then is or was the northern limit of Nova Scotia?

By the original charter, the province was bounded on the north by the River St. Lawrence, and the north-west angle was, of course, at the point where the Boundary Line from the St. Croix insected the St. Lawrence. It so remained until the termination of the war of 1756. Canada having been wrested from France, the King of England, in 1763, chose to re-model his American dominions. In doing this there was much political sagacity exhibited. Natural boundaries are the best between separate jurisdictions. Where the laws of trade lead men to go, it is best that civil regulations should encourage them to go. From an inspection of Mitchell's map, it will be seen that the basin of the St. Lawrence is not extensive on the southern side. The streams which flow into it are short in their course, and must be rapid, because long rivers, flowing in an opposite direction, take their rise near their heads; these short and rapid streams were even then occupied by saw-mills, the lumber from which found its market at Quebec. It was, therefore, highly expedient that the country which traded with Quebec, should be placed under the jurisdiction of Canada, and a Royal Proclamation of October, 1763, wisely enlarged Canada, by describing its southern boundary as follows. viz:—

"Passing along the highlands which divide the rivers that empty themselves into the said River St. Lawrence, from those which fall into the sea, and also along the north coast of the Bay of Chaleurs and the coast of the Gulf of St. Lawrence to Cape Rosiers."

In the ensuing month, the boundary of Nova Scotia was for the first time changed; for in November, 1763, Montague Wilmot was appointed Governor of Nova Scotia, whose boundaries were altered, to correspond with the Proclamation, viz:—

"To the mouth of the River St. Croix, by the said river to its source, and by a line drawn north from thence to the southern boundary of our Colony of Quebec."

And in the Commissions issued in 1767, to William Campbell, and in 1761, to Francis Leggee, Nova Scotia is described as above.

In 1774, an Act of Parliament (14th George IIIrd) was passed, describing the boundary of the Province of Quebec, as follows:—

"Bounded on the south by a line from the Bay of Chaleurs, along the highlands which divide the rivers which empty themselves into the St. Lawrence from those which fall into the sea."

The American claim is now, that the Boundary is precisely where the original charter of Nova Scotia, and the above-mentioned Proclamation and Act of Parliament put it. If the southern boundary of Canada is not to be found in those documents, where is it to be found? No subsequent legislation of Great Britain has designated it, and it must, of necessity, exist there only. If the present American and British claims be tested by these papers, the following will be the result:

The American line runs from the north coast of the Bay of Chaleurs, along highlands which divide rivers which empty themselves into the St. Lawrence, from those which unite with the St. John's River, and then fall into the sea through the Bay of Fundy.

The British line requires to be noticed as it was claimed before the arbiter and by Featherstonhaugh and Mudge. These lines vary considerably, as an inspection of the maps annexed hereto will show.

As it was claimed before the King of the Netherlands, it winds around the heads of the streams which flow upon one hand into the Aroostook and the Allegash (tributaries to the St. John's) and the St. John's, and upon the other into the Kennebec and the Penobscot. But from the eastern termination of the line to the Bay of Chaleurs there is no attempt to trace it on the map, or reconcile it with the description of it in the Proclamation of 1763. That this cannot be the line meant by the Proclamation and subsequent Act of Parliament is manifest from the following reasons:

That the Proclamation calls for a range of highlands from the Bay of Chaleurs, whereas in the argument before the King of the Netherlands, it was not pretended that any such range existed from the Bay of Chaleurs to Mars Hill, the alleged termination of the Eastern Boundary Line of the United States.

That such a line would be contradictory to the undeviating practice of the British Government in maintaining jurisdiction over its own provinces, because if that line be correct, all to the north of it would belong to Canada, and Featherstonhaugh and Mudge say that the jurisdiction of New Brunswick extends northward to the bank of the Restigouche.

That such a line divides waters which fall into the St. John's from others which fall into the sea, and does not approach within from 50 to 100 miles, those waters which fall into the St. Lawrence.

The line, as proposed to be run by Featherstonhaugh and Mudge, runs along the southern bank of the Aroostook, and leaves Mars' Hill, for which the British Government has so stoutly contended, about twenty miles within the territory of the United States. Of course, these Commissioners disapprove of the former pretensions of Great Britain. It remains to be seen whether that Government will adhere to its former claim and condemn its Commissioners, or adopt their report and condemn the line which, for so many years and at so much trouble, it has hitherto maintained.

The objections to this line are, that when extended it strikes the south, instead of the north, coast of the Bay of Chaleurs, which the Proclamation requires, and that it passes along no highlands at all. The geologist has discovered from sundry stones found there, that a range of highlands once existed which are now abraded. Some of the objections to the other line are also common to this. The map shows that on the east of the St. John's, the range of highlands as projected is coincident with the bed of the Tobique River. That a river should flow along a ridge of highlands, or even across it, is not surprising; but that it should abrade a range of hills for no other purpose than to put its bed there, is a geological phenomenon worthy of all admiration. The Aroostook, too, has taken the superfluous trouble of crossing and recrossing the same range of highlands for no other cause, apparently, than to gratify the guilty and unnatural ambition of flowing along the "axis of maximum elevation."

If either of these lines be taken to be the true one, the consequence is that the north-west angle of Nova Scotia must be at the intersection of it, with

the north line from the source of the St. Croix. What right has the Governor of New Brunswick then to interfere with the territory watered by the Aroostook? The British argument shows that if this land belongs to Great Britain at all, it is because it is within the limits of Canada, and utterly beyond the jurisdiction of New Brunswick; and yet, with a strange inconsistency between theory and practice, it is shown by the former to belong to one province, and by the latter to another. Those statesmen who drew up the Proclamation of 1763, no doubt, had Mitchell's map before them, because in a corner of that map it is written:—

"This map was undertaken with the approbation, and at the request, of the Lords Commissioners for Trade and Plantations, and is chiefly composed m draughts, charts, and actual surveys of different parts of His Majesty's colonies and plantations in America, great part of which have been lately taken by their Lordships' orders and transmitted to this office by the Governors of the said colonies and others.

"JOHN POWNALL, *Secretary.*

"*Plantation Office, February* 13, 1755."

A map published only eight years previously, "chiefly composed from draughts, charts, and actual surveys, taken by their Lordships' orders," and the map itself, "undertaken with the approbation, and at the request, of the Lords Commissioners," must have been used, when the new boundary line of Canada was to be designated. As the whole country was under the Crown, there was no inducement to enlarge or diminish either province, except for the convenience of trade before spoken of, or the establishment of a good natural boundary. If the reader will examine the map, beginning at the north coast of the Bay of Chaleurs, the eye will without any difficulty trace a line to the westward, around the heads of the streams which flow to the northward and southward, into the St. Lawrence and the Bay of Fundy or sea. Let him then endeavour to follow the line according to the claim of the British Government; and, although, beginning at the western side of the map, it is possible to find it for some distance eastwardly around the heads of streams which flow to the north and south, yet there must be a full stop at the St. John's River, at which the attempted line is wholly lost. A line which is described as running round the heads of streams, has no authority for crossing a large and navigable river.

As a further experiment, let the reader carry his view across the St. John's, and see if he can find any highlands between it and the south coast of the Bay of Chaleurs, where Featherstonhaugh and Mudge place the line. So far from it, there is not a single hill marked there, but, on the contrary, the paths of those rivers running transversely across the imaginary range of highlands. It is inconceivable, therefore, that the Proclamation of 1763, and Act of Parliament 1774, should have fixed the southern boundary of Canada where the British Government now claims it to be. The King would not have adopted an impracticable line. Upon Mitchell's map, it may be said to be impossible to trace any other than that contended for by the American Government, easily followed by the eye and fulfilling every requirement, except that the rivers flowing to the south empty themselves into an arm of the sea instead of the body of the sea, and upon this distinction hangs the whole British argument. The choice is between the King and Parliament's having considered the Bay of Fundy as a part of the sea, or as having very formally adopted a boundary, which an inspection of the map must have shown, could not by any possibility be traced on the surface of the earth.

The north-west angle of Nova Scotia in 1783 was, therefore, sufficiently apparent. If the Treaty had stopped there, and merely said that the boundary of the United States should begin at that north-west angle, the description would have been precise enough. But, in order to illustrate their meaning more clearly, the Commissioners proceed to a repetition of the language used (except that they say "Atlantic Ocean" instead of "sea") in the Proclamation and Act of Parliament. One leg of the angle is a line drawn "due north from the source of the St. Croix River," the same originally called for in the grant of Nova Scotia, in 1621: the other leg is a line drawn "along the highlands which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean," using the phraseology (with the exception of a single word) of the Proclamation of 1763. Of the intention to

make these official acts of the British Government the basis of their Treaty, there seems to be no fair ground to doubt.

Applying this description to the claims of the two Governments, the result will be more apparent if the form of an interrogatory be assumed. And first of the British.

From one side of your line do the waters empty themselves into the St. Lawrence?

No; nor do they come, in some parts of the line, within one hundred miles of the St. Lawrence.

From the other side do they flow into the Atlantic Ocean?

Yes; if the bays of Sagadahock and Penobscot be the Atlantic Ocean.

If the American Government be asked the same questions, the answer to the first will be unqualifiedly in the affirmative:

Yes.

To the second question the answer would be,

Yes; if the Bay of Fundy be the Atlantic Ocean.

Of the two requirements then, the British claim wholly repudiates one, and the American claim satisfies that one. If the British claim gratifies the other, the American does also; and the argument on the British side cannot show that the American Government fails to gratify both calls, without showing at the same time that its own claim gratifies neither.

Much more might be written upon a subject which has drawn to its discussion a large contribution from the skilful statesmen of Great Britain and the United States. But it has been the object of the Committee to give a clear statement of the question, rather than a full argument upon its merits. They have consulted a large mass of materials; the correspondence between the Secretary of State and British Minister; the succinct, but lucid report of Senator Buchanan; speeches of Members of Congress; reports of Committees of the Legislatures of Maine and Massachusetts: sundry essays written by the Honourable Caleb Cushing, and some published arguments, the authors of which have not openly acknowledged them, although they are known; the report of Messrs. Featherstonhaugh and Mudge; and lastly, the masterly review and analysis of that report written by the venerable diplomatist and statesman, Albert Gallatin, whose knowledge upon this subject is probably more profound and extensive than that of any man living.

With regard to the course which ought to be pursued in obtaining a settlement of this controversy, the Committee do not feel themselves qualified to express an opinion. The constitution of our country has wisely placed our foreign relations in the exclusive guardianship of the Federal Government, whose dignity and power are commensurate to the duty which it has to perform. It is clear that all reasonable efforts should be exhausted to accomplish a pacific and speedy adjustment of the difficulty; and it is also clear that if they should unfortunately fail, it will become the duty of the States of the Union to rally around the Federal Government, and carry it successfully through the struggle that must then come.

The following Resolutions are submitted to the consideration of the Senate:—

Resolved, That the Legislature of Maryland entertains a perfect conviction of the justice and validity of the title of the United States and State of Maine to the full extent of all the territory in dispute between Great Britain and the United States.

Resolved, That the Legislature of Maryland looks to the Federal Government with an entire reliance upon its disposition to bring the controversy to an amicable and speedy settlement; but if these efforts should fail, the State of Maryland will cheerfully place herself in the support of the Federal Government, in what will then become its duty to itself and the State of Maine.

Resolved, That after expressing the above opinions, the State of Maryland feels that it has a right to request the State of Maine to contribute, by all the means in its power, towards an amicable settlement of the dispute upon honourable terms.

Resolved, That if the British Government would acknowledge the title of the State of Maine to the territory in dispute, and offer a fair equivalent for the passage through it of a military road, it would be a reasonable mode of adjusting the dispute, and ought to be satisfactory to the State of Maine.

Resolved, That the Governor be and is hereby requested to transmit a copy of this Report and these Resolutions to each of the Governors of the several States, and to each of the senators and representatives in Congress from the State of Maryland.

No. 21.

Mr. Consul Grattan to Viscount Palmerston.—(Received April 17.)

Her Majesty's Consulate, Boston, March 29, 1841.

(Extract.)

I HAVE the honour to transmit herewith a copy of the report of the Joint Special Committee of the Senate and House of Representatives of Massachusetts, in regard to the North-Eastern Boundary Question; and the resolutions which passed the House on the 11th instant, and which were concurred in by the Senate on the 12th, and approved of by the Governor on the 13th.

Inclosure in No. 21.

Report of the Joint Special Committee of the Senate and House of Representatives of Massachusetts in regard to the North-Eastern Boundary.

COMMONWEALTH OF MASSACHUSETTS.

The Joint Special Committee of the Senate and House of Representatives of the State of Massachusetts, to whom was referred the Message of His Excellency the Governor, together with certain Resolutions transmitted by him, adopted by the States of Maine and Indiana, in regard to the North-eastern Boundary, have had the same under consideration, and ask leave unanimously to submit the following

REPORT:

YOUR Committee observe, with unalloyed satisfaction, the unanimity of sentiment that prevails throughout the United States touching this dispute with Great Britain about the North-Eastern Boundary. It is pleasing to reflect, that, whatever may be the differences of opinion among us, that grow out of sectional interests or party organizations, when applied to topics of domestic origin, they do not exist on this question with a foreign nation. A striking proof of it is to be found in the Resolutions of the State of Indiana, now under consideration, covering, as they do in a preamble, other resolutions of similar import adopted by the State of Ohio, and which were directly received in a separate form by the proper authorities of this State in the course of the last year. These are are both of them States, which, by reason of their remoteness cannot, feel the same deep interest in the issue of the controversy, that is entertained by Maine or Massachusetts; yet, notwithstanding this, and solely animated by the patriotic wish to sustain the rights of their sister States, they have not hesitated to come forward of their own accord, and to pledge themselves to maintain the integrity of the country. Your Committee cannot doubt, that due honour will be awarded to those States for their proceeding. And they ardently hope and confidently trust, that the same spirit which actuated them will continue to develop itself in all other parts of our Union, until the moment arrive when we shall secure, from an altered policy in Great Britain, that justice which has been so long and so unreasonably delayed.

On the other hand, it is with regret that your Committee find themselvee compelled to accord with the opinion expressed in his Excellency's Message of

the present condition of the controversy. The course which Great Britain has, up to this time, felt itself justified in pursuing, although, perhaps, emanating from convictions as honestly entertained as our own, is by no means calculated to accelerate the adjustment of all the difficulties in the way of a settlement, or to soften the temper in which the discussion may be hereafter conducted. If this remark is true, when applied to the whole series of movements, which take their date as far back as the Treaty of Ghent, it is still more strikingly so, when limited to the proceedings of the last two years. Should the Report of the British Commissioners of Survey, Messrs. Featherstonhaugh and Mudge, be taken as in any degree characteristic of the future intentions of Her Majesty's Ministers, it might, indeed, be regarded as indicative of a disposition unfavourable to any pacific settlement whatsoever. For, as his Excellency justly remarks, it may well fill the public mind in the United States with indignation—and that to a degree eminently unfavourable to the cultivation of the coolness and deliberation which, under any circumstances, ought ever to be adhered to in the management of great national interests.

But your Committee have not yet brought themselves to the belief, that such is the case. They see nothing, thus far, to show that the British Government either has given, or is now inclined to give, its sanction to the reasoning of that Report. They are aware of the fact, how great an obstacle to final action upon this subject has been the indifference with which it has been regarded, and the absence of a desire, on the part of those in whose hands the subject has been confided, to make use of all the evidence they have, and to judge for themselves all the arguments requisite for the comprehension of it. A discussion of geographical boundary, in a country which has hardly been explored, made unnecessarily complicate, and multiplying causes for controversy, by tracing back all the existing evidences of title to the respective lands that adjoin the Territory in dispute, is not, in itself, so attractive a matter as to lead to much surprise that few will take the pains to understand it. It is not hazarding too much to affirm, that, for this reason alone, not many good judges of its merits are to be found in England. The consequence is very unfortunate. For this indifference opens an opportunity for the better knowledge and the passions of the inhabitants of the colonies, to infuse narrow and peculiar views into the national policy. And an argumentative Report like that of the Commissioners already alluded to, one which presents an imposing array of authorities, marshalled with a sole regard to the effect that can be produced by them at home, and without respect to truth or honesty of quotation, is calculated, in the absence of industry requisite to test its solidity, to gain a degree of currency and weight which it most assuredly does not deserve. Thus it happens, that the harmony of two great countries, which should at no time think of each other with feelings other than those of kindness and good will, is endangered to the last degree by the action of individuals who overlook, in the advancement of some momentary ends of their own, the immense injury they might become the means of inflicting upon the world.

In the present state of the case, it is not for Massachusetts to falter a single instant in the course she has thus far steadily pursued. Year has passed after year without bringing any stronger hope of a settlement, yet her voice has been heard at every suitable opportunity, moderately but firmly repeating her conviction of the right. At some times reports have been drawn up, elucidating the principles involved; at others, the Legislature has embodied the sentiment of the State in the form of declaratory resolutions. In view of what has been already done, your Committee deem it superfluous at this time to go over the entire ground of controversy between the nations. For such portions of it as they design to omit, reference may be had to the papers which have emanated from the Committees of preceding years, and particularly to the able report made in the year 1838. Their object at this time will be to confine themselves to the consideration of those views taken by the British Commissioners, in their late Report, which appear to them to deserve especial notice on their part, and to expose, as far as lies in their power, the perverse interpretations and the unjustifiable conclusions in which it abounds. But, in order to do this, it will be absolutely necessary to re-state, in as brief a manner as possible, the general question.

The boundaries of the United States were defined by the Treaty with Great Britain, in the year 1783, which acknowledged our national independence,

They were described with much care, and not until after mature deliberation, by the framers of that instrument. And the particular portion of that description which related to the distinguishing of those lines that set off the country which had succeeded in throwing off the yoke of the mother country from that which still remained under her authority was for obvious reasons a matter of the greatest possible interest to both parties. It could hardly have escaped the observation of Great Britain, that unless especial pains were devoted to the establishing, beyond the liability of mistake, the exact lines of separation between the independent States and the dependent Provinces, a door would be left open to the advancement of claims that might ultimately grow very embarrassing to her. She was even more deeply interested than the United States in preventing this, because she regarded herself as having been already a great loser in the contest. It was therefore desirable that she should not be subjected to the danger of still farther loss, by any question of doubtful jurisdiction which it might at a future moment be the pleasure of some of her remaining colonists to raise as a justification for their joining their neighbours if they should so desire to do. The United States had but one danger to apprehend from an unsettled boundary. That was the danger of war with a foreign nation. But Great Britain rendered herself liable by it to a risk of insurrection in her own territories, and war with a foreign nation united. It became, therefore, a great object in the Treaty so to describe the territorial limits of the respective nations as to leave no reason for doubt in the public mind of both what they were.

There was, however, one obstacle in the way of success to this undertaking, which no effort of the parties could at the moment remove. The land through which this demarcation was to be made, had been but very imperfectly explored. It was not possible to place entire reliance upon the particular features of the country, as they were found laid down in the best maps of the period, because those maps were known not to have been drawn upon the most correct principles of survey, but to have been based upon partial examination, sufficient, perhaps, to furnish a correct impression of its general configuration, but not sufficient to justify the negotiators in striking out any novel delineation of boundary. Under these circumstances, it is plain, that no safer course was left than to adhere, as far as practicable, to those descriptions which had been made of the limits, upon preceding occasions, by the British Government itself, and to supply, with still more express and definite language than had before been used, the defects and incompleteness by which they were characterized. In all the action relating to this subject, it is clear, from the result, that two objects were in the minds of the negotiators. The first of these was, to seize upon such marked geographical features of the country as could not be mistaken; the second, to connect them together by so close a chain of description, as that they could never be confounded or transposed. How well they succeeded in attaining those objects, in so far as relates to the North-Eastern Boundary, may be understood at once by reference to the terms of the Treaty. They are as follows :—

"Article II.—And that all disputes which might arise in future on the subject of the boundaries of the said United States may be prevented, it is hereby agreed and declared that the following are, and shall be, their boundaries, viz. —from the north-west angle of Nova Scotia, viz., that angle which is formed by a line drawn due north from the source of St. Croix River to the Highlands, along the said Highland which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River; * * East, by a line to be drawn along the middle of the River St. Croix, from its mouth in the Bay of Fundy to its source, and from its source directly north to the aforesaid Highlands, which divide the rivers that fall into the Atlantic Ocean from those which fall into the River St. Lawrence."

Now, it is believed, that there cannot be found in language anything much more simple than this description. Here are two lines and an angle. One of these lines is an arbitrary north and south line, depending upon no geography whatsoever, excepting for its starting point, which is the source of a river. The other line, and the angle made by the intersection of the two, were placed upon the natural division of Highlands that retained the St. Lawrence in its bed on

the one side, and sent down the supplies of water for the rivers upon the Atlantic on the other. Where these highlands were, it was not absolutely essential for the framers of the Treaty to specify, nor is it likely that they themselves exactly knew. But they knew that water, if on a level, would not flow; they knew that water in this region, which they were describing, did flow both towards the St. Lawrence and towards the Atlantic, and that was enough for them to be certain of the existence of rising ground, which made it flow in these opposite directions. If there were no such ground, why could not the St. Lawrence break through its southern bank in a period of inundation, and find its way into the St. John and the Bay of Fundy? or why could not the Atlantic streams, in their turn, retrace their course and fall into the St. Lawrence? The only obstacle to this was the barrier created by the hand of nature; and it was upon this barrier, far more immoveable than any device that man can frame, the negotiators of the Treaty drew the line of separation between the countries.

Notwithstanding all this, the British Government has undertaken to resist this plain construction of the Treaty. It has assumed the privilege of explaining away every part of this description, excepting the north line, and even that the Commissioners of the late survey have also done. And, in the course of this prcceeding, it has multiplied objections and heaped up difficulties, in a manner calculated rather to confuse than to convince the mind of the best disposed inquirer after truth. Your Committee are inclined to believe, that the American Government has, in its over-earnest desire to refute every argument advanced on the other side, even such as are on their face preposterous, contributed something to the same resulf. The consequence is, that the question is needlessly complicate, and a justification follows for delay and doubt, which works practically in favour of the British position. In elaborate controversies between nations, this evil is, perhaps, inevitable; for a case may not be deemed to be fully made out, unless a satisfactory reply is made to every possible objection that ingenuity can devise. But the effect is, to strengthen the feeble side by wearying the patience, and confusing the judgment, of those most inclined to do it justice.

Your Committee would then be understood to plant themselves upon the words of the Treaty, as the only definite and certain ground. They would not, for a moment, admit the supposition, that these are susceptible of the smallest misconstruction, or contain the least ambiguity. Where rivers are mentioned, a doubt might properly arise, as to which of the branches they divided into are be considered the sources intended. But, in the present case, that doubt, as it respects the St. Croix, has been dispelled, and nothing remains but to find the desired lines and the angle. Can it be credited, that the British Government have undertaken heretofore to declare, that they can nowhere be found? The position is, that there is no such angle, and no line as is described, and, hence, there can be no performance of the terms of the Treaty.

But your Committee propose to confine themselves to the arguments of the British Commissioners of Survey. They now maintain the opposite of what has been heretofore advanced by their Government. They affirm, that the terms of the Treaty may be complied with, provided only that those terms are construed in the following novel and original manner:—

"1. 'A line from the source of the St. Croix, directly north,' means north-west.

"2. 'The Highlands, which divide the rivers that fall into the Atlantic Ocean from those which fall into the River St. Lawrence,' means 'the axis of maximum elevation,' ranging at a distance of more than 100 miles from the last-named streams, and dividing no rivers of any kind, unless it is the tributaries of the Penobscot from those of the St. John, neither of which rivers fall into the St. Lawrence.

"3. 'The north-west angle of Nova-Scotia,' means no angle at all."

And, in order that they may establish such extraordinary propositions, they go into an historical review of the ancient titles, and argue upon them as if there were no Treaty in the way to overrule their authority; and conclude, by offering a line upon their map, which can as little be made to correspond with their own most sophistical argument as with the plain and straightforward requisitions of the Treaty.

The law of nations, as applied to the mode of reading treaties, is little more than the law of common sense, as daily applied in ordinary life to all language whatsoever. It is, that, when the meaning is obvious, and leads to nothing absurd, there is no justification to go beyond it in quest of conjectures, that may restrain, or elude, or extinguish it. Your Committee cannot admit the right of Great Britain, or the propriety of going into the evidence of ancient records, in order to prove that the Treaty of 1783 was intended to signify directly the reverse of what appears on its face. They would never admit any authorities whatsoever, excepting as subordinate to the great end which all parties ought equally to have at heart, of explaining more fully, or confirming, the intent which its framers must have had in using the language which they did use. This limit falls very far short of any attempt utterly to deny its natural signification. There may be, and doubtless are, some variations from former deeds and papers; but, in all these cases, it is far more natural and just to suppose that the negotiators on the respective sides designedly adopted them, than that they did not understand the force of the language they were using, or the nature of the change they were making, and more than all, that they meant to say the direct opposite to what they did say.

Yet to such an extent as is here described does the reasoning of Her Majesty's Commissioners of Survey in substance go. It would appear from the beginning of their Report, that, not content with performing the specific duty assigned to them of an exploration of the territory, they have engaged in a work of supererogation called "A Review of the Documentary and other Evidence bearing on the Question of Boundary." It is this review to which your Committee now propose to direct their particular attention,—a review which, however great may be the authority which it will acquire in Her Majesty's dominions, they feel constrained to declare, not only does not weaken in the slightest degree the confidence they feel in the perfect soundness of the American position, but, on the contrary, does something incidentally to establish it more firmly than ever. The reasons for this assertion will be fully explained in the sequel.

On the 9th of July, 1839, Messrs. Featherstonhaugh and Mudge received written instructions from Lord Palmerston to repair to Her Majesty's Province of New Brunswick for the purpose, as it is stated in the Report, "of making investigations respecting the nature and configuration of the territory in dispute, and to report which of the three following lines presents the best defined continuity of Highland range:—

"First. The line claimed by the British Commissioners, from the source of the Chaudière to Mars' Hill.

"Secondly. The line from the source of the Chaudière to the point at which a line drawn from that source to the western extremity of the Bay of Chaleurs, intercepts the due north line.

"Thirdly. The line claimed by the Americans, from the source of the Chaudière to the point at which they make the due north line end."

In obedience to these instructions, the gentlemen proceeded immediately to their work, the result of which was a Report, dated on the 16th of April, 1840. If your Committee deduct from the period of nine months, embraced between the dates of the instructions and of the Report, the time it must have required for them to get from Great Britain to the scene of their investigations, and also the entire season of winter, during which, in that cold climate, surveying operations are not practicable, scarcely three months are left in which the survey could have been carried on,—a length of time by no means sufficient for the full examination of three several lines, extending as they do over so great a surface of territory. It does not appear from the Report and the accompanying Map, that the Commissioners did examine with care more thon one of those lines, and that is the one which they affirm to be in accordance with the 2nd Article of the Treaty. For their delinquency in respect to the other two, they endeavour to atone by an argument respecting the evidence of ancient boundaries, to make which does not seem to have been one of the duties enjoined upon them in their instructions. The effect of this course upon the Report has been, that whilst thirty-five of its folio pages have been devoted to a purpose which they were not called upon to fulfil, only thirteen pages and an appendix were devoted to the supply of the information required. So that it has been justly remarked of the production, that what was called the Appendix, should properly have made the

body of the Report, and two-thirds of what was styled the Report, should have been put, if anywhere, into the Appendix.

It is with great regret that your Committee feel themselves compelled to declare, that this review of the documentary evidence is utterly wanting in every quality which should recommend it to the confidence of the British Government. It is by no means certain that Her Majesty's Ministers have, thus far, given to it their santion. Neither will they, as your Committee firmly believe, if they ever gain the means of thoroughly understanding its nature. They would then feel at once that a cause is injured by the resort to disingenuous arts in order to sustain it—and that it would be more creditable to abandon it altogether, if it can be supported by no other means, than to succeed by the use of them.

The review begins with a historical notice of the settlement of Acadia, Nova Scotia, or New Brunswick, as the territory adjoining the State of Maine has been successively called. The first European grant of it on record, was made by Henry IV. of France, in 1603, to the Sieur de Monts. This was a grant of a country called "Acadie," and described as being between the fortieth and forty-sixth parallels of north latitude, in North America. It was made in the loose and indefinite manner at that time customary among the sovereigns of the old world, who appear to have carved out kingdoms by parallels of latitude upon the American continent, with as much indifference as they performed the commonest act of life. De Monts made but a single attempt to settle upon the northern portion of this granted land, and finding it not to his mind, he removed to Port Royal, on the peninsula now called Nova Scotia, to the south of his former position. It does not appear that he, or any one under him, ever attempted again to avail himself of the grant of this northern territory. Neither does it appear as if so loose a description as is given of it could be of much effect upon the discussion of the terms of the Treaty of 1783; yet, strange to say, it appears to constitute one of the strong points of the British Commissioners. It happens that the forty-sixth parallel of latitude, being the northern limit of the grant, corresponds in part with that "axis of maximum elevation," as they describe it, which they insist upon as the line of boundary marked out in the Treaty. This is quite enough for them to base upon it an assertion that the jurisdiotion of French Acadia did not extend beyond this line, and all to the north of it made part of the Province of Quebec.

Now your Committee admit, that the northerly limit of the grant to De Monts was declared to be the forty-sixth parallel, but inasmuch as no settlement was made in the territory thus bounded, they do not exactly nnderstand how any jurisdiction could have been either exercised or limited. The present attempt to give to a grant, worded in the most general manner, the force of a specific demarcation, appears to them to be idle; and the endeavour to place under the jurisdiction of Quebec, what was not at the time under any definite authority whatsoever, is quite of a piece with it. But, in addition to the general argument against this grant as a specific definition of boundary, there is a particular one drawn from another portion of the deed itself—for authority was therein conferred, not merely within the limits specified, but to extend settlements in the neighbourhood of them as far as possible. The words of the original are as follows:—

"Surtout, peupler, cultiver et faire habités les dites terres, le plus promptement, soigneusement ex dextrement, que le temps, les lieux, et commodités le pourront permettre, en faire ou faire faire à cette fin la découverte et recognoissans en l'étendue de côtes maritimes et autres contrées de la terre ferme, que vous ordonnerez et prescrirez en l'espace susdit du quarantième degré jusqu'au quarante-sixième, ou autrement, tant et si avant qu'il se pourra, le long des dites côtes et en la terre ferme," &c.

Which your Committee would render by the following words:—

"Moreover, to people, to cultivate and cause to be settled the said lands, as quickly, carefully, and dexterously, as the time, the places, and convenience will allow; to make, or cause to be made to this end, any discovery and examination in the extent of maritime coast, and of other countries on the main land, which you shall order and prescribe within the aforementioned space, extending from the fortieth to the forty-sixth degree, or otherwise as much and

as far forward as possible in the length of the said coasts, and into the main land."

It is believed, that De Monts had a trading station at Quebec, but whether under this general grant, or under a special one subsequent to it of far less extent and authority, your Committee will not now decide. It is enough for the present purpose to show, by its very terms, which are in no way noticed or alluded to by Her Majesty's Commissioners, that this grant was obviously intended to carry no such specific limitation of boundaries as they insist upon, but to confer a general power to make settlements in a direction corresponding to certain parallels of latitude in North America.

Yet, in order to fortify this argument, by which it is attempted to bring the northern limit of Nova Scotia or Acadie, so conveniently down to "the axis of maximum elevation," which figures in the Report and upon the map as the true boundary line, one old French grant of a fief on the north of this line made by the Governor of Quebec is adduced in proof that the jurisdiction of that Government extended to this line. There is no doubt that the Governor, holding the joint authority over Canada and Acadia, did, in the years 1683 and 1684, grant some such fiefs in the territory near Lake Temisquata, and the upper part of the St. John's. And it is a little remarkable, that Her Majesty's Commissioners, who had several to select from, should have selected one in which no mention at all is made of the power over Acadia vested in the Governor, and should have noticed that fact nowhere else themselves. Neither did they notice the fact that such grants generally appear in the same instrument with other grants of more consequence, decidedly within the limits of the Province of Quebec, and are, therefore, very naturally placed upon its records.

But your Committee would not be understood as attaching the slightest importance to this evidence. They have gone into it only to show that even in such trifling particulars, Her Majesty's Commissioners have not thought it beneath them to be guilty of partial suppressions. The real truth is, that there was nothing like a settled jurisdiction over any of the territories now in question during the seventeenth century; and this your Committee understand the Report to admit (p. 12). For it expressly states, that, what with English and French occupation, according to the fortune of war, and what with the confusion occasioned by French grants overlapping one another, the jurisdiction was fluctuating and wholly irregular. Indeed, how could it have been otherwise? And yet the British Commissioners, with the aid of a grossly imperfect map, which they have dragged out of the dust of the British Museum, have the assurance to pretend, that, "the Government of Quebec, when possessed by France, had jurisdiction (by that evidently intending a settled authority) as far south as the forty-sixth parallel." A most unjustifiable inference from such partial premises.

But now comes the grand discovery of the Report. This relates to the first English grant of Acadia made by James the First to Sir William Alexander in 1621, and is expressed in the following terms:—

"It will be seen from this examination that reasonable grounds exist for supposing, that a singular perversion of the terms usee in the description of that boundary has long existed, and that the line of boundary intended by the grant of Nova Scotia, is so much at variance with that which has usually appeared on the greater number of maps, as entirely to change the nature of the Northern Boundary of the United States, from that which has hitherto been understood to be its direction."

And this great change, which is at one blow to put an end to the American claim, is to be effected by the simple means of putting a comma into an old parchment, where no comma was before. But, in order to explain this, reference must be had to the original, which contains the following description of boundary:—

"Omnes et singulas terras continentis, ac insulas situatas et jacentes in Americâ intra caput seu promontorium communiter Cap de Sable appellat. Jacen. prope latitudinem quadraginta trium graduum aut eo circa ab equinoctiali lineâ versus septentrionem, a quo promontorio versus littus maris tenden ad

occidentem ad stationem Sanctæ Mariæ navium vulgo Sanct mareis Bey. Et deinceps, versus septentrionem per directam lineam introitum sive ostium magnæ illius stationis navium trajicien. quæ excurrit in terræ orientialem plagam inter regiones Suriquorum et Etcheminorum vulgo Suriquois et Etchemines ad fluvium vulgo nomine Sanctæ Crucis appellat. Et ad scaturiginem remotissimam sive fontem ex occidentali parte ejusdem qui se primum predicto fluvio immiscet. Unde per imaginiariam directam lineam quæ pergere per terram seu currere versus septentrionem concipietur ad proximam navium stationem, fluvium vel scaturiginem in magno fluvio de Canada se exonerantem. Et ab eo pergendo versus orientem per maris oris littorales ejusdem fluvii de Canada ad fluvium, stationem navium, portum aut littus communiter nomine de Gathepe vel Gaspee notum et appellatum."

Which Her Majesty's Commissioners desire to translate thus:

"All and each of the lands of the continent, and the islands situated and lying in America within the headland or promontory, commonly called Cape Sable, lying near the forty-third degree of latitude from the equinoctial line or thereabouts. From which promontory stretching westwardly, towards the north, by the sea-shore, to the naval station of St. Mary, commonly called St. Mary's Bay. From thence, passing towards the north by a straight line, the entrance or mouth of that great naval station, which penetrates the interior of the eastern shore betwixt the countries of the Souriquois and the Etchemines, to the river commonly called the St. Croix. And to the most remote source or spring of the same on the western side, which first mingles itself with the aforesaid river. From whence, by an imaginary straight line, which may be supposed to advance into the country, or to run towards the north to the nearest naval station, river, or spring, discharging itself into the great river of Canada. And from thence advancing towards the east by the Gulf shores of the said river of Canada, to the river, naval station, port, or shore, commonly known or called by the name of Gathepe or Gaspê."

Her Majesty's Commissioners of Survey, being well versed in Latin, maintain that a comma should be put before the words "versus septentrionem," and not after it, although it appeers after it in their own Report. The effect of this little transposition is really wonderful. It is neither more nor less than to make the words which now stand in the translation, "towards the north," signify "more west than north." And this being once established, the consequence seems to be, according to them, that the words in the Treaty "due north," and "directly north," must have been intended to mean about north-west.

Now your Committee do not deem it necessary to go into any critical examination of the rendering of this old Latin charter. It is enough for them to know, that under this grant, such as it is, the line has always been laid down in the English maps, and as they think justly, as a due north line, and that all the deeds and commissions of the British Government upon record, define it as such. And against this uniform construction of the grant, it is not for Her Majesty's Commissioners to come in at this late hour, with a nice question of punctuation, and attempt to overthrow the unequivocal language of a treaty solemnly made between two independenl nations.

But the gentlemen, not content with raising a doubt upon the construction of this instrument to fortify their case against the American claims, have actually gone so far as to insinuate that the Government of the United States * has knowingly sanctioned mistranslations of particular passages of the said instrument, for the sake of counteracting the force of the natural meaning. This is a serious charge, and should have been well considered before it was given to the world. If true, it ought to constitute, in the minds of all honourable men, a strong argument against our claim, that it should have been thought to need support from so miserable and so gross a device. But if, on the other hand, it has no foundation whatsoever, and was made with the knowledge that it had none, what must be thought of the spirit of justice and impartiality of those who advance it? Your Committee hope to establish, beyond the possibility of contradiction, the fact not only that the charge is not true, but that it must have been known not to be so by the Commissioners when they made it.

* [Not the Government of the United States.]

The translation from which they have thought proper to select two errors for animadversion, was one inserted to an Appendix to a Report made upon the subject of the Boundary by a Committee of the Legislature of Maine, in the year 1828. This Report and Appendix were reprinted by order of the Senate of the United States, and again printed, together with many documents connected with the Boundary, by order of the House of Representatives of the Union for the information of those bodies. Hence it is that this translation is called by the Commissioners an official one. The errors contained in it, if they deserve so serious a name, are only two. The Commissioners complain that "versus septentrionem" is rendered "to the north," instead of "towards the north," and that the words "proximam navium stationem" is rendered by "first bay," and not by "nearest road," neither of which is a greater variation from the sense than their own translation of the words "per maris oras littorales" "by the gulf shores," instead of "sea shores," and neither of which deserved to bring on an attack upon the integrity and good faith of the American Government.

But had the errors discovered in this paper been ten times greater than they are, the Government of the United States never should have been made accountable for it by persons who had under their own eye the translation of it, for which it had assumed a direct responsibility before the King of Holland. In that translation the words complained of are rendered exactly as the Commissioners desire them. That they had no knowledge of it is impossible to believe, inasmuch as they quote from the American statement, in which it is contained, a passage which is found upon the very next leaf to the one in which it is inserted. And even without this accidental proof, it could not for a moment be supposed, that persons who designed to present an elaborate review of the American pretensions, as they are called, would not make themselves perfectly familiar with the only volume extant, in which they are set forth at large under the sanction of the Government. What then, your Committee repeat, must be thought of the intentions of individuals who, with the knowledge of all the facts in the case, set their hands to a deliberate perversion of them, merely for the sake of casting a slur upon the honour of a foreign country with which they are in dispute?

The grant to Sir William Alexander is important, as elucidating the origin of the description of the Boundary, as it now stands in the Treaty, but not for any other reason. Your Committee are clearly of opinion, that it does describe the line from the head waters of the St. Croix, as a due north line, and that this construction uniformly put upon it, from the earliest date down to this day, is the natural and just one. It will be perceived, however, by reference to the words, that the territory granted extended on the north to the shores of the St. Lawrence, which is a variation from the present Boundary of Nova Scotia. How that variation was made will be seen in the sequel. For at this time it appears expedient to follow the British Commissioners into that field where they have exhibited their disingenuous policy most strikingly, that is, in the discussion of the Massachusetts title on the west side of the disputed Boundary, now making part of the State of Maine.

On the 12th of March, 1663, Charles II. made a grant to his brother, the Duke of York, of a territory thus described:—

"All that part of the main land of England, beginning at a certain place called or known by the name of St. Croix, adjoining to New Scotland in America, and from thence extending along the sea coast, unto a certain place called Pemaquin or Pemaquid, and so up the river thereof to the furthest head of the same as it tendeth northward, and extending from thence to the river of Kennebec, and so up, by the shortest course to the river of Canada northwards."

This is the country which was formerly known under the name of Sagadahoc, and there had always been some question as to the title, between the French, who claimed it as part of Acadia, and the English. Yet, after the Treaty of Breda, in 1667, when Acadia was restored to France by Great Britain, which had taken possession of it during the war, the Duke of York obtained a confirmation of his grant in 1674. And it remained under his authority until, by his accession to the throne, it became vested again in the Crown. Hence it is evident, that it was not then considered as a part of the restored territory.

Your Committee have now reached what they regard to be the most disingenuous suppression of the Report. The new charter of Massachusetts, granted by William and Mary, in 1691, was made to include the Province of Maine, this territory of Sagadahoc, and Nova Scotia itself, as follow:—

"The colony of the Massachusetts Bay and colony of New Plymouth, the Province of Maine, the territory called Acadia or Nova Scotia, and all that tract of land lying between the said territories of Nova Scotia and the said Province of Maine."

These words are truly quoted by the Commissioners. Then follow in their Report the terms of the grant to the Duke of York, (already quoted by your Committee,) in order to explain what is referred to as "that tract of land," &c. Immediately afterwards is inserted one of the reservations of the charter.

"Provided, alwaise, that the said lands, islelands, or any premises by thê said letters patent, intended or meant to be granted, were not then actually possessed or inhabited by any other Christian prince or state."

Three pages forward (p. 18) another reservation is quoted, as follows:—

"By the charter of 1691, Massachusetts was forbid to issue grants in the Sagahadoc territory; it declared them not to be

'Of any force, validity or effect, until we, our heirs and successors, shall have signified our or their approbation of the same.' "

Now it appeared singular, to say the least of it, that by the peculiar arrangement of these paragraphs, the general phrase of "the Sagadahoc territory" should have been made to refer back to the old grant of the Duke of York, with which the present charter had no sort of connexion, and the terms of that charter itself, which very exactly describe the territory to which the clause of limitation was to apply, were wholly overlooked. But your Committee had no cause for surprise when they perceived what those terms were. The provision of the charter so disingenuously quoted, runs thus:—

"That no grant or grants of any lands, *lying or extending from the river of Sagahadoc to the Gulf of St. Lawrence and Canada rivers, and to the main sea northward and westward,* to be made or passed by the Governor or General Assembly of our said province, be of any force," &c.

Very unfortunately for the Commissioners, these words marked in italic letters cut off their argument, that Nova Scotia extended, by a north-west line, to the Chaudière River, and hence, that the subsequent cession of that territory, by Great Britain, back to France, in 1697, shut out Massachusetts from the St. Lawrence; hence they determined to suppress them without ceremony, and by this mode of proceeding, and by this alone, have they been able to place in their recapitulation the following proposition:—

"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 Sagahadoc 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 Chaudière."

Upon similar principles of quotation to those here used, it would be perfectly easy to show almost any proposition to be drawn from almost any book.

But this is not all. It is well known that Nova Scotia was restored to France in 1697, as already stated, and was, therefore, separated from Massachusetts. But in order to prove that her title to Sagahadoc also was shaken by

act, the British Commissioners quote an admission, as they call it, made in the official American statement, drawn up for the arbitration of the King of Holland. The true passage reads as follows:—

"Great Britain, however, agreed by the Treaty of Ryswick of the 20th September, 1697, to restore to France 'all countries, islands, forts, and colonies, wheresoever situated, which the French did possess before the declaration of war.' Acadia or Nova Scotia being clearly embraced by those expressions, and being thus severed from the British dominions, the clause of the Massachusetts charter, which annexed that territory to Massachusetts, was virtually repealed, and became a nullity. The understanding of the British Government of the extent of that restitution, will be found in the following sentence of a letter from the Lords of the Board of Trade, dated 30th October, 1700, to the Earl of Bellamont, the Governor of Massachusetts, viz.: '*as to the boundaries, we have always insisted, and shall insist upon the English right as far as the River St. Croix.*' "

This extract is quoted in the Report as an admission, only because the very significant sentence in italic letters is utterly omitted. A sentence which precludes at once all question respecting the opinion of the grantor of the charter, of the extent of the cession. And it is against that grantor alone that the United States have at this time their right to defend. Your Committee must be allowed here to express the opinion that a cause must be believed to be weak indeed which is found to need support of this kind. It can scarcely be thought that Her Majesty's Commissioners who drew up this Report could have had much confidence in the natural strength of the position of Great Britain, when they strive so sedulously to keep out of view every trace of authority that bears against it.

Your Committee do not deem it expedient to go into the history of the transitions from British to French authority, and back again, which the country called Acadia underwent, for the simple reason that, however strongly they might furnish arguments upon questions when agitated between the British and the French Government, they can have but a secondary and trifling application to those between Great Britain and the United States. But they would be understood as protesting against the right of the first of these Powers to vary its tone according to no principle, but simply as its interest may dictate. It is not fair for the same Government to insist in 1700 upon claiming against France the territory as far east as the St. Croix, when it held jurisdiction only on the west side of that river, and to insist that the moment its position is changed, and it stands to the United States in the very position that France held relatively to itself, the old claim of France to go to the Penobscot which it once strenuously resisted should inure to its present benefit.

The Treaty of Paris signed on the 10th of February, 1763, to which Great Britain, France, and Spain were the parties, secured to the first-named final and undisputed authority over all the territories in the vicinity of the land now in question. Canada and Nova Scotia fell into the same hands which controlled Massachusetts and the other North American colonies. Of consequence the duty devolved upon the British Government of organizing the possessions newly acquired in some definite shape under its authority, and of defining the limits between them and such as it formerly held. That duty was performed by a proclamation issued under the King's name on the 7th of October of this year. And in that proclamation the new Government of Quebec was declared to be

"Bounded on the Labrador coast, by the River St. John*, and from thence by a line drawn from the head of that river through the Lake St. John to the south end of the Lake Nipissin, from whence the said line crossing the River St. Lawrence and the Lake Champlain, in forty-five degrees of north latitude, passing along the High Lands which divide the rivers that empty themselves into the said River St. Lawrence from those which fall into the sea, and also along the north coast of the Bay des Chaleurs and the coast of the Gulf of St. Lawrence to Cape Rosières," &c.

Now that part of the description thus made, which relates to the line sepa-

* This is another and a different River from the St. John that flows into the Bay of Fundy.

rating Quebec from Nova Scotia and Massachusetts, is the only one of importance to the present question. By that it will be perceived a material variation was made from all preceding deeds, by which Nova Scotia and Massachusetts, which had formerly extended to the St. Lawrence, were now shut out from it just so far as the Highlands referred to might happen to lie on the south side of its bank. And this variation is admitted by Her Majesty's Commissioners to furnish the first traces of the language used in the Treaty of 1783.

The questions immediately occur: "Was not this a deliberate change made by the British Government for some specific purpose?" And if so, "what could have been the nature of that purpose?" And very fortunately your Committee are not without a clue to the explanation of them both.

Almost at the same moment that this proclamation, defining the boundaries of Quebec in the north was dated, a Commission of Governor of Nova Scotia, the adjoining province on the south, was issued to Montague Wilmot, containing a description of its boundaries. They are as follows:—

"To the northward, our said province shall be bounded by the southern boundary of our Province of Quebec, as far as the western extremity of the Bay des Chaleurs. To the eastward by the said Bay and the Gulf of St. Lawrence, &c., &c.,

"To the westward, although our said province hath anciently extended and doth of right extend as far as the River Pentagonet or Penobscot, it shall be bounded by a line drawn from Cape Sable across the entrance of the Bay of Fundy to the mouth of the River St. Croix, by the said river to its source, and by a line drawn due north from thence to the southern boundary of our colony of Quebec."

Two things are remarkable in this Commission: the first, a variation of the words from those contained in the old grant to Sir William Alexander, by the entire omission of the direction "towards the north," in describing the line from Cape Sable to the mouth of the St. Croix, and by the substitution of the words, "a line drawn due north," for "towards the north," in the last part; the second, the insertion of that saving clause by which the old French claim, that Nova Scotia extended beyond the St. Croix to the Penobscot, was kept up. It is not probable that any of this language was adopted without a reason.

But when your Committee turn from this commission to those of five successive governors who came after Mr. Wilmot, and perceive that, although the general provisions are exactly the same in all, this little saving clause, as marked in italic letters, is entirely omitted, it appears to them plain enough that this omission is an indicative of some marked design as was the original insertion. The great difficulty in the way is to know, at this remote period, the precise motive of this singular variation. And it is scarcely probable that any one could ever divined it, if it had not been for the discovery of a passage in a letter from Jaspar Mauduit, agent of Massachusetts Bay, to the Secretary of said province, dated London, 9th June, 1764, which fully explains the cause of the whole proceeding. It runs as follows:—

"Sir,—It is with pleasure that I now write to inform the General Court, that their several grants of lands to the east of Penobscot, are in a fair way of being confirmed.

"Mr. Jackson and I have sought all opportunities of bringing this business forward; but the Board of Trade has been so much engaged, that they could not before attend to it. In the course of the affair the chief things insisted on were, that the Lords, notwithstanding the opinion formerly given, are still disposed to think the right of the province doubtful as to lands between Penobscot and St. Croix, because the case was misstated to the Attorney and Solicitor-General, and that, whatever be the determination on this head, yet the Lords think that the province can claim no right to the lands on the River St. Lawrence, because the bounds of the charter are from Nova Scotia to the River Sagadahoc; so that this right cannot extend above the head of that river. *That, however*, if the province will pass an act, empowering their Agent to cede to the Crown all pretence of right or title they may claim under their charter to the lands on the River St. Lawrence, *destined by the royal proclamation to form part of the Government of Quebec;* the Crown will then waive all further dispute

concerning lands as far as St. Croix, and from the sea-coast of the Bay of Fundy to the bounds of the Province of Quebec, reserving to itself only the right of approbation as before. Mr. Jackson and I were both of us of opinion, that the *narrow* tract of land, which lies beyond the sources of all your rivers, and is watered by those which run into the River of St. Lawrence, could not be an object of any great consequence to you, though it is *absolutely necessary* to the Crown, to preserve the continuity of the Government of Quebec, 'and that therefore it could not be for your interest to have the confirmation of those grants retarded upon that account.'"

From this very satisfactory explanation, your Committee think it may clearly be inferred,—

1. That the variation in the boundary of Quebec, so as to include the south bank of the St. Lawrence, was deemed by the British Government absolutely necessary.

2. That the great obstacle in the way of such variation consisted in the claim of the Province of Massachussetts to extend her limits to that river.

3. That in order to bring about an inclination on the part of Massachusetts to cede her claim to go to the St. Lawrence, it was deemed advisable to revive the old French title now vested in Great Britain through the acquisition of Acadia to the lands of Sagadahoc.

4. That a compromise was afterwards made, by which Great Britain, in consideration of the lands on the south side of the St. Lawrence, claimed by Massachusetts, being ceded without dispute to Quebec, agreed to waive all further question respecting the jurisdiction of Massachusetts as far east as the St. Croix.

5. That the evidence of the establishment of such a compromise consists of the Proclamation of 1763 further confirmed by the Quebec Act of 1774, on the one side, and the omission of the saving clause in the Commission of all the governors of Nova Scotia subsequent to 1763 on the other.

6. That the land thus ceded by Massachusetts was considered by the agents of the parties at the time as a narrow tract of land, and of no great consequence.

Yet directly in the face of all this, Her Majesty's Commissioners now pretend that the Proclamation of 1763 took at one grasp a territory extending more than a hundred miles on the south side of the river, and that this narrow tract of land, of no great consequence to be ceded, is an immense territory, watered by the St. John and its tributaries, larger than the present State of Massachusetts.

If the whole of these proceeding of 1763 and 1764 be considered entire, your Committee think they will show that the British Government at that time being stimulated by the recent acquisition of Quebec, did deliberately and intentionally, and with their assent, make a distinct repartition of the several provinces under their jurisdiction, so that the boundaries of each might thereafter be perfectly established, and no unsettled claims be longer agitated between them. The boundaries of Massachusetts, therefore, at the period of the Revolution, were admitted by these acts of the Government to be those described in her charter of 1691, modified only by her tacit assent to those terms of the Proclamation of 1763, which shut her out from the River St. Lawrence. The British Government is therefore estopped, by her free and unconstrained assent to those boundaries in 1783 as the same that were acknowledged by her in 1763, from ever going back into the history of ancient titles, French or English, to rake up matter with which to defend her present claim.

The British Commissioners of Survey, finding themselves somewhat embarrassed by the uniform tenor of the ancient maps of the Disputed Territory, all of which favour the American demarcation of the boundary, have, with commendable industry, turned their attention to the means of counteracting this influence. The result has been the discovery in the British Museum, of an old map, by an Italian named Coronelli, published in 1689. And as it happened that this old map marked a curved line of separation, which could be made to correspond, in a degree, with the position assumed by them, these gentlemen very gravely bring it forward as an important part of their case. It is melancholy to see the nature of the devices to which they stoop in defence of the British position. This map, such as it is, places Nova Scotia upon the west side, instead of the

east side of the St. John's, puts the Penobscot and the Kennebec in each other's places, and is, in all other respects, as rude as can well be imagined. Yet this is the authority which is relied upon in part, to prove that due north means more west than north, and that the framers of the Treaty did not know their own meaning, when they defined the boundary as a north line.

The map of De Lisle is not worthy of any more consideration than that of Coronelli. But it may be advisable to dwell upon that of Evans for the sake of the singular blunder into which the Commissioners have fallen respecting it. They claim that the description of the southern boundary of Quebec already given from the Proclamation of 1763, was founded upon the map of Evans published in 1755. But very unluckily, the map published by Lewis Evans at that time was a map of the middle British Colonies only. It was not until 1776, or thirteen years after the proclamation, that Governor Pownall's addition to it, containing New England, and the bordering parts of Canada, saw the light. Hence it follows that the framers of the proclamation must have had some other guide to go by than this map, and that, if the public is to "find in the description of the country contained in the public documents promulgated immediately after the Peace of 1763 a mere echo of the information produced by the explorations of Governor Pownall," it is probably of a novel species of echo that the Commissioners treat, which is heard before the sound that occasions it.

The truth is, that Mitchell's Map, and Mitchell's Map only, is the important one in the whole of this controversy. And that not solely because it was a map undertaken by direction of the Lords of Trade, and derived from official papers in their office, and was, therefore, more likely to be accurate than any other map of the same date, but because there is abundant evidence on record to prove that it was the guide of the negotiators of the Treaty of 1783. It is altogether likely that this map was the guide of the British Government in drawing up the proclamation instead of that of Pownall, which has been shown to have had a much later origin. Neither is Pownall's Map itself at all deserving of comparison with it in point of accuracy or fulness. The great reason why it has been dragged into the discussion appears to be, that along the interior there appears very vaguely laid down a line called the "height of the land." And as this line, thus vague, may be made to correspond to the "axis of maximum elevation," in quest of which the Commissioners were sent, they very quietly set it down as the same. They go on to say, that this ridge was familiarly known to Governor Pownall and the British ninety years ago, notwithstanding that in another part of the same Report, they claim great credit to themselves for having just found it now, and notwithstanding that Governor Pownall himself declared, that "of the nature and course of this Highland," that is, of the Highland between the Kennebec and the Chaudière eastward, he was totally uninformed.

Your Committee will pass at once to another argument of the Commissioners, drawn from a minute inspection of the instructions given by the Congress of the Confederation to their Ministers who negotiated the Treaty on the part of the United States. It appears by them that the Congress directed them first of all to press their claim of boundary beyond the St. Croix River and quite up to to the St. John's on the east, and to take that river as the line, from its source to its mouth. This was done under the impression that the Charter of Massachusetts, given in 1691, which was the source of authority respecting the boundaries of that province, justified the pretension, But when this claim was decided utterly inadmissible by Great Britain, the American negotiators were directed to fall back upon the exact lines that could be clearly maintained by reference to the Charter, and to make the St. Croix one of those lines; and to these terms the British Ministers finally assented.

The exact use which Her Majesty's Commissioners make of these facts is this: they argue that the British refusal to make the St. John's the Boundary in the first instance is utterly inconsistent with the supposition of assent afterwards, to any such north line towards the Highlands as the Americans claim, because it implies the absurd idea that the British Ministry would have been willing to concede at last a greater and more valuable territory under a boundary, avowedly reduced, than they originally refused to yield, and the very proposition of which they declared to be utterly inadmissible. When the American negotiators, therefore, decided upon receding from the claim as far as the St. John's, they could not be supposed to intend to substitute as less inadmis-

sible a new claim, that proves, in fact, to be still larger in extent than the rejected one.

Your Committee will admit at once that there is something very plausible in this argument. But, upon examination, they are confident it will turn out to be only plausible and not sound. In the first place, it is not true that the territory which would have been gained by making the St. John's, from its mouth to its source, the boundary line, either was, at the time of making the Treaty, or is even now regarded by the British, of less value than that claimed under the terms of that Treaty. No further proof of this can be needed than the refusal of the British Government to listen to Mr. Forsyth, when he offered, a short time since, to compromise the dispute by adopting this very same line of the St. John's as the Boundary. If such is the estimate now placed upon the land near the coast in preference to the interior, how much greater must it have been sixty years since, when wild and unexplored lands generally bore a far smaller relative value to the sea-board than now. In the next place, it does not appear that value was regarded nearly so much in the course of the negotiation as the strict proof of legal title. When convinced that they could not establish their claim to go to the St. John's, the Americans determined upon planting themselves in a position from which they could not be driven. That position was taken upon the Massachusetts' Charter of 1691, modified by the tacit assent to the Proclamation of 1763, given in the manner and for reasons already shown. That position was admitted to be sound by the British negotiators, for they, in their turn, retreated from the claims they successively presented, to go westward to the Kennebec and then to the Penobscot as the Boundary, and both Parties united upon a description of it, which had been found by examination to have prevailed before that time in the authorized public papers emanating from the British Government itself.

This is believed to be a true history of the course of the negotiation so far as it respects the Boundary Line now in question. The negotiators on neither side relied upon the first claim presented by them. But they adhered in their case, to a practice common in most transactions of the kind, as well as in disputed questions of property in private life; that is, the practice of advancing pretensions as far as they can be carried with any show of justice, in order that each party, as it approaches towards a settlement, may appear disposed to compromise by sacrificing a part of what it claims. Thus it was in the Treaty of 1783. Great Britain first claimed to go westward to the Kennebec; she then claimed to go only as far as the Penobscot. America, on her side claimed to go east to the St. John's. But when these propositions were declined on each side, the consequence was the selection of some intermediate river consistently with the preservation of all ancient rights on both parts. And thus the St. Croix and the due north line from its source, which appeared in former deeds as the boundary line to the eastward of Massachusetts, were transferred into the Second Article of the Treaty, and made the Boundary of the United States. By this result both Parties agreed then to be bound; and the only source of regret that can ever arise from this Article must be, that both Parties have not remained equally willing to abide by the plain meaning which its language conveys.

There was one point, however, which proved to be really very difficult to decide, and that was, inasmuch as the St. Croix proved to have many sources that unite to form the stream known by that name, which of these sources was to be adhered to as the true St. Croix. The question was important, not only because these branches diverged pretty widely from each other, but because the running of t he due north line would be varied according as an eastern or western branch should be selected as the source. In order that this and other similar difficulties might be removed, a Convention was made between the two Governments in 1794, in which it was provided that three Commissioners should be appointed, one by each party, and if the third could not be named by agreement between the two thus selected, one was to be chosen by lot out of two names to be proposed by them. These three persons, thus obtained, were to adjudicate the question, which was the true source of the St Croix. Now, it did so happen that in executing the terms of his agreement, an American, the late Egbert Benson, was the person added by lot to Judge Howell and Colonel Barclay, who had been appointed by their respective Governments. There followed long deliberation and much difference of opinion among the

members of the Board thus constituted, the British Commissioner resting upon no slight array of authority on the extreme western source, called the Scoodiac, as the true St. Croix, whilst one of the Americans as resolutely maintained an eastern branch, called the Magaguadavic, to be the true St. Croix. This he did because it was so called in Mitchell's Map, which was proved to have been the guide to the negotiators in the formation of the Treaty. Upon Mr. Benson devolved the responsibility of the decision, and he decided, notwithstanding his American origin, in favour of the English claim as far as the mouth of the Scoodiac Lake. It was not until after this decision, and in consequence of a discovery that it would disturb the titles to grants made under the authority of the respective Governments on the wrong side of the proposed line, that a compromise was agreed upon by which the Cheputnaticook, or the most northerly source, was substituted for the Scoodiac. This compromise was cheerfully assented to by both parties, and a monument was afterwards erected at the source of the Cheputnaticook, from which it was perfectly well understood that the due north line was to take its course.

Your Committee have dwelt upon this, perhaps the best known portion of the history of this difficult and complicated controversy, a little more than they should, had not the decision thus given been made a pretext for a most unfounded accusation on the part of the Commissioners of Survey. It is declared by them, that this decision was so flagrantly partial and unjust to Great Britain, as hardly to deserve that she should even at this late day consent to abide by it. Such is the reward which one of the most remarkable examples upon record of impartiality, deciding against one's own country, is now to receive. There is abundant evidence to show, that Mr. Benson was regarded by the American Agent, even before the decision, as entirely and unfortunately friendly to the British claim; yet this magnanimity of his, which refused to take the slightest advantage of the decision of fortune in his favour, and which inclined to judge the whole case exclusively upon what appeared to him to be its merits, seems not merely to be unlikely to meet with either acknowledgment or reciprocation by the party benefited, but is to be converted into a positive reproach. If such is to be the fate of the most conciliatory act ever committed in the negotiations upon the subject, can it be much wondered at if all traces of such a spirit should vanish? And will it be astonishing if Americans should prefer to be sure to stand well with their own countrymen, rather than run the double risk of confidence withdrawn at home, and ingratitude from abroad?

But, in what words shall your Committee express their feelings, at the perception of a bare intimation, on the part of Her Majesty's Commissioners, that the plighted faith of the British nation should be broken for the sake of one million of acres of land? Fortunately, very fortunately, for the peace of the two great nations engaged in this controversy, their interests are intrusted to hands which would spurn with contempt so base a proposal, from whatever source it might come. But, although your Committee would never allow themselves to doubt, for an instant, the honour and perfect good faith of Her Majesty's Government, and their inviolable adherence to treaties once solemnly acknowledged and reciprocally executed, they cannot but profoundly regret, that a sentence, such as the one alluded to, should have been permitted to defile a Report printed under its eye. Not because, in their eyes, it implies a sanction to the argument intended to be conveyed. The hour that should induce them to believe in the possibility of such sanction, would be that in which the standard of St. George would betoken to them nothing but disgrace. Neither because the opinions or the reasoning of the Commissioners are likely to carry much weight with them, wherever they are known. Those who are proved to be disingenuous rarely can persuade. The only reason why your Committee regret to see the sentence alluded to in the Report is, that it is calculated to rouse passions in the United States, which they earnestly hope will be kept quieted, and that it may inspire a degree of distrust on the part of the public, in the good intentions of the British nation, which they believe to be wholly unmerited.

In the present examination of the Report of Her Majesty's Officers of Survey, your Committee are aware that it is not practicable within any reasonable limits, to follow into all its details the erroneous positions that it contains: neither is it certain that the effort to do so would be worth making, if it was. There is one branch of the subject, most particularly, which they would avoid

to treat, because it has been, in their opinion, most improperly introduced and insisted upon in the discussion. They refer to all the argument drawn from the supposed admissions upon one side or the other, made, directly or indirectly, by official agents, who have been employed since the date of the Treaty. In the business of hunting up such evidence, the two nations are by no means on an equal footing; for, whilst it is the habit of the United States to throw open to public view all of the official correspondence carried on by their agents, that is not so immediately connected with existing negotiations as to make the publication obviously improper, a very contrary system prevails in Great Britain, of publishing nothing unless upon some urgent call. It, therefore, follows, that, whilst the latter country has the opportunity of discovering every error of inadvertence, or of haste, that may be found in letters originally written as confidential by American public agents, the United States has no such opportunity of examining the British correspondence. And, even supposing that they had, what does the information thus gained amount to? and what effect can it produce upon the true issue? The wonder is, that after all the disclosures that have taken place, so little has been found to oppose to the strong, unanimous, deep-settled, and perpetually-repeated, expressions of unbounded confidence in the soundness of the claim. In the whole history of the dispute, there is no American admission, in the most secret communication with the Government at home, of which foreign nations are not supposed to have any right of cognizance whatsoever, which can compare in force with the letter of Sir Robert Liston, upon the decision of the Commissioners in 1798, or with the proposition for a "variation" of the line of boundary, made by the British negotiators at the Treaty of Ghent. If evidence of this sort were to be relied upon, the debates in the British Parliament upon the subject of the Treaty of 1783 had, immediately after the negotiation, deserve attention, as a disclosure of the opinions prevailing in England at that time. Yet, notwithstanding all this, your Committee would omit to rest upon the ground which such admissions furnish, because they intend to rest upon the higher and only ground which ought to be assumed, and that is, the merits of the question itself. They cannot conceive that the subordinate matters connected with the good or bad management of a dispute of sixty years' standing, should be entitled to overrule, or put aside, the undoubted issue which the general position of two nations most distinctly presents.

There remains to be considered only that part of the Report which gives the result of the survey. And, although it clearly appears, from the limited time devoted to that work, as well as from the confessions of the Commissioners, that they did not thoroughly perform all of the duty they were required to perform, your Committee think they performed enough to show the important fact, that the Treaty can be literally executed. It is for this reason, they think, the Report not to be wholly without value. For, casting aside the argumentative portion, as not only worthless in itself, but too disingenuous to aid the cause it has espoused, they consider the description of the natural features of the country as going far to corroborate all the reasoning, hitherto advanced upon the American side, respecting its character. It may be deduced from the Report, that the tendency of the Highland in the country, now in question, is, as it is in the rest of North America, to run in ridges parallel to each other, in a north-easterly and south-westerly direction. It is further admitted, that there are two of these ridges; and that between the two is a basin, through which find their way the tributaries of the St. John and the Restigouche—the St. John flowing through it for some time, until it winds its way south-east into the Bay of Fundy, the other tracing its course to the Bay of Chaleurs. Now the single question that can arise, should it turn out that these are the only ridges or Highlands in the territory, is, whether either corresponds to the terms of the Treaty, so far as that it will serve for a boundary line between the two nations, and if so, which answers the purpose most precisely. It will not do to say as the Report does:—

"It will be satisfactory to us if we shall be able to satisfy your Lordship that there are reasonable grounds for thinking that the true line of boundary has been hitherto overlooked, and that, consequently, the line claimed by the State of Maine fails, upon examination, in every essential particular."

Your Committee are at a loss to see the necessary connexion between these

two propositions. If the true line of boundary has been overlooked hitherto, that claimed by Maine fails, because it is not the true one. If, on the other hand, it fails, upon examination, in every essential particular, it must be rejected without any reference whatsoever to any other that may have been discovered. But your Committee utterly deny that the Report proves either proposition separately, or both united. The southerly of the two ridges, which is dignified with the title of "the axis of maximum elevation," and which the Commissioners maintain to be the true line, is not the true line, because it does not correspond to the boundary of the Proclamation of 1763, nor to the Second Article of the Treaty of 1783, nor entirely to the argument of the Commissioners themselves. It may be shaped off as nicely upon a map as artists can draw it, and yet will serve no useful purpose. It strikes the south coast of the Bay des Chaleurs, when the Proclamation distinctly specifies the north coast as the boundary line of Quebec. It divides no sources of rivers but those of tributaries of the Penobscot from tributaries of the St. John, neither of which flow into the St. Lawrence, so that it does not meet the requisition of the Treaty. And it ranges in so westerly a direction, as to be utterly at variance with the general tenor of the Commissioners' argument about the ancient boundary of Nova Scotia,—the least bad argument where all are bad. It is utterly inconsistent with all the deeds and commissions issued by Great Britain during the last century, and can never be sustained by any reasoning other than that last species which overlooks right in its reliance upon physical power.

There is one sentence, however, in the Report, which requires from your Committee a most cheerful acknowledgment of its truth, It is that—

"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."

Now maps are only of service as they are guides to those natural features which no ingenuity can make men mistake; so far they are of great service. If this southerly range of highland is proved not to correspond with the terms of the Treaty, the next thing to do is to find whether any other highlands exist which do correspond with them. Her Majesty's Commissioners clearly admit that such other highlands do exist on the north of their proposed line, though they deny them to be continuous or regular, and hence maintain that they do not answer the requisition of the Treaty. Upon these points your Committee are ready to join issue. They deny that the Treaty requires any particular, connected, regular "axis of maximum elevation." They deny that the United States has ever pitched upon this or that mountain as any measure of the elevation required. They affirm that the only range of highland required is that which will shed water on its opposite sides, and prevent it from flowing into one mass. They affirm that what does not flow into the St. Lawrence flows in a direction different from that which does flow into that river; and that is enough to mark in characters as clear as light the Boundary of the Treaty. And whatever may be the ultimate termination of the present controversy, there will that Boundary remain until some terrible convulsion of nature overwhelm it, at once to testify to the exactness of the negotiators of the Treaty, and to the manner in which its conditions shall have been fulfilled.

Your Committee have now executed what they deemed to be their duty; although under a full sense how imperfectly they have succeeded in exposing, as they deserved to be exposed, the manifold and wilful errors of the Report. They trust that the American officers who have had charge of the execution of a survey, on the part of the United States, during the past season, will, before long, present results, not only of a different character from those furnished by their predecessors from Great Britain, but in a manner strikingly to contrast with theirs. For if they cannot, if the cause of the Union and of the State of Maine is not strong enough in itself to dispense with all such intrinsic aid as dishonest artifice can afford it, better were it for both at once to cede the whole Disputed Territory to their opponent, than by a successful resort to it, to pollute one single page of their record with such a proof of disgraceful victory.

The Committee have not deemed it proper to include within this Report any reference to negotiations now pending, respecting the proposal of a joint Commission, of the probable result of which they are not informed. They would

now, therefore close, by respectfully recommending the adoption of the accompanying resolutions.

By order of the Committee,

CHARLES FRANCIS ADAMS.

COMMONWEALTH OF MASSACHUSETTS, 1841.

Resolves concerning the North-Eastern Boundary.

Resolved, That the right of the United State, and of the State of Maine, to to require of Great Britain the literal and immediate execution of the terms of the Second Article of the Treaty of 1783, so far as they relate to the boundary from the source of the St. Croix River to the north-westernmost head of Connecticut River, remains, after the lapse of more than half a century, unimpaired by the passage of time, or by the interposition of multiplied objections.

Resolved, That although there is no cause to apprehend any immediate collision between the two nations on account of the controversy respecting the said boundary, it is nevertheless most earnestly to be desired that a speedy and effectual termination be put to a difference, which might even, by a remote possibility, produce consequences that humanity would deplore.

Resolved, That the late Report made to the Government of Great Britain by their Commissioners of Survey, Messrs. Featherstonhaugh and Mudge, though not to be regarded as having yet received the sanction of that Government, is calculated to produce in every part of the United States where it is examined, a state of the public mind highly unfavourable to that conciliatory temper, and to that mutual confidence in the good intentions of each other, without which it is hopeless to expect a satisfactory result to controversies between nations.

Resolved, That the interest and the honour of Massachusetts alike demand a perseverance, not the less determined because it is temperate, in maintaining the rights of Maine. And that we now cheerfully repeat our often-recorded response to her demand, that the justice which has been so long withheld should be speedily done to her; and that, whilst we extend to her our sympathy for her past wrongs, we again assure her of our unshaken resolution to sustain the territorial rights of the Union.

Resolved, That his Excellency the Governor be requested to transmit a copy of these resolves, and the accompanying Report, to the Executive of the United States, and of the several States; and to each of the Senators and Members of the House of Representatives from Massachusetts in the Congress of the United States.

[These Resolves passed the House on the 11th of March; were concurred in by the Senate on the 12th, and were approved by the Governor on the 13th of March, 1841.]

No. 22.

Mr. Fox to Viscount Palmerston.—(Received May 3.)

My Lord, *Washington, April* 13, 1841.

I PERCEIVE by the last intelligence from England, that some misapprehension prevailed, both in Parliament and with the public, respecting certain resolutions alleged to have been passed by the State Legislature of Maine, in relation to the affairs of the Disputed Territory, and to the removal of the detachment of Her Majesty's troops now stationed there.

The fact is, as far as I can learn by the latest reports received from Maine, that no resolutions upon the above subject have yet been adopted or passed by the State Legislature. The Legislature is still sitting; two sets of resolutions have been proposed, and are still under discussion; but no decision has yet been come to. One set of resolutions, proposed in the Senate, is of the tenor reported in my despatch to your Lordship, of the 21st of February, namely, that the Executive Government of Maine shall be directed to call upon the General Government of the United States to take measures for procuring the removal of the British troops from the Lake Temiscouata, and from the Madawaska Settlements. Another set of resolutions has been subsequently introduced in the House of Representatives by a very violent and turbulent member, of the name of Delesdernier, authorizing the State Government itself to take immediate measures for the removal of the British troops. These last are the resolutions quoted in Parliament, and commented upon by the English newspapers. Neither of the above sets of resolutions had yet, according to the last accounts, received the concurrence of the two Houses of the Maine Legislature. The question upon them was still pending.

The more moderate and peaceful of the two political parties has this year a majority in the State Legislature of Maine; and I should, therefore, have no doubt of the first mentioned, and least offensive, of the two sets of resolutions prevailing, if it were not for the consideration that the "Boundary Excitement," as it is called in Maine, never fails to be strongly influenced by other and extraneous causes of agitation; and that the alarming dispute which has arisen out of the business of Mr. Mc Leod, may draw the Legislature of Maine into more violent counsels than would otherwise have been followed.

I have, &c.,
(Signed) H. S. FOX.

No. 23.

Mr. Fox to Viscount Palmerston.—(Received May 16.)

My Lord, *Washington, April* 26, 1841.

I HEREWITH inclose a printed copy of the Report of the joint Committee of the two Houses of the State Legislature of Maine upon the North-Eastern Boundary. This Report was presented by the Committee to the Legislature on the 30th of March. It reiterates the usual assertions of the claims of the State of Maine, and complains, in the same tone as heretofore, of the occupation of certain posts within the Disputed Territory by detachments of Her Majesty's troops. The Report, however, concludes with recommending the adoption of certain resolutions, which, it will be seen, only go to the extent of calling upon the General Government at Washington, to take measures for the removal of the British troops; it is not recommended that the State Government of Maine should take such measures upon its own responsibility; this distinction is clearly of great importance. I am not yet

informed whether the resolutions, as above recommended by the Committee, have been finally adopted by the State Legislature; but I think there is little doubt that they will have been adopted.

I have, &c.,
(Signed) H. S. FOX.

Inclosure 1 in No. 23.

Report of the Joint Committee of the Senate and House of Representatives of Maine, on the North-Eastern Boundary.

THE Joint Select Committee upon the state of the North-Eastern Boundary, to whom were referred so much of the Governor's Address as relates to that subject, and also the Message from the late Governor, communicating his correspondence with the Lieutenant-Governor of New Brunswick and the President of the United States, together with certain Resolutions of the General Assembly of the State of Indiana, transmitted by the late Governor to the Legislature, at the late adjourned session, and certain Resolutions of the General Assembly of the State of Alabama, and certain Resolutions of the Legislature of Maryland just transmitted by the Governor at the present session, and also certain Resolves, originating in the House of Representatives and in Senate respectively, for repelling foreign invasion and providing for the protection of the State, and certain other Resolves from the Senate, respecting purposes of defence, have had the same under consideration, and now ask leave to submit the following Report:

When Maine assumed her place in the Union, and became an independent State, she adopted the Pole Star as her ensign. This well known point adorned her crest; and it appropriately surmounted her shield. It signified that she intended to be true to the Constitution and the country; and that she determined, more than all, to be true to herself. From that direction she has not consciously departed. To that determination she will always be faithful. She does not mean to swerve from her path. She has frequently had occasion to express her Resolves; and circumstances have arisen to test the firmness of her principles and purposes. She is now called upon to do so again; and she is obliged to meet the emergency.

We have come this year to one of those larger cycles of time, at which the State is called, by the forms of the Constitution, to fulfil some of its most vital organic functions; and among them returns the more frequent concern of attending to the grave subject of its long unsettled boundary.

The line which divided the ancient Commonwealth of Massachusetts from what once belonged to her by her original charter, east of the St. Croix, was one drawn due north. That river had been considered as the eastern boundary, ever since the Peace of Ryswick; and this line would have gone, as it was extended upon Mitchell's Map, to the St. Lawrence, if it had not been for the terms of the Treaty of 1783, which were the same, in that respect, as those of the Proclamation of 1763. Those were "the highlands that divide the rivers that empty themselves into the St. Lawrence from those that fall into the Atlantic Ocean," or Sea. That highland descriptive boundary was, at that time, perfectly well known and established, geographically, historically, and politically. Geography, history, the public records of the acts of the Crown and Parliament of Great Britain, still standing among her chronicles, all alike attest the truth and verity of the description; which, it may be observed, subsequent, and even recent, explorations of the face of nature, in that region, with the perhaps superfluous aids and lights of modern science, have only served to illustrate and confirm.

The cotemporaneous Acts of the British Crown, in 1763, establishing the Governments of Quebec and Nova Scotia, formed that abutment, then created for the first time, called the North-west Angle of Nova Scotia, which was adopted and fixed by the Treaty of 1783, as the first bound to begin at, of the United States. This point was considered so clear, in the words of the Treaty, as to prevent all dispute.

The Bay of Chaleurs and the River Restigouche, or one of its branches,

(which are merely sources of that bay) has always been regarded as the practical line of demarcation and jurisdiction between the two contiguous Provinces of New Brunswick and Lower Canada. The north-west angle of Nova Scotia had not been definitely ascertained. Wherever a point of highland could be found upon the meridian North of St. John, properly parting waters that went into the St. Lawrence and the Atlantic, there might be ground for tracing and applying that term. Some doubt was expressed, for the first time, on the part of the British Commissioners, in the negotiations which took place previous to the Treaty of Ghent, whether that small portion of unsettled country, which interrupted the communication between Quebec and Halifax, did not already belong to Great Britain. This doubt was only raised, at a late moment, for the purpose apparently of soliciting a cession (for which an equivalent had been previously tendered and declined) of at least that portion of unoccupied territory.

Long before this time, after the Peace of 1783, there had been a settlement formed upon the banks of the River Madawaska, by some Acadian fugitives, who had been expelled from the Province of Nova Scotia, and again routed from their next place of refuge in New Brunswick, to this then sequestered spot, where they were joined by a few French Canadians, far, as they supposed, from further touble and molestation. The point respecting the source of the St. Croix was determined under the Treaty Convention of 1794, which finally provided for the surrender of all posts held after the peace. Previous to this period, before that point was determined, the Commonwealth of Massachusetts caused the survey and running of a line of a large tract of its territory, commencing from the Schoodic Lakes, and extending, upon the magnetic north, across the St. John, above its junction with the Madawaska. This was an undertaking of great arduousness, and was attended with extreme suffering to the party employed, who came near perishing in the woods. The eastern line ran about 150 miles, and went as much as fifteen miles over the north side of the St. John. The surveying party, there much exhausted, turned aside to the first highlands they found towards the west, mistaking the tributary streams of the River Madawaska and its lakes for rivers emptying into the St. Lawrence. The proceeding was begun in 1792, and the plan on which this survey is exhibited, by Park Holland, was executed as early as 1793 or 1794. The right of crossing the St. John was recognized and confirmed, after completing the Convention of 1794, respecting the St. Croix, by the British Minister residing in the United States, to whose advice the operation of it was referred, and who regarded it as a theme of congratulation, that thereby in consequence of the arrangement which he recommended, the line would cross the St. John above the Grand Falls, where it would be less prejudicial in any respect, and more beneficial, on the whole, to the interest of Great Britain, and the integrity of her dominions. Previous to this period the Provincial Government of New Brunswick had undertaken, probably without being aware of any wrong, to make grants of confirmations to French settlers at Madawaska. But it was also at the same time necessarily and indeed actually acknowledged by the official authorities of New Brunswick, that the North-western Boundary of that province extended across the St. John, and was claimed to the Southern highland Boundary of Quebec.

Massachusetts, it is well known, continued after this period, in the undoubted exercise of her eminent domain, to extend her grants and surveys into this region, on both sides of the Aroostook, and thus into the proper valley of the St. John. This went on until the work of settlement and improvement, impeded in some measure by disadvantages of distance, and want of convenient approach and communication, was interrupted, and suspended, by the breaking out of the war in 1812. The delay to have the true line drawn between the two Governments of the United States and Great Britain was one cause among those which operated materially to retard the growth of Maine, and the prosperity of Massachusetts, in that direction. Conventional agreements, for this purpose, were negotiated between the two National Governments, by their public diplomatic agents, one in 1803, and the other in 1806. The first was rejected by the Senate, and the other by the President, on account of matters with which they were connected, having nothing to do with this subject.

From this period, and from this indefinite state of things upon that border,

may be dated, with propriety, that usurpation which the British Provincial authorities began, progressively, to exercise in that quarter, rendered more easy and accessible to them by the avenue of the St. John, over the peaceful and unresisting population of Madawaska. For these purposes the point was more approachable by the authorities upon the side of New Brunswick, although the absurdity of such a pretension was apparent, even as between that Province and Lower Canada, and was manifested by a map of the territory published by authority of Parliament in 1827, as well as by other subsequent British maps. The privilege which was enjoyed, of a more direct communication than they were entitled to, by this route, across the corner of our territory, was one never denied, or even objected to, and drawn into controversy, until it was first challenged as a sort of acquired right, and arrogated as an absolute pretension. Its germ first developed itself in the ambiguous and circuitous forms of expression, by which the British negotiators went about to accomplish some point of this kind at Ghent.

Maine entered the Union in 1819, without any apprehension, or even suspicion, that her material rights, as an independent State, entitled to certain limits, and that her title especially to a large part of her territory, derived from the Treaty of Independence, if of no prior origin, and as released and confirmed to her, upon her separation, by Massachusetts, were called into question, or were capable of being drawn into controversy. The first census of the United States, taken after our admission into the Union, in 1820, embraced the settlement of Madawaska; and one of the first Acts passed by the Legislature of this State, in the same year, was a Resolve, earnestly calling the attention of the National Government to this subject, not then brought to a close, as it was understood, by any definite proceeding of the Commission established under the provision of the Treaty of Ghent. It was some time afterwards discovered that, by some singular oversight, or obliquity, or, if it may more properly be so deemed, mistake, on the part of those who were employed in this business on behalf of the United States, some change or transmutation of the subject was permitted to take place, and thenceforward fatally perplex all future proceedings under that Commission. The agents, on both sides, were unquestionably most respectable and accomplished persons, who devoted themselves with eminent zeal to the interests of their respective Governments, as those interests presented themselves to their minds. But it may be deemed to have been among the misfortunes attending the devious course of proceeding adopted since the Treaty of Ghent, that the agents on the part of the respective Governments were composed on one side entirely, of natives of this country who had adhered to the cause of Great Britain at the Revolution, and that no citizen of the section principally concerned, namely, of Massachusetts, was employed by the United States. The consequence of this inadvertence was, that the agents of Great Britain were permitted to stop and assume a position at Mars Hill, a solitary and isolated projection, rising to a height uncalled for by the Treaty, unaccompanied by any of the circumstances of the description, and destitute of a single feature of it—even to that solitary pre-eminence which is so entirely unlike a general highland conformation. Without inquiring how this happened, or undertaking to say what the American agents ought to have done under these circumstances, and whether they ought not to have refused to proceed, and to have protested at once against the total departure from the rule of proceeding required by the Treaty, it is not too much to say that all further labour after this was worse than lost, and thrown away. The whole of this proceeding was, thenceforward, conducted and carried on to its unfortunate termination, without any privity or knowledge on the part of Massachusetts or any of her authorities; and by a sequel, which was, hardly, perhaps, contemplated as a consequence of this solecism, (allowing the stoppage at Mars Hill,) an enormous and sudden expansion afterwards took place of what assumed the specious form, and obtained the factitious denomination of the British claim to about one-third of the territory of Maine—a tract which thereby acquired the designation, too easily allowed to pass into use, of Disputed Territory; and it is needless to say that this circumstance has since proved to be pregnant with the utmost mischief to the State, and to have been the prolific source of almost every variety of evil to its peace and prosperity. It turns out, by the recent brilliant scientific exploration of Major Graham, as was insisted at the time when the pretence

was brought to light, that the true line from the Monument does not even touch Mars Hill, but leaves it quite to the west, upon our side, and within the limits of Maine. This false and preposterous position, indeed, has been recently treated by respectable British writers, who are still not willing to yield to the whole force of the American claim of right in all its extent, in publications of ability, as entirely untenable and destitute of pretext. Mars Hill remains, and will stand for ages, a monument of the gigantic and monstrous absurdity of this audacious assumption.

It is, no doubt, to be regretted that the Government of the United States should have found this subject in such a state, from the result of the Commission under the 5th Article of the Treaty of Ghent, as to be obliged apparently to recognise and to give colour to this extravagant claim, by the perhaps unavoidable form of the Convention negotiated at London, in 1827, for referring the question to an umpire.

It was at this moment, we may remark, that Maine suddenly saw the sword suspended, as it were, over her head; or perhaps we should more fitly say, when she beheld the scales about to be put into the hand of an arbiter, whose acknowledged bias would be, the same whether king or farmer, to split the difference. Another circumstance, not calculated to allay this concern, was the discovery of an accidental misapprehension into which one of the most prominent negotiators of the Treaty of Ghent had been led, in a private letter afterwards published, written immediately after the signature of the Treaty of Ghent, which was to the effect that Massachusetts had not the shadow of claim to any territory north of 45°, eastward of Penobscot river. It cannot be necessary to say that this momentary error has since been most satisfactorily explained and rectified. It may not be wonderful, however, that Maine, at this moment, surprised by this sudden development, of which she had been alarmed by rumours, destitute of the documentary evidence that had been made use of in relation to her title, and ignorant of the grounds upon which it had been impeached, or of the extent to which it might have been compromitted, without having been consulted, neither herself nor Massachusetts, in a single step or stage of this course of proceeding, in which her rights were so seriously involved,—it can hardly, therefore, we say, be wondered that Maine was induced to exclaim, through her Executive organ, that she had not been treated as she had endeavoured to deserve.

The assertion and announcement of this new and strange pretension was accompanied, as will be well remembered, also, by a sort of simultaneous charge from the Provincial powers of New Brunswick, along the whole line of the hitherto undisturbed American possession and population. The boundary, supposed to have been sufficiently established from the St. Croix as far as the St. John, was now broke into. This assault was made upon all persons, without discrimination, who might have thought themselves protected by the authority of Maine, or by the power of the United States, within the precincts of what now, for the first time, was practically marked out as disputed territory. Process of ejectment was served about the same time, in the fall of 1827, upon all the settlers on the Aroostook and the upper parts of the valley of the St. John, as intruders upon Crown lands; and much complaint was made at the time, not without foundation, of the terror and severity with which this sudden exercise of foreign authority was employed. At this period, too, an American citizen, who had acquired the possession of an original American settler, seated upon a grant under the authority of the two States of Massachusetts and Maine, at the confluence of the small stream before-mentioned with the St. John, having the protection of the Governor of Maine in his pocket, was seized by the Sheriff of the adjacent county of New Brunswick, and conveyed as a prisoner to Fredericton.

It is due to observe, that upon inquiry into the facts, by the Government of the United States, as well as by that of this State, the liberation of this person was required, and an indemnity was demanded in a tone and spirit worthy of the occasion; and which afterwards served as a precedent on a similar one. But it was unavailing; nor did the interference operate any alleviation to the condition of the unfortunate prisoner, nor as an abatement to the rigour of Provincial authority. Notwithstanding this reclamation, and in defiance of this demand by the Government of the United States, the proceedings went on, and the individual was tried, convicted, sentenced, and

punished for his alleged offences against the Crown and Government of Great Britain. Baker underwent his sentence, and returned to become again the subject of similar outrage and persecution. The record of his trial and conviction was put into the case, and became a part of the evidence furnished against the United States, in the submission to the King of the Netherlands.

After this monarch had in fact ceased to be that independent Sovereign to whom the question was referred, and was obliged to rely upon the support of those Powers, among them Great Britain, which had raised him to a kingdom now reduced to one-half, and when, under these circumstances, in the room of undertaking to split the difference, he concluded to advise some agreement to that effect, and when that advice was declined to be accepted by the Government of the United States, then followed a period of some duration, over which we shall be willing to draw the mantle of oblivion. It was a period of obscuration and eclipse to the condition of this question, which may be denominated the dark day of its diplomatic management. For some considerable season the negotiations and transactions between the two Governments were shrouded in impenetrable mystery; and the shade was in some degree cast over the proceedings of our own. A plan was on foot, in the first place, for adopting the proposal of the arbiter, and making it the basis of a further compromise. This project was defeated by the refusal of Maine to enter into it blindfold. Then followed the singular suggestion of turning aside from the due north direction, and sweeping the course towards the west, for some indefinite and uncertain object, that would best answer the description, until it was made almost a matter of indifference whether the highlands in question, if any such existed, should be sought to the north or the south of the St. John; and it was finally proposed, under colour of seeking for highlands, to which both parties were agreed—that is to say, the only highlands upon which they could agree—to strike a line from the St. Croix to the western elevated region which divides the waters of the St. John, Penobscot, and Chaudière.

During this season of darkness and diplomacy the rights and interests of this State were peculiarly compromised. The Government of Maine was called upon to disavow acts of its citizens performed under its authority. Citizens of the State, within its limits, for conformity to its laws, were again seized and imprisoned in New Brunswick; and their liberation was requested of the Lieutenant-Governor as a matter of grace and favour. Our civil securities, designed by the Legislature for the temporary protection of the frontier, were dismantled, and left to desolation. Information was refused, and the inquiry into the state of the question stifled; and, to crown the apparent abandonment of our cause for a season, the care of the Disputed Territory was resigned to the charge of a Provincial Warden.

The constant cry to us during this period, was peace, when there was no peace. It is not too much to say that the powers of the Federal Government were then in abeyance to us; or only exerted to repress our vigour, and restrain our energies; and its influence was only exercised to depress and subdue the spirit and patriotism of the State, and to silence observation and complaint. This statement is not drawn forth without repugnance; but it is due to the demands of truth, and no less to those of justice to the better counsels, by which those pernicious and flagrant errors were afterwards, in a great measure, corrected and repaired. Suffice it to add, that under the influence of those counsels which prevailed in the Cabinets of Great Britain and the United States, during that season, the subject slumbered, so far as the public were concerned, for several years. An unavailing attempt to break the spell was made in 1834, in the National House of Representatives. A call afterwards made in the Senate, was more successful. This was on motion of Mr. Webster, seconded by Mr. Clay, in 1836. The sensation produced by the unexpected disclosures of the state of negotiation, then laid open to the light, served to re-animate and arouse the dormant state of public feeling and attention to the subject. Presently, after the development just mentioned, and after a variety of previous finessing and manœuvring to compass this object, the direct overture was at last made by Great Britain, through her Chargé d'Affaires in this country, to finish the business, and to actually split the difference, without more formality, by a division of the Disputed Territory between the parties upon equal terms. After much fruitless discussion for a year or two longer, entirely irrelevant to the issue, but in which however the

necessity or fitness of recurring to the State of Maine for her assent, and for making her a party to any project for her own mutilation and dismemberment, was recognised, the negotiation arrived at a point in which, to cut the matter short, recourse was required to the expedient of consulting and ascertaining the sense of the State of Maine; that is to say, whether it would give its consent to a conventional line of boundary.

This leads to the view of the Resolves of the Legislature on this subject, at the session of 1838, upon the communication of the correspondence upon this subject, between the Governor and the Secretary of State of the United States; to which, in the progress of these remarks, the Committee look forward. As this forms an important epoch in the annals of the question, before entering upon that further field of observation, it may not be out of place for the Committee to recur, for a moment, to another topic which may be fit for reflection.

The Committee are well aware, that there were respectable opinions entertained in favour of accepting the advice, or award, such as it was, of the King of the Netherlands; and that there are still those who continue to avow their regret that it was not done. It is remarkable, and at the same time gratifying, to observe, that as this has arisen, and the more food has since been furnished for reflection, in the same proportion has the truth been gaining ground, of the right of Maine; and there has been a progressive strength of opinion in support of the justice and rightfulness of her cause; until the conviction has become so firmly established in the public mind, as to leave no alternative but to adopt its defence. To this conviction we might appeal for an apology, if one was necessary. But it is not for Maine to offer any for the course that was taken. That decision was made by the Senate of the United States; and that body for itself rejected, and refused to advise the President to accept the result of the submission. And supposing this course was in consonance with the sentiment of Maine, either as anticipated, or expressed through her proper organs, was she to be the last to feel the force of the injustice that would have been done her, or to protest against the violation of her sacred rights? A low idea may have prevailed, it is true, of the comparative value of the land in dispute, and a grave one, undoubtedly, entertained, of the consequences that might be involved in the refusal to resign it. But how is that value to be measured, and of what is a community to take counsel on a question of this kind? Its conscience of right, or its concern for the event? There is an importance in principles, as well as in consequences, not to be overlooked, and which ought not to be outweighed by ordinary, or excessive scruples. It is of sufficient justification for us that the demand against us was totally unfounded; that the domain in dispute was entirely ours. The success of the adverse scheme would have been that of stratagem and circumvention; and it was not for Maine to have been foremost to contribute to its consummation. Leaving the due responsibility of that decision wherever it rests, the prudence of the determination of Maine, it may be observed, was a question, so far as she alone was concerned, for herself. The control was in the superior wisdom and discretion of the Union; whose councils can best appreciate the utility, or importance, of the retrospection.

We will not pause to say that the sacrifice required was uncompensated to Maine by any equivalent, in frontier or otherwise, such as was, in fact, offered at Ghent; or in any other respect, except by relinquishing to the United States the useless fortifications at Rouse's Point. Some compensation of another kind, in another quarter, it is true, was afterwards suggested to Maine, concerning which, we believe there never has been but one opinion. Maine, we are sure, would never consent to barter her birth-right for any mere sordid consideration. As a question of right, moreover, we may be sensible that the subject had not the same interest to others, at that time, that it had to ourselves; nor had it been considered by Congress and the country in the light it has since been. The right we were solicited to surrender was, indeed, scarcely acknowledged to be ours. Less, as has been remarked, was thought then of the truth and justice of our cause, and of the injustice and indignity we had endured, the sense of which has since been spread, and the report thereof rung throughout the land. Whatever regret may still remain, that Maine had not submitted in silence, and without even that sympathy which might have soothed submission, there certainly has been less surprise at her

course of conduct, since the character of her case and the history of her wrongs have come to be more perfectly understood; except, that is to say, at the extent of her patience and forbearance under the most aggravating and humiliating circumstances. No reflection has long been cast upon her fidelity, either to herself or to the Union; and every other unavailing expression of a doubtful kind has, we had trusted, long since died away.

It may here be added, that it yet remains to be seen whether the course pursued by Maine upon that, as well as on every occasion, will not prove at once more true to herself and to the Union, than has thus far been viewed as being perfectly ascertained, or she has had entire credit for.

The Committee would here be permitted to observe, that they have not thought it important, at this time, to go into any long and laboured argument, or vindication, of the right of Maine to what is termed the Territory in dispute. They hope they owe no apology for any such omission. The day for that has gone by. In their opinion, it has been argued quite too much and too long already. The matter, which was never doubtful to any unbiassed mind, demands no further exposition or elucidation in the view of the country; and by the Government and people of Great Britain our voice is unheard, or unheeded. The subject has already been discussed, with sufficient clearness and cogency, in former Reports of the Committee to the Legislature, and in a variety of familiar public documents that have been widely circulated; and a continuance of it, it is conceived, would take up all the time and room that can conveniently be assigned for the present Report, without any otherwise useful and important purpose.

It is possible, however, that some apology might be due to the state of public intelligence or expectation, whether for omitting, or for taking notice of, the result of the recent exploration and survey of the British Commissioners, and their Report, published and communicated by the authority of that Government. The Committee can only say, that they should pass it by in silence, except from the general surprise and attention which it has excited; and that they should otherwise leave it to the lot to which it had better be consigned. They are only restrained from speaking of it further according to its merits, by the respect that is due to the channel through which it comes, rather than to the source from which it proceeds; from speaking, they mean to say, as it deserves, of what might otherwise be termed its impudence, its audacity, and its mendacity; of its sophistries and evasions; of its assumptions, as well as its suppressions; of its profligate perversions, and its presumptuous and extravagant pretensions. It sets at nought and seeks to get rid, in the first place, of the settlement of the source of the St. Croix under the Treaty of 1794, no less than it does the description of the highlands in the Treaty of 1783; and it proclaims a discovery for the final solution of the whole question, by the transposition of a point in the original Latin grant of Nova Scotia to Sir William Alexander. Its falsities, moreover, are obvious and palpable. In the room of the dividing highlands described in the Treaty of 1783, it substitutes a certain new-fangled phrase, or idea, of the maximum axis of elevation, which it pursues and carries through, over hill and vale, along and across various streams, and crossing several times the same stream, viz. the Aroostook, until it reaches some undiscovered bourne, thence to be termed the North-West Angle of Nova Scotia. This newly-invented principle, or rather name, (the axis being mere matter of imagination,) is understood to mean the greatest prevailing character of elevation, in the configuration of the country, upon some broad general parallel between the River St. Lawrence and the main Atlantic, extending from the head of Connecticut River, where it is made to begin, and merging in the lower valley of the St. John, where it loses itself; or if it ever rises again on the east bank, it is to approach the south, and not touch the north, side of the Bay of Chaleurs. This scheme undertakes to show, upon the base of some modern geological theory, what were the true original highland formations intended by the Proclamation of 1763 and the Treaty of 1783, in the entire absence, at that time, it may be observed, of all such notions, and indeed of all those lights that have since been shed, by subsequent researches, upon the principles of a science then either unknown or not deemed of any practical importance. Indeed, it has been obliged to resort to the most incredible and absurd supposition to account for the absence of facts in the face of the country, necessary to sustain its pure and unsupported hypothesis.

It is needless to mention that its strength is employed and consumed upon entirely irrelevant and subordinate, if not trivial, topics, not touching at all the main criterion of the Treaty highlands, as ranging along the heads of rivers emptying into the St. Lawrence. It gives up the only ground on which the British argument laid before the arbiter could possibly stand, to wit, that the highlands in the Treaty of 1783 were not the same as those described in the Proclamation of 1763; and it tramples down equally the positions assumed in the statements, and supported by the evidence before the umpire, and almost every pretext upon which he could base his conclusion. Perhaps its most remarkable sleight is that by which it achieves a direct line between the sources of the St. Croix and the Chaudière, by changing the due north direction to one nearly west; and it betrays a singular and striking coincidence with the diplomatic scheme before mentioned for searching from the St. Croix for highlands in which both parties should agree!

The task of entirely exposing the disingenuousness and total unworthiness of the character of this Report, in regard to all those points in which it ought chiefly to recommend itself to public confidence anywhere—one which your Committee have been loth and reluctant to undertake—has not, however, been neglected by other and abler hands, by which it has been thoroughly performed, and in which they are quite willing to leave it. Besides the various publications of distinguished individuals upon this subject, the Committee would allude, with pleasure and satisfaction, to the recent Report in regard to it to the Legislature of Massachusetts—one uniting together names the most respectable and venerable also to Maine.

The Committee feel it to be desirable, before dismissing these observations, to divest them, as far as possible, of all undue application; and, most of all, where they would be the least applicable. They feel a difficulty, however, in forbearing to remark, and to express their regret, in respect to the unfortunate commentary, which is presented by the character of this Commission and Report, upon the highly-liberal policy which has always prevailed in the United States, in regard to cherishing the merit of foreigners. And it is no less due to say, that the faithfulness with which that favour has been rewarded in one instance, is only set off in a stronger light, and more conspicuous relief, by the perfidious requital which has been made for undeserved patronage, and the illustration afforded, in an opposite and striking point of view, of mere mercenary service.

The Committee are further desirous to distinguish, and to mark the difference in their opinion, between that portion of the Report in question, which is hypothetical and argumentative, and that which relates to the particular execution of the duty assigned to the Commissioners, in regard to survey; in which respect, they are happy to say, it is presumed to be superior to any just exception.

It is no more than fit, in this respect, also, to say that the Report in question distinctly acknowledges the existence of a range of highlands extending along upon the right bank of the St. Lawrence, and fulfilling upon that side the features of the Treaty of 1783; and that it perfectly shows that the Treaty is capable of being literally executed (as it could not avoid doing) in that respect. Whether there was such a formation, along upon some parallel with the St. Lawrence at the head of the rivers that emptied into it, known and understood to exist at the time of the Proclamation of 1763, as well as of the Treaty of 1783, was not more a simple question for the eye, as viewed from the margin or from the bosom of that stream, than it was established in the geography and history of that section of country, and was exhibited in all the good maps of that age. The account of such highlands extends back to the earlier archives of Canada; and it appears in the authentic records of the seventeenth century. A graphic description of their appearance is given at that ancient day, under the reign of Louis XIV, as reaching from the vicinity of Quebec, at some distance from the shore, quite down towards the mouth of the river. Douglas's "Political History of the British Settlements in America," (of which different editions were published from 1746, about the date of the Treaty of Aix-la-Chapelle, until 1760, on the conquest of Canada,) contains a like sketch of the long range of highlands lying on the south side of the St. Lawrence, at no great distance, for several hundred miles in extent. They are represented as elevated and lofty heights

in that direction, with short and rapid rivers or runs of water on that side of the St. Lawrence, according with the old French accounts of the same section of country; and they are recommended to public attention in that work, which was published near the eve of the Peace of 1763, in connexion with the subject of a convenient barrier or boundary for the British Provinces, in any future demarcations. The British "Annual Register" of that year, too, in its text, contained a cotemporaneous exposition of the Proclamation of 1763; and the highlands were then described, and their situation was laid down and illustrated on the accompanying map in the same volume, as they were then and afterwards understood and acknowledged until a very recent period.

A remarkably clear light is likewise thrown upon the character of this well-known highland boundary by a document that has been preserved among the provincial or state papers of Massachusetts respecting it, bearing date in the following year, 1764. A question having been started at that moment, when the Crown was looking up its lands in all directions, whether the lands lying east of the Penobscot, or between Nova Scotia and the Sagadahoc (formerly called the Sagadahoc territory), were not more properly crown lands, and therefore not for the General Court to grant, although included within the Massachusetts' charter, and therefore stretching to the St. Lawrence, it was brought before the Board of Trade, and became the subject of discussion between the Provincial Agent and the British Minister for that department. The Lords, at least, thought that the province could claim no right to the lands on the River St. Lawrence; and it was the opinion of the agent, though the original patent extended to the river of Canada northward, that it was not important to Massachusetts to preserve a portion of country which lay so remote, "and whose rivers run still further" from the old part of the province "into that of St. Lawrence;" and it was proposed, that if the province would cede all the claims they might have under their charter, "to the lands of the River St. Lawrence, destined by the Royal Proclamation to form part of the Government of Quebec," the Crown would waive all further dispute concerning the lands as far as St. Croix, and from the sea coast of the Bay of Fundy to the bounds of the Province of Quebec; and the General Court was thereupon advised to relinquish the narrow tract of land which lay beyond the sources of all their rivers, and which was watered by those that run into the River St. Lawrence," as being of little comparative consequence to the province, but "absolutely necessary to the Crown, to preserve the continuity of the Government of Quebec." This historical document shows precisely how the narrow valley of the St. Lawrence was viewed at the time, in England and America, to be marked off by the recent Proclamation of 1763, of which it is a contemporaneous explanation; and exhibits, therefore, in conspicuous relief, the situation of the naturally and necessarily separating, continuous elevation.

That such a range of highlands continued down the St. Lawrence, and branched off toward the north side of the Bay of Chaleurs, was alike recognized and represented in the acts of the Crown and Parliament from 1763 to 1774. And the known configuration of the earth in that quarter, necessarily establishes such a fact.

The Committee need not say, that the existence of such an elevated rise of land along that general direction has never been drawn in question by any cotemporary authorities, or done away by any subsequent inquiries. A topographical description of Lower Canada, by the Surveyor-General of the province, published upon the conclusion of peace in 1815, and with full knowledge of the articles in the Treaty of Ghent, delineates "the ridge rising at a certain distance, generally denominated the Land's Height, dividing the waters that fall into the St. Lawrence from those taking a direction towards the Atlantic Ocean, along whose summit is supposed to run the boundary line between the territories of Great Britain and the United States. This chain commences upon the eastern branch of the Connecticut River, takes a north-easterly course, and terminates in near Cape Rosier, in the Gulf of St. Lawrence." Now, it was upon this section of highlands trending toward the Bay of Chaleurs, or rising along to the northward of it, as discernable by the eye, or determining the water-courses described by the Acts of the Crown and Parliament, in 1763 and 1774, where the rivers should separate off in

different directions into the St. Lawrence and into the Atlantic, wherever that should be intersected by the meridian, or due north line by celestial observation, from the St. Croix,—that the bounds of the United States, defined by the Treaty of 1783, abutted.

The Committee refer to this as the only real and proper question of a geographical kind which can arise or exist in the case; and nothing was ever necessary but to ascertain and define that true point by degrees of latitude and longitude, as was afterwards proposed to be done by the unratified Conventions before mentioned of 1803 and 1806. They have adverted to this point, and allowed themselves to look back upon this ancient and well traced line of boundary upon the horizon of former times with more freedom than there might otherwise have been occasion, in consequence of an idea, at first insinuated, and afterwards more gradually developed, and confidently insisted upon in the diplomatic papers of Great Britain, since the period of 1832, that no such range or region of highlands in truth existed, and that the Treaty of 1783 was therefore physically incapable of execution. Such a fallacious suggestion was undoubtedly, entirely in the face of all former observation and political experience in regard to the question. If there was room for anything to confirm this point, it might be found in the acknowledgment of the fact, in every form, in which it could be made at the time of the Treaty of 1783. Authentic evidence exists that the British Minister at Paris was possessed of all the "books, maps, and papers, relative to the Boundary" which were wanted, from the public offices in London; and without referring to the conclusive character and effect of Mitchell's Map, which was regularly prepared under the sanction of the Board of Trade and Plantations, and was the one immediately before the negotiators, all the maps known to have been published in England, from 1763 to 1783, nearly twenty in number, carried the course of the boundary line from the source of the River St. Croix northward, across the River St. John, and terminated at the highlands, in which the rivers that fall into the St. Lawrence take their rise. In all those maps, the north-west angle of Nova Scotia is laid down on those highlands where that north line terminates. In all, the highlands from that point to the Connecticut River divide the waters that fall into the St. Lawrence from the tributaries of the St. John, and from the other rivers that fall into the Atlantic. Several different maps published in England also between the preliminary and definitive Treaties, in November, 1782, and September, 1783, lay down the boundaries of the United States similar to those delineated in the previous maps as the boundaries of the Provinces of Quebec and Nova Scotia, and as they have ever since been claimed by the United States. All the world knows that this was pointed out and demonstrated, without any denial, in the debates in Parliament immediately upon the Treaty; that it was defended by the Ministry who had been put in to make peace upon terms which they were disposed to render favourable to us, and that the contest was determined against them upon that ground. If access could even now be had to the various depositories of the papers and correspondence passing between the British Ministry and its negotiators at the Peace of 1783, your Committee have the persuasion that a still more conclusive light might be cast, if it were possible, upon the intentions, as well as the terms, of that Treaty, so as to dispel all shadow of doubt that might rest upon that question, even in England.

It is unnecessary to repeat the deep concern and mortification with which Maine became acquainted with the state of negotiation on this subject in 1836. It was shown to have been so strangely conducted, under the long course of diplomatic management, that almost every trait of the Treaty of 1783 was effaced, and all the real and permanent features or characteristics of the question were quite altered or lost sight of. And it was finally insisted by the British Minister, forgetting the height of Mars Hill, that a due-north line from the St. Croix would strike no highlands described by the Treaty. The topic indeed was taken up, as though it was fresh, and was treated as if there had been no previous Treaty at all about it. Without making any other remark in regard to the mode in which the subject was thus managed, it is no more than proper to say, that it served as a prelude to the further project, afterwards disclosed, for unsettling the source of the St. Croix, and striking a line across the country to the head of the Chaudière. The same spirit had

only to travel back, whether in the shape of critical acuteness or geological research, and remove the highlands described in the Proclamation of 1763 from their heights, where they sent their streams into the St. Lawrence, to that interior and formerly unknown region where they might be conceived to constitute the maximum axis of elevation: or, to go yet further, to the suppression of that portion of the old charter of Massachusetts which contemplated its "extending from the river of Sagadahoc to the Gulf of St. Lawrence and Canada Rivers," &c.; and also of the passage, as quoted in the American statement before the King of Holland, from the letter of the Royal Governor of Massachusetts to the Board of Trade, in 1700, that "as to the boundaries, we have always insisted, and shall insist, upon the English right as far as the St. Croix;" or, furthest and last of all, by vouching a stale philology in aid of a new invented and apocryphal geology, so as to change the original direction of Sir William Alexander's obsolete grant of Nova Scotia from the northward, in a straight line, towards the west, to the head of the remotest river, the Chaudière, that falls into the St. Lawrence opposite, or just above, Quebec.

From the publications like this last again alluded to, not without repugnance, it is refreshing to the testimony of a moral sense in the human breast to turn to opinions, in relation to the general subject in recent and respectable English periodical works, delivered in a tone, as well as, we doubt not, a spirit of equity, moderation, and candour. If the Committee cannot emulate, as they would wish to, they can at least acknowledge, a tone and temper like this, and they can at least hail it as an auspicious harbinger of a dawn, if not a day, that has not even yet fairly broken—oh! when will it ever burst again! —from the oriental glory of old England upon the broad, eternal ground of truth and justice!

It is trusted by the Committee, that this retrospect will not be regarded as unimportant, nor the last portion of these remarks be deemed as a digression, in view of the period which they are approaching of 1838. Previous to which, it may be mentioned, that a strong solicitude was awakened in the breasts of the people of this State, by observing the advancing progress and extent of British usurpation, and encroachment upon the Disputed Territory. One of the most extraordinary was the project for a railroad, proposed by the Legislature of New Brunswick, called the St. Andrews and Quebec Railroad Company, to which the Legislature of New Brunswick pledged its co-operation, and which was patronized by a Royal grant of 10,000*l*. A railroad of this description, it was plain, must have intersected the State of Maine quite south of the St. John; and the plan of it was to cross the line at Mars Hill. This enterprise did not escape the vigilance of the Legislature; and, although it was relinquished, the demonstration was not lost upon the public mind. The subject was taken up at the ensuing Session of the Legislature in 1837; and the Joint-Committee on the north-eastern Boundary was instructed to inquire into the expediency of providing by law for the appointment of Commissioners on the part of the State, by the consent of the Government of the United States, to survey the line between this State and the Province of New Brunswick, according to the Treaty of 1783, and to establish monuments at such places as should be fixed by such Commissioners, and by Commissioners to be appointed on the part of the Government of Great Britain. Upon the Report of that Committee a properly modified resolve was adopted by the Legislature, that the Governor should be authorized and requested to call on the President of the United States to cause the North-Eastern Boundary of the State to be explored and surveyed, and monuments erected, according to the Treaty of 1783; that the co-operation of Massachusetts should be solicited; and our Senators instructed and Representatives requested accordingly.

In consequence of this resolve, it is well remembered, an appropriation was obtained in Congress, on the motion of Mr. Evans, of the sum of 20,000 dollars, for the purpose of such survey, and to carry the object of it into effect; in regard to which it is needless to remark, that nothing was ever done; nor is it recollected that any other reason was ever given for the omission than the existence of some negotiation. The appropriation was limited to two years. In the interval, it will not be forgotten, another American citizen, and it is hoped, the last, was arrested, within the Madawaska precinct, in execution of a duty assigned to him by the laws of the United

States, under the local authorities of Maine, and was imprisoned, once and again, until he was eventually liberated. This seizure was made the subject of complaint and reclamation in the same manner that had been adopted in the former case, and with similar success. These reclamations, it may be observed, have remained ever since suspended. The National Government have recognized their correctness on the part of Maine, and have acknowledged the title of the State to compensation. But the deepest impression was made upon the public mind, at this last period, by the open marching of British troops across the upper part of the territory in the latter part of 1837. Of the intention to do this, the Committee would observe, that simple notice was given by the British Government; and it was accepted, and communicated as an act of courtesy, to be duly appreciated by ours. That Committee feel restrained by motives of a high, prudent, and moral nature, from commenting on this circumstance, in all the relations in which it is concerned, and in regard to all the reflections and emotions to which it gives rise. Candour requires the admission, that the national administration did not at that moment foresee the consequence of this inconsiderate facility, or probably anticipate that it would terminate, as it has done, in an actual and apparently absolute occupation of that part of the Disputed Territory by an established British military force.

The Committee are willing to say, that they do not wonder at the difficulty which was found to understand the subject, or to perceive all its proper relations, in the state in which it was left previous to the period of the late administration; and they readily acknowledge that, making due allowance for the embarrassment in taking it up at first, there has been no want of an able and sincere attention to its interest; and that it has been passed from the hands of the late Secretary of State in a much better condition than he found it.

The Committee have now come to the period when Maine had so long seen herself exposed, without having any adequate shield against the aggressions and encroachments of the Provincial Government of New Brunswick, upon her borders; and when, feeling the extreme inconvenience and danger resulting from not having any marked and established frontier, she was compelled by necessity to take the work of ascertaining it into her own hands, and of determining it, so far as she could, unless she should be relieved from the task by the superior prudence and power of the General Government. This State saw clearly the importance and propriety of causing this to be done, if it could be so, by the authority of the United States; and if that recourse failed, the State was no less clear in regard to the duty it was owing to itself. Indeed, it saw no other alternative. At the same time, therefore, that the Legislature refused to give its consent, beforehand, to a conventional line, it further resolved that unless the Government of the United States should, alone or in conjunction with that of Great Britain, run and mark the line, by a certain time, (which was fixed in September, to await the adjournment of Congress,) the Governor of the State should enter upon the execution of that measure. No provision, however, was made for the necessary expense of that service, beyond what was contained in the ordinary contingent fund. That resolve and this fund were all that the Executive of the State had to guide and to aid them.

The Committee do not stop to state at length the views that were taken of the subject by the Governor of the State of that period, under the duties prescribed and enjoined upon him. They are exhibited in the communications made by him to the Government of the United States, and especially to the delegation of this State in Congress. Those views might be referred to still with interest and satisfaction; and it would give the Committee pleasure to copy them into this Report. In substance and amount they were:—that Maine was not desirous to assume the attitude required by her resolves; that the people looked with intense interest to the expected action of Congress and of the Federal Executive upon the subject; and that their earnest wish was, that the United States would go forward in the matter; that the State did not seek to act independently of the United States, but did feel that the subject belonged properly to the Government of the United States; that the question was a national one, and the action thereon should be national; that it was important that the Provincial and the British Governments should

understand, that what was to be done should be so under the authority of the General Government, and would be sustained by it; for so long as they supposed that Maine was not acting in accordance with the sentiments of the United States, but proceeded on her own responsibility, alone and unsupported—so long must we expect a repetition of outrages upon our rights and upon the persons of our citizens and agents. Maine was obliged to move upon her own responsibility; but no just inference was thence to be drawn that she intended to absolve the General Government from its constitutional obligation, as the principal, responsible guardian power; and the course prescribed, was evidently intended to be pursued only in the last resort, to assert our rights, all other measures failing. But in that respect, the determination of Maine was announced to be fixed and settled; and, so far as rested on her Executive, her will, as expressed by the Legislature, should be faithfully obeyed and executed.

The Committee do not deem it necessary to go into all the circumstances of that eventful Resolve, and to review the whole transactions of that period in which our cause was raised from the character of a border quarrel—one in which it had too long been viewed by other parts of the Union—into its due relief and importance; when it was presented to public favour, and placed in the foreground of our public affairs, and lifted into the clearer light of day, as a matter about which there could be no doubt, and there ought to be no further dispute and delay. It was rescued, at the same time, from the deadly repose of diplomacy, and almost redeemed at once from those enormous errors and obliquities in which it had been involved by the predecessors of the now late Secretary of State. An arrangement was, at this point of time, without waiting any further, proposed by him to the British Government, under the direction of the President, to test the correctness of the opinion of the State of Maine, that the line described in the Treaty of 1783 could be found and traced, whenever the Governments of the United Sates and Great Britain should proceed to make the requisite investigation, with a predisposition to effect the desired object. It might seem strange, to be sure, that the question should be supposed to have arrived at such a pass; and the mode in which the investigation was taken up, at that particular moment, was far from being satisfactory; but it undoubtedly appeared to the Executive of the United States to be best; and it was regarded, indeed, it is believed, as the only alternative that could be adopted to the total rupture of negotiation. Whether that was of so much real importance as was then, perhaps, conceived, the result has hardly yet proved. The subject was, however, by this means, unavoidably taken out of the immediate hands of Congress, as a matter of practical consideration and proceeding, further than the occasion was thereby afforded to call for its definite opinion and decision thereupon. And it must be owned to have been a great and sensible relief to the State of Maine; and it awakened her warmest gratitude, that her call for the judgment of Congress was followed by the cordial and unanimous recognition of her rights by both its branches, and by the subsequent acknowledgment, so long suspended, of her title to recompense for essential and vital wrongs.

The cause of Maine was then adopted and made, not only the cause of Massachusetts and all New England, but the cause of New York and Virginia, of Pennsylvania, Ohio, and Kentucky, and, in fine, of the whole Union. While all might not have been done by the Federal Government that was desired by the Legislature, it is due to acknowledge that all was done by Congress that was in their power, under the circumstances in which they were called to act, consistent with the previous course of the President, in re-opening negotiation. Whether there is any reason for regret, in respect to that course, as before intimated, it is not within the province, if it were in the power, of the Committee to determine. They may, perhaps, be permitted to observe, that there was a full report made at that period of the agency instituted under the State Executive for the purpose of obtaining the constitutional sanction and co-operation of the Government of the United States. Full justice was intended to be done, as the Committee may believe, in that Report to the principal actors in that interesting and important matter; and a merited tribute was paid to those distinguished persons in the Senate of the United States, particularly, who took a leading part in the discussion and decision. The only difficulty was in assigning to individuals their proper share of that

merit on our behalf, which, if so well deserved by them, was justly due to all. If there was an omission to be repaired, it might have been in respect to the names of the two representatives of Maine, therein mentioned as having taken an effective part in the finally-successful course of proceedings in the House of Representatives. There was no occasion to say that those two representatives were Mr. Evans and Mr. Fairfield; both of whom have since been remembered with the most respectful consideration by the State, and the memory of their arduous and faithful services on this subject is yet fresh in its mind. Without disparagement also to the constant and faithful services of a Senator from our own State (Mr. Williams), which are also entitled to their due acknowledgment, the Committee may be allowed the gratification of adding that the cause of Maine, in the true sense of the word, had no more decided and determined champion in the Senate than the present worthy Governor of Massachusetts.

If the Resolves of 1838 did not entirely reach their object, they may be well regarded as having accomplished their end. This was done, we would remark, in the first place, by means of those joint unanimous Resolutions of Congress which asserted the rightfulness of our claim, and the practicability of running and establishing the line of Boundary agreeable to the Treaty of 1783; and secondly, by engaging the co-operation and support of the Government of the United States, so much in accordance with the spirit, if somewhat short of the letter, of our Resolves; thirdly, the fulfilment of the course of action adopted by the General Government, so far as it proved defective upon a strict construction of those Resolves, was necessarily furnished by the conclusion of the Executive of the State, to go on and execute the instructions of the Legislature, as he had unequivocally announced his intention to do in that emergency. The absolute mandate of the Legislature left him no alternative; and although the path on which he was obliged to enter was one beset with difficulty and discouragement, he was equal to what the occasion required. The Committee are proud to recal that he had the satisfaction of being seconded, also, in carrying the undertaking into effect, by that constant, ardent, and indefatigable advocate of the rights and interests of Maine, the late John G. Deane, over whose recent and untimely grave we are called to pause, without turning aside, and to bestow the passing tribute due to his honest worth, and his persevering and devoted spirit.

And, finally, we may consider the end of these resolves to have been accomplished, in a material respect; that is, in regard to ascertaining what was the immediate object of that expedition, and which never fairly admitted of a question—the feasibility of the undertaking, if there was a disposition to go about it in good earnest. We may likewise be at liberty to look upon the late subsequent proceedings, instituted under the direction of the Government of the United States, for the exploration and survey of the Treaty Boundary, upon the north-east angle of the United States, as the final though tardy result and confirmation of the previous consequence of the resolves and proceedings of 1838 in this same respect. Without questioning whether the American Government ought to have allowed the British to have been in advance upon an investigation of this kind, it may afford sufficient satisfaction that the main object has so far been answered, and that the resolves of 1838 have been thus, in some important respects, although still imperfectly, performed.

In this respect the Committee may allude with gratification to the so far satisfactory results to which the Commissioners recently appointed by the Government of the United States have arrived, as already communicated. Without deeming them to have been of absolute and essential importance, we may regard them as auxiliary to what has been already accomplished, and as tending to carry out the purpose of the resolves of 1838 to their final completion. The character of the recent exploration is one well calculated to gain respect and confidence; and we hope it may be speedily pursued to the final determination of the lines it will be the object to run and mark.

The Committee have now come upon a period at which Maine was called upon to test the firmness of her principles and the fortitude of her purposes, and they may further say, the strength of her resolves, upon a sudden and somewhat unforeseen emergency. This was in consequence of information communicated to Governor Fairfield, on entering the duties of his office, as successor to Governor Kent, in 1839, and by him confidentially to the Legis-

lature, that there was a large assembly of unknown individuals upon the border, many of whom were from the British provinces, engaged in trespassing extensively upon the lands belonging to this State and Massachusetts, within the proper jurisdiction of Maine; and it was further stated, that they not only refused to desist, but that they defied the power of this Government to prevent their committing depredations upon the timber within the territory, to any extent they pleased. In consequence of this communication, and the evidence in support of it, the Land Agent of the State was authorized, by a special resolve of January 24, 1839, to employ forthwith sufficient force to arrest, detain, and imprison all persons found trespassing on the territory of this State, as bounded and established by the Treaty of 1783. In proceeding upon the execution of this duty, upon the south side of the St. John, and west of the meridian dividing Maine from New Brunswick, the Land Agent was surprised and seized by an unauthorized force from the other side of the line, of the same character, if not in connexion, with the general trespassing parties in the night, and was drawn, with circumstances of indignity and precipitation, to the seat of the Provincial Government at Fredericton. There he was received, detained, and treated as an offender; and shortly paroled, as a prisoner of state; so, that, in addition to the indignity to which this State was thus subjected by the seizure and captivity of her official public agent, representing her supreme power and acting under the direct authority and commission of the Legislature, it had to endure the further mortification of having the appropriate duties of that high officer discharged by a paroled prisoner of Her Britannic Majesty's Lieutenant-Governor of New Brunswick, liable to be called to answer, at any moment, for official acts by him performed upon the territory in question; while it had, at the same time, to digest the double disgrace of receiving this derogatory boon, under degrading circumstances, from a deputed power, which demanded the whole Disputed Territory to be under the immediate custody of a Provincial Warden.

To pass rapidly over events so recent, as not to require recital, and not to burden this Report with details of which we may retain, perhaps, too deep and vivid a recollection, it may be observed, in passing, that the course thus adopted by this State, in resorting to its own power for protection, and moving upon the emergency to repel lawless aggression, was one, of which the legitimacy was recognized as well by British as by American jurisprudence, and it was allowed by Congress to have been exerted in strict conformity to the established principles of the fundamental law of both countries. The first appeal, moreover, to military force was made, and so declared by Congress, by the Lieutenant-Governor of New Brunswick; and the consequent proceedings on the part of Maine were acknowledged to have been purely defensive. The pretension assumed by the Lieutenant-Governor of New Brunswick was considered as excluding the civil, as well as the military power of this State. It no less rejected the right of the United States, than that of Maine, to interpose any authority to preserve the peace and order of a portion of country, to which the British Government could extend nothing but a naked and destitute claim; and which portion was comprehended in the ancient recognized jurisdiction of Massachusetts. These facts and principles were embodied in an able and patriotic Report from the Committee of Foreign Affairs, presented in the House of Representatives, on the 28th of February, 1839.

Maine has not forgotten the generous and simultaneous sympathy which swelled throughout the land, nor will she cease to bear in mind the noble burst of indignation which arose in the Halls of Congress, above all other interests, on the occasion of this movement from New Brunswick, and the stand assumed by Maine. The demand upon this State to divest herself of a jurisdiction practically established, and perfectly defined, and to surrender it to a contiguous foreign province, was listened to with astonishment; and the idea was not tolerated for a moment. The objection to the military occupation of the Disputed Territory by Great Britain was pronounced to be insurmountable; and the execution of orders to that effect was proclaimed to be incompatible with the honour of the United States. The pretence, that there was any agreement or understanding that Great Britain should occupy the territory as she claimed, pending the controversy, was instantly repudiated; and the right of the State to the control and protection of her own domain fully asserted. The appeal, that was made by Maine at that moment to the General Govern-

ment, met with a prompt and immediate response. The reply was one that manifested a due sense of her rights, by spreading over them the ample folds of the federal union; and the sensibility of Congress to the claim of the State for protection expressed itself at once in the most effective and emphatic form. By an Act of Congress, upon the Report of the Committee of the House, the President was authorized to resist and repel any attempt on the part of Great Britain to enforce by arms her claim to exclusive jurisdiction. The whole military and naval forces of the United States were placed at his disposal, with such portions of the militia as he might see fit to call out for our protection. Ten millions of dollars were appropriated for the purpose; and a special provision was further made for the appointment of a Minister to Great Britain, if the President should consider it expedient. This act was to continue in force until sixty days after the commencement of the then next session.

Maine, in return, was solicited and appealed to, to rest satisfied with this vindication of her sovereignty, and to rely on this full assurance of protection; and this Act of Congress was presented to her at once, as a pledge on the part of the Government, and as an inducement to prevail upon her to withdraw her military force, then rightfully in arms to sustain the civil authority and to repel invasion. The Committee almost quote the public language employed by high authority upon that occasion; and they may refer to the general character of the acts and declarations of the Federal Government in our favour. And they would take this further opportunity to say, with sincerity and pleasure, that if there had been any real want of vigour in the course of the late national administration upon this important subject, there has been scarcely any failure of the most uniform, conciliatory, and respectful treatment toward the State and its official authorities.

Upon view of these measures of the National Government for the protection of the State, and in particular, of the provision also for the appointment of a Special Minister to the Court of St. James', the Legislature passed a resolve on the 23rd of March, 1839, which asserted the right of the State to exclusive jurisdiction over all the territory that lies west of a due north line from the monument to the north-west angle of Nova Scotia, to wit, all that had been called the Disputed Territory; and it denied the competency of any other authority to limit or impair the exercise of that inherent right, according to her own sole judgment; and expressing at the same time an earnest desire to come to an amicable adjustment of the whole controversy, (referring immediately to the provision for the appointment of a Special Minister,) it did further resolve to forbear to enforce her jurisdiction in that part of the territory of which the possession was then usurped by the Province of New Brunswick, so far as she could do so, consistently with the maintenance of the former resolve of January 24, which has been mentioned; and in relation to that late resolve the Legislature still declared it to be no less the imperative duty than the unalienable right of the State to protect her public domain from depredation and plunder, up to the extremest limits of her territory; and that, moreover, nopower on earth should drive her from an act of jurisdiction so proper in itself, and to which her honour was so irrevocably committed.

The Legislature also expressed its perfect approbation of the public measures pursued by Governor Fairfield in relation to the Disputed Territory, and further declared its determination to stand to, and sustain the execution of, the aforesaid resolve of January 24. It, however, authorized the Governor, whenever he should be satisfied that the exigency had ceased, and that all intention of occupying the Disputed Territory with a military force, and of attempting the expulsion of our own party, had been abandoned, to withdraw the militia, leaving the Land Agent with a sufficient posse, armed or unarmed, as the case might require, to carry the said resolve into effect.

The Legislature, at the same time, (having before them the recent demonstration made under the direction of the former Governor,) deemed that the entire practicability of running and marking our North-Eastern Boundary Line, in strict conformity with the Definitive Treaty of Peace of 1783, was placed beyond a doubt; and further declared that a crisis had arrived, when it became the duty of the Government of the United States forthwith to propose to that of Great Britain a joint commission for the purpose of running the line accordingly; and in case of refusal on the part of Great Britain, it

was incumbent on the United States to run the line upon their own authority, and to take possession of the whole Disputed Territory without unnecessary delay.

In the mean time it may be remarked, that a preliminary arrangement had been entered into by a memorandum signed on the 27th of February, 1839, between the Secretary of State and the British Minister; which, after stating the different views entertained by the two parties on the point of jurisdiction, proposed, that while the Lieutenant-Governor of New Brunswick should not without renewed instructions undertake to expel by force the armed party employed upon the Aroostook by Maine, it should, on the other hand, be withdrawn by Maine; and, furthermore, that all future operations for protecting the territory against trespassers, should be carried on, either jointly or separately, by agreement between Maine and New Brunswick.

With the greatest deference to the high source from which this proposal proceeded, the Committee cannot close their eyes to the singular and somewhat extraordinary nature and character of this recommendation. Maine had, to be sure, been compelled to act upon a sudden occasion in self-defence; but she had not presumed to enter into any relation with New Brunswick, in face of the absolute clause of the Constitution which forbids any State, without the consent of Congress, to "enter into any agreement or compact with another State or with a Foreign Power, or engage in war, unless actually divided, or in such imminent danger, as will not admit of delay." Certain stipulations are stated and understood to have been subscribed to and interchanged between the then Governor of Maine, and the Lieutenant-Governor of New Brunswick, under the mediation of a distinguished military officer, sent hither by the General Government; but they have not been understood, on the part of this State, to have exceeded the limits prescribed by the cotemporaneous resolves, of which alone they could have been in execution, or fulfilment, so far as this State is concerned; and as to any further virtue or efficacy, the subscription must, the Committee conceive, derive its authority entirely from the Commission given by the Government of the United States to Major-General Scott.

Be that as it may, the request, recommendation, or agreement (whatever it was), was immediately complied with and performed on the part of Maine, under the sanction of the National Government; and under a full reliance, also, upon its guarantee against any adverse military occupation of any part of the Disputed Territory by Great Britain. Upon the proposition made by General Scott to Sir John Harvey, it was signified by the latter not to be his intention, under the expected renewal of negotiations between the Cabinets of London and Washington, on the subject of the Disputed Territory, without renewed instructions from his Government to seek to take military possession of that territory, or to seek by military force to expel the armed civil posse or the troops of Maine.

This being, in the view entertained by Governor Fairfield, the exact contingency contemplated by the Legislature in the foregoing resolves, he did not hesitate to conform to the stipulation, by recalling the troops of Maine at once and dismissing them to their homes. It appeared to be the course prescribed to him by the Legislature; such a one as might be adopted without compromising the rights or dignity of the State, which had never, as he stated, proposed to take military possession of the territory. Our objects had been only, in the first place, to protect the territory from devastation by trespassers, and, secondly, to resist the opposite threats of expulsion by military power. Our militia had maintained their ground, while the exigency that called them out remained. When that was removed, the withdrawal of the troops was no abandonment of any position taken by this State: an ordinary civil posse was thereupon substituted, and stationed at one or two points only upon the Aroostook and St. John, barely sufficient for the intended purpose of preventing trespass.

It is unnecessary to mention that, under all these circumstances, the presence of any actual or impending military force upon our frontier was presumed to have been entirely removed. Such appears to have been the persuasion of Governor Fairfield when he prepared to meet the Legislature at the opening of the Session of 1840. But the communication he was about to make was obliged to be modified by the information which reached him, in

reply to an inquiry he had addressed to Sir John Harvey, founded on previous rumour, that the British Government was about taking a military possession of the region of Madawaska. In this reply it was acknowledged, that one or two companies had been stationed at Temiscouta Lake; that this was done, however, not by orders from him, the Lieutenant-Governor of New Brunswick, but by virtue of authority superior to his, namely, that of the Government of Lower Canada. Through less official sources, accounts were received, about the same time, of the building of barracks by the British Government near the mouth of Madawaska River, on the St. John. These movements were naturally regarded by Governor Fairfield, under whatever branch of British authority, or upon whatever pretence they might be made, not more clearly as a violation of the spirit of the arrangement that had been adopted in the March previous, than as an absolute invasion of our territory, and as such, demanding the immediate and vigorous interposition of the General Government enjoined by the constitution and laws of the United States. In an ensuing correspondence, these measures on the part of the British were justified or defended by their Minister at Washington, on the grounds of a general report, of which that Government was said to be fully aware, charging the Legislature of Maine with the intention, during its then session, of revoking the provisional agreements then in force, and authorizing some new and extensive, nameless, act of aggression over the stipulated territory. From this offensive charge the State of Maine was justly vindicated by the Secretary of the United States; and the imputation was repelled with an equally measured force and propriety of expression; and this vindication was accompanied with a due demand for the removal of the invading force.

The Legislature at its next session, by its Resolves of March 18, 1840, gratefully acknowledged the patriotic enthusiasm with which several of our sister States had, during the preceding year, tendered their aid to repel threatened foreign invasion, and hailed the pervading spirit of self-sacrifice and devotion to national honour throughout the Union, as auspicious to preserving the integrity of our territory. They recognised, moreover, in like manner, the promptness and unanimity with which the last Congress, at the call of the State, had placed at the disposal of the President the arms and treasures of the nation, for our defence; and they regarded the firmness of its Executive in sustaining the course of the State, and in repelling the charge of any infraction of arrangement on the part of this State, and retorting a violation of agreement upon the British Government, and the decision manifested in demanding the removal of the British troops then quartered on the Disputed Territory as the only guarantee of a sincere desire for an amicable settlement of the Boundary Question,—all these acts of the Government, combined with the union of public sentiment, they looked upon and regarded as affording confident assurance that this State would not be compelled single-handed to take up arms in defence of its territory and of national honour; and they further avowed the conviction that the crisis was near, when this question would be settled by the National Government, either by negotiation or by the ultimate resort.

It was, moreover, resolved, that unless the British Government should, during the then session of the Congress, make or accept a distinct and satisfactory proposition for the immediate adjustment of the Boundary Question, it would be the duty of the General Government to take military possession of the Disputed Territory; and the Legislature did therein, in the name of a sovereign State, call upon the National Government to fulfil its constitutional obligation to establish the line which they had acknowledged to be the true boundary, and to protect this State in extending her jurisdiction to the utmost limits of our territory.

And finally, these resolves declared, that this State had a right to expect that the General Government would extend to this member of the Union, by negotiation or by arms, the protection of her territorial rights, guaranteed by the Federal compact; and thus to save her from the necessity of recurring to those ultimate rights of self-defence and self-protection, which do not depend upon constitutional forms; and they concluded that should this confidence be disappointed, in view of such a speedy crisis, it would become the imperative duty of Maine to assume the defence of the State and of national honour, and to expel from our limits the British troops then quartered upon our territory.

In proposing to take an observation of our exact position, and in regard to our situation, under the terms and import of our Legislative Resolves, and under all the circumstances in which we are necessarily placed, at the present period, the Committee would remark that they have been guided by the public documents that have emanated from the Governments of the United States and of this State, so far as they have extended; it so happening that there has been no Report, such as was formerly usual from the Standing Committee upon this subject, for the last two years. The active duties in which the State has been necessarily engaged during that interval, may naturally account for the omission; and the Committee may be permitted to allude to it, as an apology, if one is to be offered, for the more extended range which the present Report has taken, in regard more particularly to the transactions and events of the last three or four years, which have been so pregnant with momentous concerns and consequences.

The last Legislature, it has been noticed, invoked the General Government for protection and for the settlement of this question shortly by negotiation or by arms; and unless a distinct and satisfactory proposition for the immediate adjustment of the question should be made or accepted by the British Government during the session of Congress, which expired last year, it solicited the General Government to take military possession of the Disputed Territory.

In view of these Resolves, the Committee would remark, first, that the appropriation made by Congress in 1839, making extraordinary provision for military force, and for a special embassy to England, had already expired, at the passage of those Resolves. Instead of adopting this last course, which appeared to be recommended by Congress, and which might have been the means of at least preventing the long delays required by interchanges across the Atlantic, (without making any remark, for which there might well be room, on the instructions to Mr. Stevenson, of March 6, 1839,) it seems that the ordinary sluggish course of negotiation was resumed, and it was to be carried on thenceforward at Washington.

Soon after the close of the session of the Legislature in 1839, and the termination of that matter, a proposition was made by the British Government to our own for establishing a Commission of Exploration and Survey, but one so loaded with such limitations and qualifications as to cause its rejection by the President at once. Subsequently, in the course of the next summer, a Counter-project was submitted to the British Government, which included a provision for the certain and final adjustment of the limits in dispute; and it was kept by that Government for some time under consideration. It seems no reply had been received by the President at the commencement of the session of Congress in December (1839). In the mean time the British Government instituted the Special Commission, which has been referred to, for the exploration of the territory. It appeared by a subsequent official communication from Lord Palmerston to Mr. Fox, laid before Parliament in June, 1840, "that the British Government then concurred with the United States in the opinion, that the next measure to be taken by the two Governments should contain, in its details, arrangements which should necessarily lead to some final settlement." At the same time the British Government signified its willingness to assent to the principle of arbitration.

The note from Mr. Fox to Mr. Forsyth, conveying this concurrence and assent, dated June 22, 1840, according to his instructions, purported to state officially, "that Her Majesty's Government consent to the two principles which form the main foundation of the American Counter-Draft, namely: first, that the Commission to be appointed shall be so constituted as necessarily to lead to a final settlement of the question of Boundary at issue between the two countries; and secondly, that in order to secure such a result, the Convention, by which the Commission is to be created, shall contain a provision for arbitration upon points as to which the British and American Commissioners may not be able to agree." But it was further added, that there were "many matters of detail in the American Counter-Draft, which Her Majesty's Government cannot adopt."

The last President's annual message, at the opening of the late session of Congress, announced the arrival of the answer of that Government, accompanied by additional propositions of its own, some of which were assented to,

and others not. Such as were deemed correct in principle, and consistent with a due regard to the just rights of the United States and of the State of Maine, were concurred in; and the reasons for dissenting from the residue, together with an additional suggestion on our part, communicated by the Secretary of State to the British Minister at Washington, through whom the recent reply had been received. The matter was again referred by that Minister to his Government for its further decision, for want of instructions upon some of the points, and that Government having for some time had the subject under advisement, the President expressed his confident expectation of a speedy and satisfactory termination.

That the condition or contingency required by the Legislature of Maine, at the last session, to the execution of its resolutions, has not taken place in terms is quite obvious. How far the State should rest satisfied with the reasons and circumstances assigned for the delay, or is bound to resign itself to this interminable course of procrastination, is not perhaps quite so clear. The State cannot forget its proper position in the Union, nor fail of the obligations it is under to abide the high behests of our supreme national counsels. At the same time it is absolutely impossible to reconcile itself to this system of endless delay, and this continual claim upon the inexhaustible confidence of our General Government in the equal disposition of both parties to bring the subject to a decisive conclusion. The original proposition of our own Government included "a provision looking in terms for a certain and final adjustment of the limits in dispute." And all that we are definitely led to understand that the British Government gives its assent to, from the language of Lord Palmerston, is, that the next measure to be adopted should contain—not in its absolute provisions, but its details—arrangements that should necessarily lead to some final adjustment! This prospect appears to the Committee, from the very form of statement, to be far from promising; and what is more observable in regard to the plan, it seems to have a reference to some more or less direct principle of determination to which the State has already signified its entire aversion. What may be the effect of the additional stipulation sent out we do not know; nor can the Committee tell us what is to be the alternative. But Maine can feel no assurance of safety or successful progress towards a conclusion in these vague, involved, and distant phrases. It is undoubtedly difficult to say that any course deliberately acceded to by our own Government would be likely to prove a delusion; but there is no certainty yet, nor any security when the subject will be redeemed from the arts and complications of diplomacy. The Committee must say they are not sanguine as to any prospect of a speedy or satisfactory conclusion to the present state of negotiation. All the propositions now pending, as presented to their minds, appear to them to be purely dilatory.

It is impossible, therefore, your Committee confess, to consider the language of the last Resolves as perfectly satisfied; though, that the whole subject is not placed in such a condition as in some measure to elude the operation of those resolutions, according to their literal force and meaning, is more than the Committee can undertake to say; and no less so, perhaps, whether it is in the power of the National Government to bring the business to a point, otherwise than by a positive rupture. The fact may be, that it is not in our power to relieve ourselves; and that we must suffer the mortification of having holden language which we cannot carry out without compromising our constitutional relations. But it is needless to remark, that there is no end to this course of diplomacy so long as it serves the purpose of delay, and to stave off a final determination. The postponement is indefinite, and we cannot but fear it will ever continue so, so long as Great Britain finds her advantage in keeping open a question that can never be decided in her favour, and in the mean time enjoys the value of a possession which she must eventually yield, or employs herself to strengthen a position she is not disposed to surrender, nor entitled to hold. From whatever cause the difficulty arises most, whether from an aversion on her part to come to an issue, or a reluctance and unwillingness on that of our own Government to precipitate one, which can by any means be avoided, it is apparent that the adjournment of it is equally detrimental to the rights and interests of Maine. Your Committee would be among the last to undervalue sincere and well-directed efforts to bring about an adjustment, at once peaceful and rightful, of the controversy; but they

have seen too much cause to be convinced, that such a disposition, however just and creditable, may be abused.

The Committee may perhaps view themselves called upon to consider the effect of the stipulations adopted in 1839, under the authority of the Resolves of that year, or under the further advice and sanction of Major-General Scott, acting under and in behalf of the Government of the United States.

They may observe that nothing was considered to be done by Maine under the conventional agreement entered into and signed by Mr. Forsyth, the Secretary of State, and Mr. Fox, the British Minister, on the 27th of February, 1839. Without questioning the competency of the two parties to enter into such an arrangemeut between themselves, or the propriety of recommending it to the acceptance of the State of Maine, its obligatory force was not acknowledged by Governor Fairfield, who observed in his communication of it to the Legislature: "To such an arrangement I trust Maine will never consent. She has been sufficiently trammelled hitherto in the exercise of her rights, and will not voluntarily forge new shackles for herself."

The authority of the Governor, as the Committee view it, to bind the State by his signature to any public stipulation, was necessarily limited by the laws and constitution of the State. His authority in this instance was entirely derived from the Resolves of 1839; and your Committee not only do not understand that he did not intend to exceed it; but they do understand, that what he did he intended in strict and faithful execution of the immediate objects of those Resolves. Such was his language in reporting and communicating what he had done in virtue of these Resolves to the next Legislature; and such is the understanding of the Committee equally in regard to the import of the act on his part, and the character of the subject. The Resolves have been already recited. All the information the Legislature have of what was done by Governor Fairfield, under the Resolves, is contained in his subsequent communication to the Legislature the following year; and it is subjoined to a simple statement of having received the written assent of the Lieutenant-Governor of New Brunswick to the following proposition made to him by Major-General Scott: to wit, "that it is not the intention of the Lieutenant-Governor of Her Britannic Majesty's Province of New Brunswick, under the expected renewal of negotiations between the Cabinets of London and Washington, on the subject of the said Disputed Territory, without renewed instructions to that effect from his Government, to seek to take military possession of that territory, or to seek by military force to expel the armed civil posse or the troops of Maine." The residue of the correspondence has not been, that your Committee are aware, communicated to the Legislature.

The stipulation, therefore, entered into by Governor Fairfield, under the invitation and sanction of General Scott, is, as your Committee understand, perfectly fulfilled; and the Resolve of 1839 is therefore executed, and has been faithfully observed. The mission of General Scott to Maine was accomplished; and Governor Fairfield, having recalled the military, professed his willingness not, without renewed instructions from the Legislature, to reoccupy the field of dispute in the like manner. Here the immediate controversy subsided. Governor Fairfield may be deemed to have indorsed the agreement made for him by General Scott; who thereby undertook to guarantee, so far as he was capable, to the State of Maine, the counter security of the territory against the military operations of Sir John Harvey.

Such was the posture of Governor Fairfield, and the situation of Maine, in relation to the subject, touching the matter of arrangement. Soon afterwards, it would seem, that Sir John Harvey was divested of all further authority over the subject; and any power of a military kind in that quarter appeared to be transferred from him to the Government of Lower Canada. It may be noticed as a circumstance, that this silent operation, or transmutation, took place about the same time that the British Commission of exploration was closing its business, and shifting the highland description, which formed the southern boundary of Quebec or Canada, to the hypothetical maximum axis of elevation south of the St. John. It is not understood, however, that any corresponding change took place in regard to the usurping civil authorities at Madawaska. This alteration first disclosed itself, in that quarter, by the movement of military force from the side of Lower Canada to certain stations within the Disputed Territory; and in reply to a letter of inquiry from Governor Fairfield into the meaning of so apparent and palpable an infringement of the arrangement entered into under the mediation of General Scott, Sir

John Harvey could only answer as before, that these movements were made under an authority superior to his own. It was added, that they were meant for the protection of certain buildings which had been constructed for the better accommodation of Her Majesty's troops on their march between the Lower and Upper Provinces, and of the provisions, stores, and other public property therein deposited; and it was further subjoined by Sir John Harvey that he should communicate a copy of the letter to the authorities in Canada, who, he was assured, would be as scrupulously desirous that the spirit, as well as the letter, of the agreement entered into, should be observed on their part, as he himself was. The remonstrance, however, produced no further effect; and this last December, upon the occasion of a new detachment of troops having arrived at the Madawaska settlement, Sir John Harvey deemed it consistent with the sincerity which had always marked his intercourse with the authorities of Maine, to apprize Governor Fairfield of the fact, and that the movement was made by the orders of the Governor-General of those provinces. It was evident that this movement was unadvised by Sir John Harvey, who could only apologize or account for it by reference to the complaints of certain civil authorities at that settlement, (one of them a supposed magistrate, and the other the pretended "Warden of the Disputed Territory,") which it had no other object than to support. And Sir John Harvey did not hesitate to express to the Governor-General his persuasion, that the movement for this purpose was needless, and that a corresponding armed civil posse to that of Maine would be quite adequate to prevent any unauthorized interference with the inhabitants or authorities of the Madawaska settlements.

The Committee would take leave to observe, that they know of no settlements bearing that name but the original and proper settlement of Madawaska. That is a spot, or settlement, with which the civil authorities of Maine have not interfered, since those who undertook to act under a law of the State, in organizing the place in 1832, were seized, imprisoned, and punished at Fredericton for the offence, excepting the like seizure and imprisonment of Greely for taking the census in 1837. As to what is supposed to have occurred at Fish River, it is stated as having been represented to Governor Fairfield, that it took place when certain of the citizens of this State were assembled at the Fish River settlement to give in their votes at the recent election for President and Vice-President, under a late law of this State authorizing it. The territory contiguous to the mouth of Fish River, on both sides of the St. John, is not considered, in any proper sense, as included in the Madawaska settlement, which is confined to the immediate vicinity of that river, and does not extend up even to the mouth of the Meriumpticock. To the original and proper limit of the old Madawaska settlement, the adverse local possession ought, in the opinion of your Committee, to be reduced; and it ought to be restored, and confined strictly, to its former civil character.

To return, however; the Committee would not fail to treat the species of arrangement in question, under whatever authority it was entered into, with all the respect to which it is entitled, and to render it all proper regard and observance. Having punctually complied with any obligation that might be deemed to be entered into on the part of Maine, it is of no consequence as to the origin of the agency, which is of no further importance, than that the State should stand clear of any reproach upon her good faith and allegiance. It cannot be pretended that there has been any failure upon her part to fulfil any duty that may have been imposed upon her, in whatever way or manner she may have been committed. The imputation cast upon her at one time, to say the least, without sufficient cause and consideration, of any intention to break through the engagements she was placed under, has been repelled with no less force than truth. But it is obvious, that any obligation of this nature, to be effectual, must be mutual. It is plain that it cannot be violated on one side at will, and preserve all its binding force upon the other. The Committee are not called to make any complaint of any breach of agreement between the authorities of this State and of New Brunswick upon the subject. They much doubt, as they have already signified, the competency of any arrangement between the State and a foreign province, without a constitutional sanction, which has not yet been asked; and they should hesitate no less upon the propriety and expediency of any convention or co-operation between two opposite Governments or communities, situated and related as these are, for

purposes which this State, as they conceive, ought either to take upon herself or to be entitled to call upon the General Government to perform, or to provide for her. As to the policy, as well as the principle, of any different course that has been proposed to her, the Committee can have no doubt at all. If any compact exists, or any is violated, in whatever form it has been made, it must be one between the Governments of Great Britain and the United States; and such, as it is the province of the latter, and not that of this State, to see to the effect of, and look after its observance. We do not hold ourselves entitled to call upon a foreign Government for its performance. Our relations are properly with the Government of the United States, upon a subject of this kind, only. It is their agreements and stipulations in regard to our security upon which we must be understood to rely; and we cannot be deemed to have given our consent to any provisionary arrangement, except under the sanction of our own Government, and its guarantee of our own safety. In short, it must be the essence of any agreement entered into by us, that it should be with, and through, the Government of the United States; although we may well view and hold ourselves as bound to fulfil any proper stipulations that the Government has actually made upon our behalf by its own officers, aud with the consent of our Executive agents and Legislative authorities.

The Committee consider it to have been well observed by the Governor in his official communication to both branches of the Legislature, on commencing the duties of his office, that "whatever arrangements have been assented to, in regard to the jurisdiction of different portions of the territory, pending negotiations, must be regarded merely as temporary in their nature;" as well as "under a protest always that we relinquish no claim, and no right, to the absolute and undisputed ownership and jurisdiction of every inch of our State." It is a matter which must force itself upon the mind of every reflecting friend of the peace of the two countries, as it has done, that these sub-arrangements or understandings, are of too slight and precarious a texture to permit the tranquillity of these neighbouring communities to rest upon them.

The arrangements understood to be assented to on the part of Maine in 1839, by which, on condition that Maine should remain in undisturbed possession of the rest of the territory, it was stipulated that we should not attempt to disturb by arms the Province of New Brunswick in its proper Madawaska possession, was only acquiesced in, as the Governor further remarks in his communication, "by the people, on the ground and the belief that immediate and determined efforts were to be, in good faith, adopted by both General Governments, to bring the matter to a speedy, just and final determination. Indulging such hopes," the Governor also adds, "Maine has certainly yielded much in the matter of temporary arrangements, influenced by the wish to preserve the peace of the country and to remove all obstacles to the progress of negotiations. But she has a right to ask," (he subjoins, with no undue emphasis,) "when she yields so much, that her motives should be appreciated, and her cause become the cause of the whole country, and be pressed with vigour and energy to a final settlement."

Earnest and strong as is the desire of this discreet and determined community to remain at peace with her neighbours on this continent, still she can no longer give any consent to the exercise of provincial authority out of the proper orbit of Madawaska. Neither can this State enter into any temporary partition of its own power with a foreign province, or agree to the exercise of any equal, divided, or concurrent authority, either with New Brunswick or Canada, over any other part of her own exclusive territory. Still less, if it be possible, can she endure to see the portion of which the Provincial Government, whether above or below, still claim to be in possession, (and the only portion to which it ever had any shadow of pretence,) converted into a military depôt, as avowed by Sir John Harvey to Governor Fairfield, in the first place, by the erection of barracks, and the collections of stores, provisions, and other munitions of a hostile character, under the name of public property, for establishing a cordon of military communication between the Upper and the Lower British Provinces. This is bringing upon us in time of peace, (to us the most profound, unless we are aroused or awaken,) all the forms of almost unmasked war. It realizes, in advance of the result of any arbitrary process for the division of our Disputed Territory with Great Britain, the dangerous character of this decided military demonstration within our limits. It advises and admonishes us, moreover, of the rather too

obvious and undisguised meaning of a noticeable and striking passage in the letter of the British Minister, Mr. Fox, to Mr. Forsyth, dated November 2, 1839, in which he remarks, that "whatever shall be the line of boundary between Her Majesty's possessions and the Republic of the United States, definitely recognized and decided upon by the two Governments, either through the attainment of the true line of the Treaty of 1783, or through the adoption of a conventional line, Her Majesty's Government will have to rely upon the Federal Government of the United States to assist and carry out the decision, whatever may be the views and pretensions of the inhabitants of the State of Maine notwithstanding."

Your Committee may here remark, that when these facts, in regard to the stationing of regular military forces by the British provincial authorities upon Lake Temiscouata, and of their building barracks, as represented, at the confluence of the Madawaska River with the St. John, were brought to the direct knowledge of the National Government, they were pronounced by the President to be a flagrant contravention of the existing understanding between the parties; and those authorities were distinctly and emphatically admonished, through their regular Minister, of the obvious inexpediency and imprudence of such proceedings, and of the effect likely to arise from persistence in them.

The only explanation produced by this expressive remonstrance was conveyed in the shape of a letter from Mr. Fox to Mr. Forsyth, of January 24th, 1840, to the effect that the movement complained of was nothing new, and that it was only a change of force to keep up the station at the Temiscouata post, as it always had been, "for the necessary purpose of protecting the stores and accommodations provided for the use of Her Majesty's troops, who may be required, as heretofore, to march by that route to and from the provinces of Canada and New Brunswick." It was not admitted that any new barracks had been built, or were building, by the British authorities on both sides of the St. John, or at the mouth of Madawaska river, or, in fact, anywhere; and it was declared that no intention existed on the part of those authorities to infringe the terms of the provisional agreements that had been entered into the year before, so long as there was reason to trust that the same would be faithfully adhered to by the opposite party. But it was at the same time plainly avowed, that Her Majesty's authorities in North America, observing the attitude assumed by the State of Maine with reference to the Boundary Question, would, as then advised, be governed entirely by circumstances, in adopting such measures of defence and protection, whether along the confines of the Disputed Territory, or within that portion of it where the authority of Great Britain, according to its own explanation of the existing agreements, was not to be interfered with, as might seem to them necessary for guarding against or for promptly repelling the further acts of what was termed hostile aggression, which it appeared to be the avowed design of the State of Maine, sooner or later, to attempt. Her Majesty's authorities in North America, it was averred, had no intention, on their part, to interfere with the course of pending negotiation, by the exercise of military force; but that they should as then at present advised, "consult their own discretion in adopting the measures of defence, that might be rendered necessary by the threats of a violent interruption to the negotiation, which had been used by all parties in Maine, confirmed, it was alleged, by the language employed by the highest official authority (alluding to the recent message and correspondence of the Governor) in that State."

The official reply to this plain note professed to express the satisfaction of the President, that no actual change was understood to have taken place in the attitude of Her Majesty's authorities in the territory, since the date of the arrangements entered into; and that there was no intention to infringe them on their part, so long as their terms were faithfully observed on the side of the United States. It signified, however, much regret, that the British colonial authorities should, without graver motives than a mere possibility of a departure from those arrangements by the State of Maine, thus take upon themselves the fearful responsibility of being guided by circumstances, susceptible as those were of misapprehension and misconception, in regard to measures of precaution and defence, under this exercise of discretion, against imagined acts of meditated aggression on the part of Maine. And the hope was further expressed, with how little effect we have witnessed, that when the British

Government at home should be apprized of the position assumed in this respect by its colonial agents here, proper steps would be taken to place the performance of express and solemn agreements, in effect, upon a more secure and solid basis than such a precarious sort of contingent colonial discretion.

It could scarcely have escaped notice in regard to the character of this correspondence, that a change had occurred in the style, if not in the attitude, of the British provincial authorities in America. Your Committee, however, are not aware whether the attention of the Federal Government was immediately drawn to the circumstance, that these forces seemed to have been detached and stationed there under the positive orders of the new Governor-General of the British provinces; nor are they apprized of the precise bearing which this circumstance might be considered to have, in the view of the National Government, upon the character of the arrangements deemed to have been subscribed to by the authorities of Maine and New Brunswick under its own high auspices. It has become apparent, at least since then, that the authority of the Lieutenant-Governor of New Brunswick is rendered subordinate in this respect to that of the Governor-General of Her Britannic Majesty's dominions; that there has been some new partition, or subdivision, by which, while the civil authority to be exercised in that region still resides in the Government of New Brunswick, the military power by which this State was menaced is transferred into other and higher hands; and all that Sir John Harvey can say, when he is apprized of our remonstrances and complaints, is that we must appeal to his superiors.

It may be recollected that inquiry was made soon afterward by the Senate of the United States, at its session a year ago, whether any measures had been taken under the Act of Congress, of March 3, 1839, or otherwise, to cause the removal or expulsion of the British troops which had taken possession of this portion of the territory of Maine, or whether any military posts had been established in Maine, or any other measures of a military nature, adopted preparatory to a just vindication of the honour and the rights of the nation and of Maine. The reply to this inquiry from the Secretary of War through the President was, that the circumstance of the occupation of the territory by British troops had been but recently communicated; and, having been made a subject of remonstrance and so become a matter of discussion between the two Governments, no measures had been taken of the character referred to under the Act of Congress or otherwise. To the residue of the inquiry it was answered, that no contingency contemplated by the Act of 1839 having occurred, no military measures had been thought necessary; repeating what had been previously stated by the President in his annual message to Congress. The Secretary further stated, that a military reconnoissance had been made in 1838, of the undisputed boundary of Maine, of which the result had been transmitted to the Senate the following session, but that there being no appropriation made, no fortifications were commenced. It will be understood that the other appropriations have expired.

From the parting communication made by our late Chief Magistrate, at the commencement of the present session, the Legislature is informed, that Maine is again subject to the mortification of having fresh troops quartered upon her territory. The causes alleged for this renewed outrage, and the circumstances by which it is attempted to be palliated in the letter of Sir John Harvey are so trivial, as justly observed by Governor Fairfield, to hardly afford a decent pretext for thus adding another to the catalogue of wrongs and injuries which the people of this State have so long been compelled to endure at the hands of the British Government. So sensible was Sir John Harvey himself, we may remark, of the slenderness of this pretence, and of the superfluousness of this further force, that in conveying this information, as he claimed to do with his accustomed frankness, of the recent arrival of a new detachment of Her Majesty's troops at Madawaska, he avowed he had not hesitated to give his opinion at once to the Governor-General that it was unnecessary, and that he had no doubt that the Governor-General, on this suggestion, would forthwith give directions for withdrawing the troops. This communication came dated December 10th last; and the same, together with the Governor's reply, requesting further information upon the subject, were transmitted to the President within a few days after; and the former ex-

pressed his full reliance, that if the suggestion of Sir John Harvey to the Governor-General should prove unavailing, the Executive Government of the United States would forthwith take measures for the withdawal or expulsion of these troops from our territory. Since this last period the Legislature has received no official information from any source. Nothing has reached us but rumours from the adjacent provinces, that the military position in question was intended to be maintained; and there has nothing yet come from any quarter to tranquillize and assure us further.

The Committee have gone into these details more fully, in order to place the subject in all its extent before the Legislature, for their consideration at its present session. The Resolves passed the last day of the session, March 23rd, 1839, pledged the power of the State to the protection of its territory up to its extremest limits, and asserted the right of exclusive jurisdiction over the whole extent of it. And they denied the efficacy of any agreement entered into by the Government of the Union to impair her prerogative to be the sole judge of the time and manner of enforcing that right. The State had, however, the guarantee of the General Government at that time, that if it would withdraw her military force from the frontier, the adverse military power, with which it was threatened, should immediately be caused to cease upon the other side. This guarantee the State afterwards accepted: and in consequence of this, and of the agreement to that effect entered into by the Lieutenant-Governor of New Brunswick, Maine did promptly and unhesitatingly withdraw her advanced military force. That pledge has not been performed; or if apparently so for a brief period, it has not been fulfilled; but it has been openly and deliberately violated. We may have been slow in coming to this conviction; but the fact cannot be concealed, and is hardly attempted to be disguised. As the matter now stands, the State is without any barrier, or boundary, against the Provinces of Great Britain, not even where the north line crosses the St. John. Barracks have been erected above that point; boats have been built upon the Lake; troops stationed at different posts, stores and munitions of war collected, constituting an actual military and naval armament; which is at this moment established upon the shores and waters of the Madawaska region, contrary to all the stipulations and mutual engagements of the two Governments. And Maine is compelled to forget, if she can, that all this is done within a precinct specially incorporated by an act of her Legislature, the validity of which is also recognized and confirmed by an Act of Congress.

It may properly be avowed, that Maine may still consider herself to stand pledged for the present, by the course that has been pursued by her authorities under the sanction of the General Government, not to disturb by any active proceedings of her's the British Provincial, that is to say, local possession at Madawaska; while, at the same time, she must be allowed to extend her civil power, for the protection of her territory against devastation, without any limitation as to the sphere of its operation, within the bounds of the Treaty of 1783; but that to suffer a military occupation of any portion of it, is incompatible with her existence and character as an independent State. She may well submit to the moral and self-imposed restraint of forbearing to exercise her given faculties, and to exert her lawful rights up to their full extent; but she cannot, with the same comfort or consistency, yield a silent and unresisting submission to the operation, until it becomes overwhelming, of absolute superior force. She may accord a loyal and becoming obedience to the graver authority of the Union; but she cannot without extreme, unmitigated pain, see any part of her soil subtracted and reduced to exterior colonial subjection; nor can she bear to have a foreign military force planted upon her with any more patience than our fathers could endure the same species of intolerable oppression. She acknowledges faithfully her obligations to the Union, and that she is bound to consult the feelings and opinions of the county, and to make no further movement, moreover, without invoking its aid, or asking its authority. But this is the point at which she unavoidably stands, and her fidelity entitles her to its confidence, and her necessity to its constitutional support.

Now all this, it may be admitted, might be tolerated perhaps by the Union, for the sake of tranquillity, if it was not pregnant with such real danger, and did not involve so much evil in the way of injury and sacrifice,

to the prospects and peace of Maine. Winter, which shuts up the St. Lawrence, and pours hosts of trespassers and marauders into our woods and forests, closes down upon us with an increased pressure from the military power of Great Britain. Between the Government of Canada above, and that of New Brunswick below, we are pressed as between the upper and the nether millstone. We are thus obviously exposed to a double increased damage from our open and unguarded situations upon the borders of these different dependencies upon a distant foreign Government; so far off, and thus situated in regard to us, that "oceans roll and seasons pass between the order and the execution;" or possibly the advice and recal. Our territory is now more than made a complete thoroughfare for the passage of British troops; while we have even no projects of national fortifications to protect us any further than Houlton, nearer than at the Forks of the Kennebec, or the mouth of the Mattawamkeag.

Even the military road which was authorized by Congress so long ago as 1828, to be laid out to the mouth of the Madawaska river, in virtue of what the succeeding President, General Jackson, declared to be an unquestionable right, the exercise of which the American Government would not allow to be restrained by the protest of the Lieutenant-Governor of New Brunswick, but only to be postponed for the time being—as expressed by the then Secretary of State, Mr. Van Buren, to the British Minister, as a proof of forbearance, intended in an amicable spirit of conciliation—has so continued ever since, and it would almost seem to be, indefinitely. The appropriations of 1836 and 1839, by Congress, were suffered to expire; but this authority has only been suspended; and it is for the Executive Government to determine, whether the period has not arrived at which the execution of it ought to be resumed. The present condition of the State of Maine certainly demands it.

The Committee are here induced to omit much they might otherwise be disposed to say on this subject, and in relation to all its immediate and future bearings upon the public peace and welfare; and which they are constrained to do, as well in consequence of the length to which their remarks have already been extended, as from considerations of a serious kind which are not without due weight upon their minds. Perhaps they ought to say more in regard to the neglect of preparations for defence, in our exposed and unprotected position, the necessity of which has long been pointed out and felt, and the power to provide for them, even when put in force, suffered to stand a dead letter. The State of Maine has had its virtue put to the severest test, until even the very length of time that the Government has delayed its duty, and she has been obliged to endure its omission, is liable to be turned against her, and set up as on her part a prescriptive sufferance.

The principal view which the Committee have had in preparing this Report, has been to present a further vindication of the rights and principles of the State in regard to this subject, and to the course which her people and authorities have hitherto pursued, and the position which they now maintain in respect thereto. They would wish not to make a mere appeal to the sympathy and fellow-feeling of her sister States, and to the patriotic sensibility of the people of the United States upon points apart from public right and national honour; but they would be no less desirous to extend it to the justice of England and the judgment of Europe, nay, of the whole world, if so remote a portion of it, as the inhabitants of Maine could hope to have their cause heard before so vast and elevated a tribunal. Nor would they shrink from submitting it to the future judgment of posterity and the final sentence of mankind, upon its real merits, (not as they may have presented them,) when the present age shall have passed away, and the accounts of the present questions shall have all been closed. They would not refuse to commend it to the native "nobleness and manliness of Englishmen,"—to the generosity which was manifested in the last painful effort of separation,—to that magnanimity displayed by the Monarch in proclaiming, as he did, with profound emotion, the great dismemberment of the empire,—concerning, that is to say, this long pending question with Great Britain, in reference to the true right of a territory which is and was always ours, infinitely more than it was ever hers; ours, no less in the first place, by the strength of primeval right; ours, also, by the Acts of Crown and Parliament, as well as by our own energies and achievements, when our sires were the loyal subjects of a common Sovereign; ours,

if she still chooses, by the terms of her own free and full assignment at the partition of that empire, originally divided by the ocean; ours, in fine, by the ancient honour of Great Britain, by all the faith of treaties, by the sacred principles of public laws, and eternal truth and justice. There is no wish in this part of the Union for extension of territory; we are content with our own limits. If injustice has heretofore been done us, if justice has not been done us in that respect, or any misfortune has attended the decision of points that have already been determined unfavourably to us, we are disposed to abide by it, and do not now seek to remedy it. We are only solicitous to enjoy the rights and advantages which the laws of nature and nations have secured to us, and to realize the benefit of that condition which Providence seems to have designed for us upon the foundation of State and national independence.

There is one circumstance also, in regard to which your Committee believe that the people of Maine would be willing that their course and principles should not be misunderstood; although they would not be under any solicitude respecting it. It is now a well known fact, not only that Maine has not in any manner intermeddled, but that she has uniformly abstained from any intermixture of her own causes of complaint with those of an exciting nature that have prevailed along further portions of the frontier, and has faithfully kept aloof from mingling her concerns with other distant and disturbing questions with Great Britain. And this, although she has one interest of great importance, much involved in the present issue, which has not been distinctly developed in the immediate connection with it. The circumstance above alluded to, not perfectly perceived and even at first distrusted, was afterwards freely confessed by that vigilant and virtuous observer of our course, Sir John Harvey, who will retire from his station, when he shall be called away by his Sovereign, with the esteem of the people of Maine. Although inclined at first to credit opposite surmises, he soon became convinced of the truth, and, with his characteristic candour, communicated it to his own Government. Nor is it at all unlikely, that a persuasion of this integrity of our purpose entered into the exercise of that high prudence and proper discretion, by which his judgment was determined in a delicate and critical emergency. But while it may be well, it should be understood that Maine has not been disposed to compromit her cause with any foreign matter, your Committee would be far from wishing to enter into any vindication upon this point, or be anxious that the State should set itself apart from the just and common feeling of kindred humanity which pervades this vast hemisphere.

Resolutions of the Legislative assemblies of some of our sister States have reached us now, or lately, in response to our own former proceedings and resolves, and have been referred to this Committee. Those of the State of Indiana were transmitted at the late adjourned session, being a special one for the general revision of the laws, and may be deemed to have been postponed to the present, not having been before printed; and, having been recalled from the files, they will, with your permission, form part of this report. The Committee accordingly refer to them with feelings of mingled gratitude and pride. These Resolves of Indiana are echoes of those of Ohio, formerly received, which they recite, and which likewise recited, in the spirit of that immortal ordinance upon which the original constitution of the whole north-west territory (once a single government) was framed, the grounds of our just territorial right, and the indefeasible character of our title to the soil of the State and nation.

The Indiana Resolutions cherish the hope, that in the adjustment of this question of our national boundary, the integrity of our soil, and the national honour may be preserved inviolate, without an appeal to arms. They further express, that they highly approve the efforts made by the now late President of the United States to avert from the country the calamities of war. Yet ever preferring honourable war rather than dishonourable peace, in case of unavoidable collision in settling the pending dispute, they join with Ohio in the declaration she had made, and the generous oblation of her whole means and resources to the authorities of the Union in sustaining our rights and honour.

The Resolutions of the General Assembly of Alabama, transmitted at the

present session, in more guarded and measured terms, declare it to be the solemn and imperative duty of the Federal Government faithfully to maintain every obligation it is under toward the State of Maine, touching the establishment of our North-Eastern Boundary Line; that the question is one not local in its character to this State, although this State is allowed to be more interested than any other in its adjustment, but that it concerns the whole Union; that the Government is bound in defence of its own honour, not to concede to Great Britain any claim not strictly founded in right and justice; and that it is the duty of Maine to trust the decision of the matter to the counsels of the Union, and to abide thereby, whatever it may finally be, and whether exactly consistent with her own wishes or not. They further declare, that they should deprecate a resort to force, until every honourable peaceful expedient has been exhausted; and while they are ready to go to war, if Congress so says, they should deeply regret to see the State of Maine take any rash step which might tend to plunge her sister States into a war, more through sympathy and feeling on their part, than from any deliberate choice and determination.

To the more advisory and admonitory tone of these Alabama Resolutions the Committee do not except, though it is somewhat more collected and grave than we have been accustomed to, in our painful condition, from our sister States. We may assent to their fitness, and be content with the assurance they contain; and we may feel further all the force and propriety of the appeal. Yet, may we ask, what other State in the Union is there that could thus bear to see a district of its territory torn from its own possession, and held under the hostile flag of a foreign Power—its citizens interrupted and harassed in their peaceful pursuits—even those who bear the official signet of its authority, treated with violence and disgrace, and its dearest and most vital rights trampled upon, as those of Maine have been? These wrongs may well be imagined to require all her patience, and to admit of much alleviation. Alabama, we may be sure, does not mean to add to all this sense of what this State has experienced and yet endures, the most distant idea, in any contingency or event, of being laid under the ban of the Union.

To a people whose pursuits in life are moral and peaceful, and which cherishes a deep sensibility to all the guilt and wretchedness of war, it may be easy to see that a profound conviction must be required of the purity and righteousness of a cause which could, by any possibility, be exposed for its vindication to so great a calamity. Nor is there any occasion to colour or pourtray the consequences of such an alternative. It may well be admitted that something more that the ordinary apology for even defensive war may be demanded in this advanced and enlightened age of humanity and civilization, and we will not hesitate to say of religion also: one to be looked for only in the nature and circumstances of the case, such as must show themselves in unsullied purity and unblenching strength, so as to constitute an absolute justification in the moral view and judgment of mankind. If such may ever be found, it might surely be in the character of a conflict, to which a community like ours might be subjected, in defence of what is nearest to our homes and hearths, of our dearest rights and native land—a strife to which we might be exposed to preserve the inheritance we received from our ancestors before the Revolution, and the patrimony bequeathed to us by the patriotism of our fathers in the war of independence—a struggle to prevent the removal of our ancient land-marks, and subverting the very soil of our free institutions —points that are vital, let us be allowed to say, to the very principles of our social existence and prosperity. Such a cause as this, if it cannot ensure protection, may at least escape reproach.

Resolutions have just been received from Maryland, accompanied by a Report of much merit from the pen of one who has had official opportunity to become acquainted with the subject, declaring the perfect conviction which the Legislature of that State entertains of the justice and validity of the nation and of Maine to the full extent of all the territory in dispute; and subjoining that the Legislature of Maryland looks to the Federal Government with entire reliance upon its disposition to bring the controversy to an amicable and speedy settlement; but that if these efforts should fail, the State of Maryland will cheerfully place herself in the support of the Federal Government, in what will then become its duty to itself and to the State of Maine. After the

expression of such opinion and assurance, these Resolutions say that the State of Maryland feels that it has a right to request this State to contribute, by all the means in its power, towards an amicable settlement of the dispute upon honourable terms; and they volunteer a suggestion, respecting a reasonable mode of mutual accommodation and adjustment, to which it strikes the minds of your Committee, that it will be time enough for Maine to attend, when it comes recommended to her consideration, as it would be by the condition with which it is connected, namely, that Great Britain should acknowledge the title of the State of Maine.

The Committee were apprized, that Resolutions had been presented, together with the able and critical Report that has been alluded to, to the Legislature of Massachusetts; and those Resolutions, accompanied by the Report, have been received and committed, in order to be acknowledged, while this Report was passing through the press. The Commonwealth has never failed, on any and every occasion, to testify her faithful interest in favour of those just rights which we have derived through her, and with which her own continue to be so closely associated. If we had not heard from her at this time, we should not have been left in any doubt of her disposition. But it is none the less satisfactory at this period, to be reassured, that, in her opinion, our right to require of Great Britain the literal and immediate execution of the terms of the original Treaty, relating to the Boundary in question, remains, after more than half a century, unimpared by the lapse of time or by the interposition of multiplied objections; that although there may be no cause to apprehend any immediate collision upon this subject, it is extremely important that a speedy and effectual termination should be put to a difference which might, even by a remote possibility, produce consequences that humanity would deplore; that anything is to be regretted coming from Great Britain, of the character of the late Report made to that Government under its late Commission of Survey, (though not understood to have received its sanction,) calculated to produce, wherever it is examined in the United States, a state of the public mind unfavourable to that conciliatory temper and confidence in mutual good faith, without which it is hopeless to expect a satisfactory result to controversies of this nature; that the interest and honour of Massachusetts alike demand a perseverance, not the less determined, because it is temperate, in maintaining the rights of Maine; that they now cheerfully repeat their often recorded response to her demand, that justice so long withheld should be speedily done her; and that while they extend to her their sympathy for her past wrongs, they again assure her of their unshaken resolution to sustain the territorial rights of the Union.

The Committee may, perhaps, deem themselves in some measure called upon, under the existing posture of circumstances, not without some hesitation, to touch upon a point of some delicacy; and which relates to the part this State may be in future required to perform in the further prosecution of this question, and in regard to bringing it to a determination. This point is presented, in the first place, by two distinct orders, one from the House of Representatives, and the other from the Senate, both referred to the immediate consideration of this Committee. The one requires the Executive authority of this State to be employed to expel the British force now quartered upon our territory; the other proposes to invoke the constitutional obligation of the Federal Government, and to call upon the National Executive for the prompt fulfilment of this duty. The alternative presented by the forms of these different legislative orders, dictated alike, as your Committee entirely believe, by the spirit of what was due, and even demanded, to the occasion, brings directly into view the continuance—they would not say the competency or propriety—of that former course of action, which the State qrescribed to itself, at those periods, which have been noticed, when the proper powers of the Federal Government appeared to be in abeyance as to us, if not abdicated here. And the Committee do undoubtedly conceive that this State would be untrue to itself, insensible to its own character, interest, and honour, to renounce or repudiate the position in which it was involuntarily placed, or the principles which it pronounced at any time, under the imperious necessity and duty imposed upon it of self-protection. It would be forgetful of the illustrious examples of virtue and patriotism, which were ever before the eyes of our cherished and devoted Lincoln, to disclaim the ground, or abandon the

stand, which he so firmly and intrepidly took upon this question, when its gulf was first opened before us, and he was called to contemplate and survey the sacrifice. Neither would we bury with him the principle on which he acted. But we look upon it as having succeeded; and that we are now enjoying the value and benefit of it in the elevated position to which the progress of it has raised and carried us in the estimation of Congress, the respect of the Government, and the confidence of the country. Your Committee conceive and trust, that that point is now passed; a point ever intended to be taken and sustained in entire submission to the sense of the nation, and to be carried out only in subordination to its supreme constitutional authority, whenever it did or should become necessary, that is to say, to resort to the original principle of self-preservation, which is never to be recurred to only when all other resource fails, and which Maine alone means to reserve for extreme emergency, or the last extremity. The immediate legitimate objects of that just and necessary course of proceeding on our part adopted by her Executive and Legislative counsels, Maine is now disposed, your Committee apprehend, to regard and look upon as fulfilled. It has been fulfilled so far, certainly, at a great and enormous expense and even sacrifice to her; for which, as in performance of an important duty devolved upon her in discharge of the public service, she is entitled in return to cast herself upon the just consideration of the Republic. Henceforth she conceives herself to have acquired a perfect right to rely on the strengh as well as sympathy of the country, and upon the powerful arm of the National Government for vindication and support. That otherwise the object would not have been answered; but its real and proper purpose would have failed. The remainder might be more than she is equal to; but it would be ungrateful, now that her cause has been so perfectly affiliated, and the country asks us to accept its solemn assurance, to pursue any other course at present; and, as we value and cherish the pledge it has given us, not to be anxious to avoid anything to forfeit our title to its protection.

In coming toward a conclusion of the subject of this Report, and to the final consideration of the best course to be pursued, under the existing and actual state of circumstances, the Committee can see no other than to adopt and stand upon the late Resolves of the preceding Legislatures, that is to say, so far as they are not varied and altered, and accordingly required to be modified, by time and other circumstances, connected with the prolonged and pending state of negotiation. They can see no other course, they repeat, than to continue to call still upon the General Government to vindicate and maintain the rights of this State to its indisputable and indefeasible territory, by one of the two modes pointed out by the last Resolves. Gratitude towards that Government for what it has already done toward what it has solemnly promised, affection to our sister States who have come forward so freely and so cordially in our favour, the necessity which disables us from coping single-handed with our real and formidable antagonist, and the Constitution which authorizes and requires us to cast the burden of our defence entirely upon the General Government—all these, combined with the consideration and remembrance of what is equally due to ourselves and mankind, under all these circumstances, direct, if they do not compel, us to this course. We wish we could add, that we had more confidence in the efficacy of the means that have so far been adopted (we will not say those likely to be employed) and used to vindicate and establish those rights. We wish we could see an end to the perpetual course of procrastination, or any immediate prospect of the present negotiation being brought to a decisive or satisfactory termination. The Committee are constrained to say that they cannot. On the contrary, they feel themselves obliged to agree in the opinion of his Excellency the Governor of Massachusetts, in whom they know this State has always a fast friend upon this subject, that they do not see any disposition on the part of the British Government to determine it.

The Committee are concerned to inquire, also, what is to be the state of the Disputed Territory in the mean time, and especially of that portion of it lying northward of the St. John? And what is to be done for its protection, and the intermediate preservation of all the rights of the State to its property and jurisdiction? They inquire in vain. It is clear, that the State can enter into no compact with New Brunswick on the subject, even if the authority

there had not passed into other hands. Such a thing is impossible. It is forbidden by the Constitution, without the consent of Congress, which is not to be implied, nor even in the view of your Committee, to be desired. If it were proper to listen to any suggestion of that nature, or to any proposition from that quarter, there is no power that can apparently be depended upon (though far from questioning by any means the integrity of the disposition that exists), but there is none in New Brunswick that seems to be competent for the fulfilment of any such compact or assurance. Maine could not come into any agreement, such as was recommended to her, on that point. The objections to it, in her view, are insuperable. Worse than the shackles that might be thus imposed upon her, it might only prove a snare for her, and become an endless source of mischief and regret. She sees not, in any way, how she can go further on this subject, than she has already done by her Resolves of 1839; and that is only in the same earnest desire to come to an amicable adjustment of the whole controversy, to forbear to enforce her jurisdiction in that part of the territory which is now usurped by New Brunswick, so far as she can do so, consistently with the maintenance of her previous Resolves for the protection of the whole territory against trespass and devastation. So far as, under this limited restraint, she is obliged to yield to the continuance of the illegal usurpation at the proper original settlement of Madawaska, so far she supposes she must submit to see the sphere of her own sovereignty circumscribed. But she cannot consent to see the space widened. She cannot allow its being extended to the Fish River, or upon the south bank of the St. John, above the western bend, up to which Maine has at least regained, and made good her ground.

It is still less possible for this State to consent to any change in the character of that possession, from civil, as it was only pretended, to military; and further still, to be content to see that change assume a permanent form; in the first place, the whole district converted into a military depôt, and then to take the more decided character of a military establishment. How long we are to remain in this condition, or how we are to be relieved from it, we cannot say, except by pointing to our past Resolves, and putting our trust in the Government of the Union. All that we can say further, perhaps, at this moment, with propriety, is, that it cannot be submitted to with passiveness, and that it cannot be submitted to, at any rate, much longer. The spirit, the patriotism, the self-respect, the native energy, the irrepressible and indomitable determination of the people of this State, will not endure it. They might sooner wish to see the territory sunk in the ocean, than to be made the scene of a bloody war, above all between the kindred and connected races; but they cannot, silently, see it surrendered to a foreign Power in this manner. They are calumniated by the pretext on which it is challenged. They demand, in advance, the protection of the Federal Constitution. They require that the invading force shall be removed; and if this can only be effected by counter force, they request the Government of the United States, with no more delay, to cause possession of the Disputed Territory to be taken, by the suitable and necessary methods.

But while the State thus makes these strong and urgent demands, it may be justly expected, that it will not, in any respect, or in any event, be wanting to itself. While it earnestly seeks, and wishes, to put itself under the broad shield of the General Government, and pray for the protecting power of the whole country, and solicits to be released from the incumbent duty and present heavy burden of its own defence, and desires to do this without retreating from the ground or relinquishing the stand it has hitherto been obliged to take, and does not ask to be released from its position, it well offers to go as far as any of its sister States have done, and to place its whole powers and resources, without reserve, at the public disposal. We will consent to almost any sacrifice—we will pay any reasonable price for our own peace, and for that of the country; and we are willing to purchase it upon the same terms, as "the tranquillity and safety of a camp are secured by the sufferings and privations of its devoted exterior outguards." Maine feels herself, unavoidably, to be the forlorn hope of the Union. As such she is ready to go forward, and to pursue the path that lies before her. As such she is prepared to occupy the pass to which she may be directed, to present her breast as a bulwark for the country—and of those of her brave and beloved sons, the self-devoted band

that shall be sent upon this service, to leave the writing upon the soil, in the best blood of the State, to tell the country, and be carried back to the capital, that they lie there in obedience to its laws.

The Committee would now, respectfully, bring the performance of this part of their service to a conclusion, by recommending the following Resolutions.

By order of the Committee,
(Signed) CHARLES S. DAVEIS.

March 30, 1841.

STATE OF MAINE.

Resolves relating to the North-Eastern Boundary.

Resolved, THAT the Legislature sees no occasion to renew the declarations herefore made of the right of this State to the whole of its territory, according to the Treaty of 1783, unjustly drawn into question by Great Britain, (entirely recognized by the unanimous Resolutions of Congress in 1838,) nor to repeat its own former Resolutions on the subject; and it regards with grateful satisfaction, the strong, increasing, and uniform demonstrations, from all parts of the Union, of conviction thereof, and of determination to support the same.

Resolved, That this Legislature adopts and affirms the principles of former Resolves of preceding Legislatures in relation thereto, in all their force and extent; that it approves their spirit, insists on their virtue, adheres to their terms, and holds the National Government bound to fulfil their obligations; that it deprecates any further delay, and cherishes an earnest trust and expectation, that the National Government will not fail, speedily, to cause our just rights, too long neglected, to be vindicated and maintained either by negotiation or by arms.

Resolved, That we truly appreciate the patriotic spirit with which the Federal Government espoused, and our Sister States embraced our cause, and the country came to our side, in a most severe and critical emergency; and that, confiding in their continued sympathy and support, and confirmed in the strength of our course, we feel warranted to rely for safety on the sovereign power of the Union, the people of this State maintaining all their constitutional rights.

Resolved, That in accordance with the generous examples of our sister States, and not to be behind their free-will offerings on our behalf, this State also voluntarily tenders its whole powers and resources, without reserve, to the supreme authorities of the Union, to sustain our national rights and honour; and it stands ready, furthermore, obeying the call and abiding the will of the country, to go forward and occupy that position which belongs and shall be marked out to it; and engages, that it will not be wanting in any act or duty of devotion to the Union, of fidelity to itself, and, above all, to the common cause of our whole country.

Resolved, That this State is suffering the extreme unresisting wrong of British invasion, begun in 1839, repeated in 1840, and continued to this time, in violation of solemn and deliberate pledges from abroad, guaranteed by our own Executive Government; that the President of the United States, therefore, be requested and called upon to fulfil the obligation of the Federal constitution, by causing the immediate removal, or expulsion, of the foreign invading force now stationed within the bounds of Maine; and, other methods failing, to cause military possession to be taken of the Disputed Territory.

Resolved, That the Government of the United States be earnestly invoked to provide for our future protection against foreign aggression, by proper establishments of military force upon the frontier, and by the due exertion of its constitutional powers to liberate and relieve this State from the present heavy burden of its own needful, unavoidable defence.

Resolved, That the Government of the United States is bound to cause the Commission appointed to explore and trace the north-eastern boundary

line from the north-west angle of Nova Scotia, along those highlands which divide the waters that empty into the River St. Lawrence from those that fall into the Atlantic Ocean, according to the Treaty of 1783, to be prosecuted with the utmost speed, vigour, and certainty, to its definite and absolute conclusion, and that the same should be completed, and the true line run and marked, within the period of the present year.

Resolved, That the Governor be requested to transmit a copy of these Resolves, together with this Report, to the President of the United States; and that similar copies of the same be transmitted to the presiding officers of the two branches of Congress, and to the Executives of the several States and the presiding officers of the several Legislatures of said States, and to the Senators and Represensatives in Congress of this State and of Massachusetts.

Inclosure 2 in No. 23.

ORDERS AND RESOLUTIONS REFERRED TO THE COMMITTEE.

Resolves to repel British Aggression.

WHEREAS, the State of Maine is now suffering the disgrace of unresisted British invasion, begun in 1839, repeated in 1840, and continued up to this hour, in violation of the most solemn stipulations; and whereas we have no faith in the efficacy of negotiations with a Power which has so repeatedly disregarded its deliberate pledges, and believe that further forbearance on our part to assert the rights and vindicate the honour of our State, will prove as unavailing as it will certainly be humiliating; therefore,

Resolved, That the Governor be authorized to take immediate measures to remove the troops of the Queen of Great Britain, now quartered on the territory, called disputed by the British Government, but by the Treaty of 1783, by the Resolutions of both Houses of Congress passed in 1838, and by repeated Resolves of the Legislature of Maine, clearly and unequivocally a part of the rightful soil of this State.

Resolved, That the resources of this State be, and they hereby are, placed at the disposal of the Governor, and the specific sum of 400,000 dollars be, and the same hereby is, appropriated out of any money in the treasury, for the purpose of carrying said Resolutions into effect.

House of Representatives, February 3, 1841.

These Resolutions (laid upon the table by Mr. Delesdernier,) were read and referred to the Committee on the North-Eastern Boundary.

Sent up for concurrence,

(Signed) GEORGE C. GETCHELL, *Clerk.*

In Senate, February 13, 1841.

The Senate non-concurred the House in its reference of these Resolves, and amended the same as on sheet marked A, and the same were referred to the Committee on the North-Eastern Boundary.

Sent down for concurrence,

(Signed) DANIEL SANBORN, *Secretary.*

A.

Amend, by striking out word *four* in line 3d, of Resolve 2, and insert *ten.*

House of Representatives, February 15, 1841.

The House receded from its vote of February 3, adopted the amendment proposed by the Senate, and referred the same to the Committee on the North-Eastern Boundary, in concurrence.

(Signed) GEORGE C. GETCHELL, *Clerk.*

Resolve for Repelling Foreign Invasion, and Providing for the Protection of the State.

Be it Resolved, That the President of the United States be requested and urged to cause the immediate removal of the foreign armed force by which this State is invaded, stationed upon the upper valley of the St. John, and that the Government of the United States be earnestly invoked to relieve this State from the present heavy, needful burden of its own defence.

In Senate, February 13, 1841.

This Resolve (introduced by Mr. Davcis) was once read, and referred to the Committee on the North-Eastern Boundary.

Sent down for concurrence.

(Signed) DANIEL SANBORN, *Secretary.*

House of Representatives, February 15, 1841.

Read, and referred in concurrence.

(Signed) GEORGE C. GETCHELL, *Clerk.*

Inclosure 3 in No. 23.

INDIANA RESOLUTIONS.

Executive Department, Indianapolis, March 10, 1840.

Sir,

IN compliance with the request of the General Assembly of this State, I have the honour to forward a copy of their Preamble and Joint Resolutions in relation to the North-Eastern Boundary.

Very respectfully,
Your obedient Servant,
(Signed) DAVID WALLACE.

His Excellency the Governor of Maine.

A Preamble and Joint Resolutions in relation to the North-Eastern Boundary.

WHEREAS, the General Assembly of the State of Ohio have adopted and caused to be laid before this General Assembly the following Resolutions, to wit:—" Whereas, by the Declaration of Independence, on the 4th of July, 1776, the United States of America became a sovereign and independent nation, with full power over the territory within her limits; and whereas, at the Treaty of 1783, between the United States of America and Great Britain, the northern and north-eastern boundaries between the two Governments were fairly designated and distinctly described; and whereas the said British Government has since set up claims to a part of the territory of these States, and now lying within the State of Maine; and whereas, the subjects of the British Crown have recently invaded and trespassed upon the territory of the State of Maine, and within the limits of this Confederacy, and destroyed the property belonging to the State. Therefore, be it resolved by the General

Assembly of the State of Ohio, That we view with united approbation the prompt and energetic action of the authorities of Maine to protect the rights and honour, not only of their own State, but of the whole Union. Resolved, That the Act of Congress, conferring upon the President of the United States ample power and means to protect this nation from foreign invasion, has our full and most hearty assent. Resolved, That while we highly approve the efforts made by the President of the United States, to avert from this country the calamities of war, and earnestly hope that they may be, as they have been heretofore, successful; yet, should a collision take place between this Government and Great Britain, in the settlement of the pending dispute, Ohio tenders her whole means and resources to the authorities of this Union, in sustaining our rights and honour. Resolved, That the Governor be directed to transmit a copy of the foregoing Preamble and Resolutions to the President of the United States, and to the Governors of the several States."—March 18, 1839.

THEREFORE—

Be it Resolved by the General Assembly of the State of Indiana, That we fully concur in and heartily approve of the above Resolutions of the General Assembly of the State of Ohio.

Resolved, That while we cherish the hope that, in the adjustment of the question of our National Boundary, the integrity of our soil, and the national honour, may be preserved inviolate, without an appeal to arms; yet we will ever prefer honourable war rather than dishonourable peace.

Resolved, That should a collision take place between this Government and Great Britain, in the settlement of the pending dispute, Indiana tenders her whole means and resources to the authorities of the Union, in sustaining our rights and honour.

Resolved, That the Governor be directed to transmit a copy of the foregoing Preamble and Resolutions to the President of the United States, to each of our Senators and Representatives in Congress, and to the Governors of the several States.

(Signed) J. G. READ,
Speaker of the House of Representatives.
DAVID HILLIS,
President of the Senate.

Approved, February 24, 1840,
(Signed) DAVID WALLACE.

Inclosure 4 in No. 23.

ALABAMA RESOLUTIONS.

Executive Department, Tuscaloosa, January 15, 1841.

Sir,

I HAVE the honour to inclose you Joint Resolutions of the General Assembly of the State of Alabama, responsive to certain resolutions of the State over which you preside, in relation to the North-Eastern Boundary. With perfect respect, I am, your obedient servant,

(Signed) A. P. BAGLEY.

To His Excellency the Governor of Maine.

Joint Resolutions of the General Assembly of the State of Alabama, in response to certain Resolutions of the State of Maine, in relation to the North-Eastern Boundary Question.

BE it Resolved, by the Senate and House of Representatives of the State of Alabama, in General Assembly convened, 1st. That we hold it to be the solemn and imperative duty of the Federal Government, faithfully to maintain

toward the State of Maine every obligation she is under, touching the establishment of the North-Eastern Boundary Line of said State.

2nd. That said Government is further bound in defence of her own honour, to not concede to Great Britain any claim not strictly founded in right and justice in the matter aforesaid.

3rd. That we sincerely deprecate a resort to force, until every honourable peaceful expedient has been exhausted, in this and in every other like controversy.

4th. That the question of the North-Eastern Boundary concerns the whole Union, and is not one local in its character to the State of Maine, although she is confessedly more interested than any other in its adjustment; and that, for the reason here set forth, it is the duty of the State of Maine to trust the decision of the matter to the councils of the Union, and abide thereby, whatever it may finally be, whether exactly consistent with her own wishes or not. If Congress says go to war, we will cheerfully obey the mandate, but we should deeply regret to see the State of Maine take any rash step, which might tend to plunge her sister States into war, more through mere feeling and sympathy than from deliberate choice and determination on their part.

5th. That the Governor of this State be requested to forward to the Governor of Maine a copy of the foregoing Resolutions as the response of this General Assembly to her Resolutions of the 18th of May [March] last communicated to us by the Governor of this State, agreeably to a request contained in her said Resolutions.

(Signed) J. L. F. COTTRELL,
President Senate.
R. A. BAKER,
Speaker of the House of Representatives.

Inclosure 5 in No. 23.

MARYLAND RESOLUTIONS.

Council Chamber, March 23, 1840.

I HEREWITH present, to your consideration, a Report and Resolutions, from the State of Maryland, in relation to the North-Eastern Boundary.

EDWARD KENT.

To the Senate and House of Representatives.

Resolved, That the Legislature of Maryland entertains a perfect conviction of the justice and validity of the title of the United States, and State of Maine, to the full extent of all the territory in dispute between Great Britain and the United States.

Resolved, That the Legislature of Maryland, looks to the Federal Government with an entire reliance upon its disposition to bring the controversy to an amicable and speedy settlement; but if these efforts should fail, the State of Maryland will cheerfully place herself in the support of the Federal Government, in what will then become its duty to itself and the State of Maine.

Resolved, That after expressing the above opinions, the State of Maryland feels that it has a right to request the State of Maine to contribute, by all the means in its power, towards an amicable settlement of the dispute upon honourable terms.

Resolved, That if the British Government would acknowledge the title of the State of Maine to the territory in dispute, and offer a fair equivalent for the passage through it of a military road, it would be a reasonable mode of adjusting the dispute, and ought to be satisfactory to the State of Maine.

Resolved, That the Governor be and is hereby requested to transmit a

copy of this Report and these Resolutions to each of the Governors of the several States, and to each of the Senators and Representatives in Congress from the State of Maryland.

Inclosure 6 in No. 23.

MASSACHUSETTS RESOLUTIONS.

Council Chamber, March 27, 1841.

I HAVE received from the Governor of Massachusetts a Report and "Resolves concerning the North-Eastern Boundary," and herewith present them for your consideration.

EDWARD KENT.

To the Senate and House of Representatives.

COMMONWEALTH OF MASSACHUSETTS.—1841.

Resolves concerning the North-Eastern Boundary.

Resolved, unanimously, if the Senate concur, That the right of the United States, and of the State of Maine, to require of Great Britain the literal and immediate execution of the terms of the Second Article of the Treaty of 1783, so far as they relate to the Boundary from the source of the St. Croix River to the north-westernmost head of Connecticut River, remains, after a lapse of more than half a century, unimpaired by the passage of time, or by the interposition of multiplied objections.

Resolved, unanimously, if the Senate concur, That although there is no cause to apprehend any immediate collision between the two nations, on account of the controversy respecting the said Boundary, it is nevertheless most earnestly to be desired that a speedy and effectual termination be put to a difference, which might, even by a remote possibility, produce consequences that humanity would deplore.

Resolved, unanimously, if the Senate concur, That the late Report made to the Government of Great Britain, by their Commissioners of Survey, Messrs. Featherstonhaugh and Mudge, though not to be regarded as having yet received the sanction of that Government, is calculated to produce in every part of the United States, where it is examined, a state of the public mind highly unfavourably to that concilitary temper, and to that mutual confidence in the good intentions of each other, without which it is hopelsss to expect a satisfactory result to controversies between nations.

Resolved, unanimously, if the Senate concur, That the interest and the honour of Massachusetts alike demand a perseverance, not the less determined because it is temperate, in maintaining the rights of Maine; and that we now cheerfully repeat our often-recorded response to her demand that the justice which has been so long withheld should be speedily done to her, and that whilst we extend to her our sympathy for her past wrongs, we again assure her of our unshaken resolution to sustain the territorial rights of the Union.

Resolvep, unanimously, if the Senate concur, That his Excellency the Governor be requested to transmit a copy of these Resolves and the accompanying Report to the Executive of the United States, and of the several States, and to each of the Senators and members of the House of Representatives from Massachusetts, in the Congress of the United States.

House of Representatives, March 11, 1841.—Passed.

GEORGE ASHMAN, *Speaker.*

In Senate, March 12, 1841.—Passed.

DANIEL P. KING, *President.*

March 13, 1841.—Approved.

JOHN DAVIS.

Commonwealth of Massachusetts,
Secretary's Office, March 17, 1841.

I HEREBY certify that the preceding are true copies of the original Resolves.

JOHN P. BIGELOW, *Secretary of the Commonwealth.*

In Senate, March 27, 1841.

Read, and referred to the North-Eastern Boundary Committee.
Sent down for concurrence.

DANIEL SANBORN, *Secretary.*

House of Representatives, March 29, 1841.

Read, and referred in concurrence.

GEORGE C. GETCHELL, *Clerk.*

STATE OF MAINE.

In Senate, March 30, 1841.

Ordered, That the foregoing Report and Resolves be laid on the table, and 1,000 copies be printed for the use of the Legislature.

[Extract from the Journal.]
ATTEST, DANIEL SANBORN, *Secretary.*

No. 24.

Mr. Fox to Viscount Palmerston.—(Received July 15.)

My Lord, *Washington, June* 27, 1841.

I HAVE recently received several communications from the Governor-General of British North America, and from the Lieutenant-Governor of New Brunswick, upon matters connected with the Disputed Territory, and upon the subject of further apprehended acts of aggression within that territory on the part of the people of Maine. The same intelligence will, no doubt have been already conveyed to Her Majesty's Secretary of State for the Colonies; I shall nevertheless transmit to your Lordship by the ensuing packet, copies of the communications which have been addressed to me.

I have to state, at the same time, that I am now again in negotiation with the United States' Government, upon the subject of an amended arrangement for the provisional custody and occupation of different portions of the Disputed Territory, by a limited force on each side of regular troops, to the exclusion of the irregular armed posse now employed by the State of Maine, upon the principles laid down in your Lordship's several instructions to me of last year. Mr. Webster seems much disposed to entertain rational and moderate views upon all this subject; but I still doubt whether it will be found possible to bring the State Government of Maine to accede to any reasonable agreement. I shall, of course, conclude no provisional arrangement without first obtaining the sanction of the Governor-General.

I have, &c.,
(Signed) H. S. FOX.

No. 25.

Viscount Palmerston to Mr. Fox.

Sir, *Foreign Office, July* 19, 1841.

I HAVE received and laid before the Queen your despatch of the 27th ultimo, stating that you had recently received several communications from the Governor-General of British North America, and from the Lieutenant-Governor of New Brunswick, upon matters connected with the Disputed Territory, and upon the subject of further apprehended acts of aggression within that territory, on the part of the people of Maine; and also stating that you were then again in negotiation with the United States' Government, upon the subject of an amended arrangement for the provisional custody and occupation of different portions of the Disputed Territory by a limited force, on each side, of regular troops, to the exclusion of the irregular armed posse now employed by the State of Maine.

I have also received from the Colonial Department copies of communications upon these subjects from Sir Charles Colebrooke to the 14th of June, and from Lord Sydenham to the 10th of June.

With reference to the communications which you have had from Lord Sydenham upon these matters, I have to instruct you to represent strongly to the United States' Government, the extreme inconvenience and danger of the present state of things. The armed posse from Maine continues in occupation of a post at the mouth of the Fish River, in the valley of the St. John, which it holds in decided violation of the agreement entered into by Major-General Sir John Harvey and Major-General Scott; and the British Authorities would have been perfectly justified by that agreement in expelling that armed posse by force. But its continuance there can hardly fail to lead to collision, and if this should happen, Her Majesty's Government will certainly not shrink from the duty of asserting the rights of Her Majesty's Crown, and of affording just protection to Her Majesty's subjects.

Her Majesty's Government would, however, most earnestly press upon that of the United States the expediency of causing the civil posse of Maine to be withdrawn entirely from the Disputed Territory, and of letting that territory be provisionally occupied by regular troops of Great Britain and of the United States. The former being posted in the valley of the St. John, and the latter in the valley of the Roostook.

I am, &c.,
(Signed) PALMERSTON.

No. 26.

Viscount Palmerston to Mr. Fox.

Sir, *Foreign Office, August* 24, 1841.

HER Majesty's Government received with very great regret the Second American Counter-Draft of a Convention for determining the Boundary between the United States and the British North American Provinces, which you transmitted to me last autumn in your despatch of the 15th of August, 1840, because that Counter-Draft contained so many inadmissible propositions, that it plainly showed that Her Majesty's Government could entertain no hope of concluding any arrangement on this subject with the Government of Mr. Van Buren, and that there was no use in taking any further steps in the negotiation till the new President should come into power.

Her Majesty's Government had certainly persuaded themselves that the draft which, in pursuance of your instructions, you presented to Mr. Forsyth on the 28th of July, 1840, was so fair in its provisions, and so well calculated to bring the differences between the two Governments, about the boundary, to a just and satisfactory conclusion, that it would have been at once accepted by the Government of the United States, or that if the American Government

had proposed to make any alterations in it, those alterations would have related merely to matters of detail, and would not have borne upon any essential points of the arrangement; and Her Majesty's Government were the more confirmed in this hope, because almost all the main principles of the arrangement which that draft was intended to carry into execution had, as Her Majesty's Government conceived, been either suggested by, or agreed to, by the United States' Government itself.

But, instead of this, the United States' Government proposed a second Counter-Draft, differing essentially from the draft of Her Majesty's Government, and containing several inadmissible propositions.

In the first place, the United States' Government proposed to substitute for the preamble of the British Draft, a preamble to which Her Majesty's Government cannot possibly agree, because it places the whole question at issue upon a wrong foundation, upon the Treaty of Ghent, instead of upon the Treaty of 1783; and for this reason, besides other objections to the wording of it, Her Majesty's Government cannot consent to the preamble of the last American Draft, but must adhere to the preamble of the last British Draft presented in July, 1840.

The next alteration proposed by the American Counter-Draft, is in Article IInd of that Draft, by which it would be stipulated, that the Commissioners of Survey shall meet, in the first instance, at Boston. To this Her Majesty's Government cannot consent, because Boston is not a convenient place for the purpose, and because their meeting in a town within the United States would in various ways be inconvenient. Her Majesty's Government must, therefore, still press Quebec as the best point to start from, because it is the nearest to the western end of the Disputed Territory—the point at which Her Majesty's Government propose that the operations of the Commissioners shall begin.

In the IIIrd Article of the American Counter-Draft, reference is again made, by a quotation, to the Treaty of Ghent, and to that reference Her Majesty's Government must again object.

In that same IIIrd Article a new method is proposed for determining the point at which the Commissioners shall begin their survey. But Her Majesty's Government are of opinion that there are the strongest reasons for beginning the survey from the head of the Connecticut River. For up to a certain distance eastward from that point, the former Commissioners of the two Governments found highlands which they agreed in considering the highlands of the Treaty; and it is only from a point some way eastward of the head of the Connecticut that the two lines of Boundary claimed by the two Governments respectively begin to diverge. It seems, therefore, natural, that the Commissioners should begin their survey from the head of the Connecticut, and no good reason has been assigned by the United States' Government for not consenting to such an arrangement. It is obvious, moreover, that by starting from the western end of the Disputed Boundary Line, much time may by possibility be saved. For, if it should happen that from the point where the two lines of boundary, claimed by the two Governments respectively, begin to diverge, there should be found, by local examination, only one range of highlands, corresponding with the words of the Treaty, it is manifest that whether that range should be found to trend away in the direction of the line claimed by Great Britain, or should be ascertained to take a course in conformity with the American claim, the Commissioners in either case would, in the outset, find a clue which might guide them in their further researches. Her Majesty's Government, therefore, disagree to this IIIrd Article as proposed by the United States' Government, and again press the IIIrd Article as it stands in the British Draft of July, 1840.

The VIIth Article of the American Counter-Draft proposes that the Commission, which was originally intended as a Commission to explore the country, should become a Commission to examine archives; but those different kinds of duties would in their nature be incompatible with each other. The Commissioners will find that an accurate examination of the country will occupy all their time, and will be a work of intense labour; and to impose upon them besides the duty of searching the public records at Washington and in London, would only impede them in the performance of their proper duties.

That which the Commissioners are to be appointed to examine is the face of the country, and by comparing the features of the country with the description contained in the Treaty of 1783, they are to mark out the Boundary on the ground. If either Government should think that any documents which may be in its possession can throw light upon any questions to be solved by the Commissioners, it can, of its own accord, lay such documents before the Commission. But Her Majesty's Government cannot possibly agree that such documents, whether they be maps, surveys, or anything else, shall be deemed by the Commissioners to be other than *ex parte* statements, furnished in order to assist the Commission in its own investigations, unless such maps, surveys, or other documents, shall be acknowledged and signed by two Commissioners on each side, as being authentic evidence of the facts upon which they may bear; and Her Majesty's Government must insist upon the stipulation to this effect, which is contained in the British Draft of July, 1840. But the wording of this VIIth Article of the American Counter-Draft is in this respect objectionable, for, under the guise of an engagement that each party shall furnish the other with documents for mutual information, it tends to enable the United States' Government to put upon the records of the Commission, as authentic, any maps, surveys, or documents, which it may think advantageous to the American case, however incorrect such maps, surveys, or other documents, may be.

But of all the propositions made by the American Counter-Draft, none can be more inadmissible than that contained in Article X. For that Article again proposes that Mitchell's Map shall be acknowledged as evidence bearing upon the question to be decided; whereas everybody who has paid any attention to these matters, now knows that Mitchell's Map is full of the grossest inaccuracies as to the longitude and latitude of places; and that it can be admitted as evidence of nothing but of the deep ignorance of the person who framed it. Her Majesty's Government can never agree to this proposal, nor to any modification of it.

To the XVIth and XVIIth Articles of the American Counter-Draft, Her Majesty's Government must decidedly object. The XVIth Article reproduces in another form the association of Maine Commissioners with the Commission of Survey; and to this, in any shape whatever, Her Majesty's Government, for the reasons already assigned, must positively decline to consent.

The XVIIth Article of the American Counter-Draft tends to introduce the State of Maine as a party to the negotiation between the Government of Great Britain and the Government of the United States. But to this, Her Majesty's Government cannot agree. The British Government when negotiating with the United States, negotiates with the Federal Government, and with that Government alone; and the British Government could not enter into negotiation with any of the separate States of which the Union is composed, unless the Union were to be dissolved, and those States were to become distinct and independent communities making peace or war for themselves.

With the Federal Government Her Majesty's Government would be ready and willing to negotiate for a Conventional Line; indeed, the British Government has more than once proposed to the Federal Government to do so; and whenever the Federal Government shall say that it is able and prepared to enter into such a negotiation, Her Majesty's Government will state the arrangement which it may have to propose upon that principle.

Such being the view which Her Majesty's Government take of the Counter-Draft proposed in August of last year by Mr. Forsyth, it only remains for me to instruct you to bring under the consideration of Mr. Webster the Draft which you presented to Mr. Forsyth in July, 1840; and to say, that Her Majesty's Government would wish to consider Mr. Forsyth's Counter-Draft as *non avenu*, rather than to give it a formal and reasoned rejection; and that Her Majesty's Government would prefer replacing the negotiation on the ground on which it stood in July of last year, entertaining as they do an ardent hope that the present Government of the United States may, upon a full and fair consideration of the British Draft, find it to be one calculated to lead to a just determination of the questions at issue between the two Governments. If Mr. Webster should agree to this course, and should approve of the Treaty as it stands in the British Draft of July, you are instructed to propose to him the

King of Prussia, the King of Sardinia, and the King of Saxony, as the three Sovereigns who should name the three members of the Commission of Arbitration.

It seems desirable to choose Sovereigns who are not likely, from their maritime or commercial interests, to have feelings of jealousy towards either Great Britain or the United States. It is desirable to choose Sovereigns in whose dominions men of science and of intelligence are likely to be found, and it seems to Her Majesty's Government that in both these respects the three Sovereigns above mentioned would be a proper selection. But if Mr. Webster should decline acceding to this course, and should think it necessary that he should receive an official answer to Mr. Forsyth's Counter-Draft, you will then present to him a note drawn up in accordance with the substance of this despatch.

I am, &c.,
(Signed) PALMERSTON.

No. 27.

Mr. Fox to Viscount Palmerston.—(Received August 29.)

(Extract.) *Washington, August* 8, 1841.

IN my despatch of the 27th of June, I had the honour to inform your Lordship that I was once more in negotiation with the United States' Government upon the subject of an amended arrangement for the provisional custody and occupation of the Disputed Territory, by a limited force, on each side, of regular troops, to the exclusion of the irregular armed posse at present employed by the State of Maine.

I have now the honour to inclose the copy of a despatch which I have addressed to the Governor-General of British North America, detailing the progress of the negotiation up to this time, and submitting for his Excellency's consideration the last definite proposal received from the United States' Government, with my own observations upon that proposal.

I further inclose copies of several documents referred to in my despatch to the Governor-General: First, an official letter which I addressed to the late Secretary of State, Mr. Forsyth, on the 17th August of the last year, 1840, containing an informal memerandum of the terms upon which I proposed that an amended arrangement should be concluded: Secondly, an informal memorandum delivered to me by the present Secretary of State, Mr. Webster, on the 9th of June of this pear, being the draft of an official letter which by direction of the President, he proposed to address to me, and upon which he invited me to offer to him my own observations in reply: Thirdly, a memorandum which I accordingly delivered to Mr. Webster, on the 11th of June, containing my observations upon the draft of his letter, and setting forth the views which I believed would be entertained by Her Majesty's Government, and by the Governor-General, upon the matter in negotiation. I have to observe that these last papers are of an informal character, and of course are not to be considered as complete official notes, but only as the materials out of which the official notes, to be hereafter interchanged between Mr. Webster and myself, shall be framed, if the terms of the arrangement can be agreed upon.

As soon as I receive the Governor-General's reply, I shall lose no time in endeavouring to bring the negotiation to a conclusion.

Inclosure 1 in No. 27.

Lord Sydenham to Mr. Fox.

Sir, *Government House, Kingston, July* 13, 1841.

WITH reference to my despatches of the 20th March, 25th June, and 6th October, I would request to be informed whether you have latterly received any communication from the Federal Government respecting the

proposed convention for regulating the jurisdiction over the Disputed Territory, pending the settlement of the Boundary Question.

As Sir W. Colebrooke reports to me that the people of Maine show every disposition to continue their encroachments on the territory, and as it is impossible for them to do so without an almost certainty of collision between them and the Authorities of New Brunswick, it would be exceedingly desirable, were it possible, to complete such a convention. It is also not improbable that the present Government might be better disposed than Mr. Van Buren's to agree to this measure.

I have, &c.,
(Signed) SYDENHAM.

Inclosure 2 in No. 27.

Mr. Fox to Lord Sydenham.

(Extract) *Washington, July* 27, 1841.

I HAVE the honour to acknowledge the receipt of your Lordship's letter of the 13th instant, referring to the negotiation for regulating the temporary jurisdiction over the Disputed Territory. I have been for some time past in communication with the present Secretary of State, Mr. Webster, upon this subject; and I have now at length received from him a definite proposal which I have to submit to your Lordship's consideration.

But, in the first place, I herewith inclose the copy of a letter (not, I believe, hitherto forwarded to you,) which I addressed to the late Secretary of State, Mr. Forsyth, on the 17th of August of last year, transmitting to him an informal memorandum of the terms upon which I proposed that an amended arrangement should be concluded. The letter and memorandum were framed in conformity with my instructions from the Foreign Office, and with the opinions and wishes expressed in your Lordship's despatches to me upon the same subject, of March and June, 1840. Mr. Forsyth did not return any written answer to my communication, but informed me verbally, that the President did not desire to enter upon any such negotiation at that moment; and so the matter dropped with the last administration.

When I first resumed the subject of the same negotiation with the present Administration, I found Mr. Webster not very desirous of moving in the business, at least not before the main convention for joint survey and arbitration should be concluded between the two Governments. But since he has communicated by correspondence with Maine, and personally with the Maine delegation in Congress, he is become more disposed to enter upon the subject; and he appears to hold more reasonable views on this question than I have been accustomed to meet with from Americans. It seems, besides, that the Government and leading people of Maine are now themselves desirous of withdrawing the armed civil posse from the Disputed Territory, and of replacing it by a force of regular United States' troops, if the change can be effected without the semblance of an abandonment of pretensions on the part of the State.

Mr. Webster delivered to me, on the 9th of June, the inclosed memorandum bearing that date, being the draft of an official letter, which, by direction of the President, he proposed to address to me, and requested to have my observations upon the contents of it. I presented to him in reply the memorandum, also herewith inclosed, dated the 11th of June, in which I fully set forth our views and pretensions. Both these, I have to observe, are informal papers, and are to be considered, not as complete official notes, but only as the materials out of which an interchange of official notes shall hereafter be framed, if the terms can be agreed upon.

Mr. Webster made no further reply to me upon the subject until a few days ago, when he informed me verbally, that he had no objections to offer to the terms of my memorandum, excepting only to my declaration, that if the United States placed a force in Fort Fairfield, at the mouth of the Fish River, Her Majesty's Authorities might probably send a force into that part of the Madawaska settlements which lies to the south of the River St. John's. Upon

this particular point Mr. Webster very explicitly said, that it would be impossible for the United States to consent to the stationing of a British military force south of the St. John's; and that no terms could be agreed to if we insisted upon that point. He said that a small United States' force will be placed in Fort Fairfield, in lieu of the armed posse, and that we may then, on our part, place any force we please opposite to Fort Fairfield, on the north bank of the St. John's, and anywhere else along the north bank, facing those parts of the Madawaska settlements that lie to the south of the St. John's; and this, Mr. Webster professes to think, will enable us to give the desired moral protection to our Madawaska subjects on both sides of the St. John's, without risk of collision between the troops of the two countries, which risk of collision would, he thinks, be incurred, if a British military force should appear on the south bank of the river.

From all that has passed between Mr. Webster and myself, I do not think we shall be able to obtain better terms than the above, and I am anxious to learn, as soon as possible, your Lordship's opinion and wishes upon the subject. Many advantages will follow from the withdrawal of the lawless and insubordinate civil posse of Maine, and from the full latitude we shall enjoy of making whatever arrangements we please on the north of the St. John's, which is to us, geographically, the most important part of the territory. On the other hand, I am apprehensive that, under the proposed arrangement, attempts will still be made by the State officers of Maine to interfere with the jurisdiction over our Madawaska settlers, south of the St. John's; and I can scarcely see by what means, short of military force, this can be prevented. Mr. Webster declares that the United States' troops shall have orders not to support the civil officers of Maine in any attempt at jurisdiction within our Madawaska settlements; but this, I fear, will not restrain the people of Maine; and we can hardly expect that the United States' troops should actively interfere to suppress the attempts of the civil officers of Maine to exercise their pretended jurisdiction. Upon the whole, this point of the exercise of jurisdiction in the southern portion of the Madawaska settlements is the most embarrassing part of the question; and upon this I particularly solicit your Lordship's opinion for my guidance. I have fully explained to Mr. Webster that I can make no final arrangement without your sanction and approval.

I have desired Mr. Moore to forward these despatches from New York to Kingston by a special messenger, who will wait your Lordship's orders.

Mr. Webster seems very anxious that I should be able te give him a definite reply before the departure from Washington of the Maine delegation at the close of the present extra session of Congress.

I have, &c.,
(Signed) H. S. FOX.

Inclosure 3 in No. 27.

Mr. Fox to Mr. Forsyth.

Sir, *Washington, August* 17, 1840.

WITH reference to the negotiation pending between Her Majesty's Government and the Government of the United States, for the establishment of Commissions of Survey and of Arbitration, with a view to the final settlement of the boundary dispute; and, in consideration of the period which may, probably, elapse between the establishment of those Commissions and the final result of their labours, I am directed to invite the serious attention of the Government of the United States to the expediency of providing beforehand, by some temporary but distinct arrangement, against the danger of local collisions within the Disputed Territory, which might occur during the period referred to.

Her Majesty's Government are of opinion, that such a measure is urgently called for, with a view to prevent the friendly relations between the two

countries from being interrupted by the indiscreet acts of local authorities, or the attempts of unauthorized and irresponsible parties.

Having already had the honour to communicate to you, at a personal conference, the views of Her Majesty's Government, and of the superior British Colonial Authorities, in relatian to the present subject, I herewith inclose an informal written memorandum of the substance of what I then suggested, requesting that I may be favoured with a knowledge of the opinion and wishes of the President thereupon. If the basis of the proposed agreement shall be approved of, I shall be prepared to submit to your consideration some further points of detail, more especially with regard to the appointment of Commissioners, as referred to in the 3rd clause of the inclosed paper, and to the nature and extent of the duties to be assigned to them.

I avail myself, &c.,
(Signed) H. S. FOX.

MEMORANDUM.

THE fairest terms upon which the proposed arrangement can be concluded, appear to be, that each party shall be placed as nearly as possible in the situation in which they stood, when the agreement between Sir John Harvey and Governor Fairfield, in the spring of 1839, was entered into, care being, however, taken to supply the deficiency which has been found to exist in that agreement, with respect to the then existing limits of possession and jurisdiction, and also to obtain the guarantee of the General Government for the due execution of the conditions. The limits and terms of possession and jurisdiction were understood by the British Authorities to be, "that the civil posse of Maine should retain possession of the valley of the Aroostook, the British denying their right; the British Authorities retaining possession of the valley of the Upper St. John, Maine denying their right." The correctness of this interpretation seems to have been confirmed by General Scott, through whose mediation the arrangement was concluded. The conditions, therefore, to be confirmed in a new agreement will be:—

1st. That whilst the State of Maine retains possession and jurisdiction over the Disputed Territory up to the valley of the Aroostook, that valley included, the British Authorities shall, on their part, retain possession and jurisdiction over the valley of the St. John; and, of course, that the State of Maine shall withdraw from the post taken up in contravention of this arrangement, at Fort Jarvis, on the Fish River.

2ndly. That all movements beyond these limits of armed force on either side, whether of regulars, militia, or armed posse, shall cease, as well as the erection of strong buildings, and the cutting of roads.

3rdly. That Commissioners shall be named by the two Governments to see that the stipulated conditions are duly carried into effect.

Inclosure 4 in No. 27.

Mr. Webster to Mr. Fox.

MEMORANDUM.

ON mentioning to the President the substance of our last conversation, he expressed his satisfaction in learning that you were in daily expectation of receiving communications from your Government respecting the Convention now in progress for a joint commission to settle the Boundary Question. He is anxious that the completion of this Convention, of which he finds not only the basis, but the main particulars already agreed to by the parties, should be hastened as much as possible. It would be very desirable that it should be concluded and submitted to the Senate at its present Session; so that, if ratified, Congress might immediately pass the necessary law for carrying it into effect.

However amicable may be the disposition of the two Governments, a

question of this kind, while it remains unsettled, keeps alive continual causes of excitement and irritation, creates frequent occasions on the one side or the other, and may give room for interests to spring up, such as may not a little embarrass both Governments hereafter. For these reasons, the President is most earnest in his desire, that, since a Convention for a joint commission is the measure already assented to, the parties may proceed to its completion with all practicable despatch.

This is deemed a fit occasion to recur to the subject of the occupation of the Disputed Territory, during the time which may elapse before the final decision on the title. Complaints have been made on both sides, of infringements of the arrangement entered into in the spring of 1839, between the Governor of Maine and the Lieutenant-Governor of New Brunswick, although happily no actual collision has hitherto occurred. The State of Maine has, to this time, kept up her civil posse, to protect the territory against lawless depredation. But the necessity of maintaining this posse involves the State in considerable expense; and since the principal question is now in a train for settlement, under the authority of this Government and that of Great Britain, the President thinks, that to those Governments, respectively, the entire care of protecting the territory should be confided, who would, of course, cause that duty to be performed by persons acting under their own immediate orders, and directly responsible to them. The President, therefore, proposes to relieve the civil posse of Maine, by placing small detachments of United States' troops in the two positions which portions of that posse now occupy.

The President understands, that occupation of any part of the Disputed Territory, under arrangements heretofore made, or now made, or to be made is not to be regarded, by either party, as giving any new strength to the title or claim of either, or as taking a military possession; but that such occupation is to be understood to have for its objects, as was stated by you in our last conversation, the peace of the borders, and the preservation of the property, for the benefit of whichever of the parties may be found ultimately entitled to it. It is not intended that any detachment of troops, on the part of the United States, shall be placed farther north than the spot now occupied by one part of the posse of Maine, at Fish River; it being understood that the detachments of British troops will be continued in their present position, on the left or north bank of the St. John's River. The distance of these positions from each other, and still more the discipline of the troops, will, it is trusted, prevent danger of collisions; while the positions themselves are so selected that trespasses on any part of the Disputed Territory may be prevented.

A respectful attention has been paid to a suggestion heretofore made by you, that the Authorities of the United States should occupy the valley of the Aroostook, and those of the British Government that of the St. John's. But this would be in some considerable degree indefinite, as it might not be easy to ascertain, without trouble and expense, the highlands which separate those valleys. But if the understanding be, that the British Authorities shall hold the possession of that part of the Disputed Territory which lies north of the St. John's, the United States, in the meanwhile, denying the British right to it; and the Authorities of the United States shall hold possession of the part south of the St. John's; the British Government, in like manner, denying the American right to it,— an arrangement will be accomplished which promises quiet on the border, and the security of the territory against trespasses.

I have great pleasure in communicating to you, thus frankly, the motives which have led the President to relieve the civil posse of Maine, by the substitution of a small detachment of United States' troops, to take its place in the two positions which it now occupies.

June 9, 1841.

Inclosure 5 in No: 27.

Mr. Fox to Mr. Webster.

MEMORANDUM.

I HAVE no doubt that I shall receive before long the answer of Her Majesty's Government to the last project of Convention, &c., offered by the Government of the United States. I am certain that Her Majesty's Government will use no unnecessary delay; but it is nevertheless very possible that the present short session of Congress may close before the Convention can be concluded; in any case, the Commission to be appointed under the proposed Convention could not now go into operation until the spring or summer of next year, 1842. It is to be hoped no evil will result from this delay; but, if any should, it must be attributed to the unexpected rejection, by the American Government, of the last previous Draft of Convention offered by Her Majesty's Government; which Draft was framed in exact accordance with the terms that were understood to have been already agreed to by the United States.

With respect, in the mean time, to the provisional custody of the different parts of the Disputed Territory, (which forms the other portion of your letter,) Her Majesty's Government at home, and the Colonial Authorities of North America, have long been desirous to amend and place upon a more definite and satisfactory footing the temporary arrangement now subsisting. Her Majesty's Government would not, I believe, be averse from concluding an arrangement, by which the several parts of the territory should be placed provisionally in the custody of British and United States' regular troops, respectively, within specified limits, and to the exclusion altogether of the armed civil posse of Maine now employed. I had several communications with Mr. Forsyth upon this subject, and delivered to him an informal memorandum, dated August 17, 1840, of the terms upon which I should consider myself authorized to assent to the arrangement. But the plan proposed in your letter, although satisfactory in some points, greatly exceeds those terms. I do not believe that Her Majesty's Authorities would consent to the stationing of an United States' force at the post called Fort Jarvis at the mouth of Fish River, Her Majesty's Government considering that that post was established by Maine in direct contravention to all the existing agreements, and in derogation to the authority and jurisdiction which have always been held by Great Britain. Her Majesty's Government expect that the station at the mouth of Fish River shall be relinquished altogether, under any new arrangement that may be agreed upon: and I am under the impression, that if, without the assent of the British Government, an American force should be placed there, Her Majesty's Authorities will find themselves obliged to strengthen considerably the British military force within that part of the Madawaska settlements which lies to the south of the St. John's, for the protection of Her Majesty's subjects there residing; and these movements would occasion much risk of dangerous collision between the forces employed by the two parties.

With respect to the proposal of making the channel of the St. John's the temporary line of demarcation, it no doubt presents, geographically, many advantages; but, politically, it is open to objection, if strictly adopted. The Madawaska settlements, peopled wholly by British subjects, cover both banks of the St. John's for some distance along its course; and I apprehend that no temporary arrangement would be consented to by Great Britain, which excluded any part of those settlements from British jurisdiction and authority; such jurisdiction and authority having never ceased to be exercised there, The presence in any part of those settlements of an American force would occasion conflicts of jurisdiction; and such conflicts, if supported or engaged in by the regular troops of the two parties, would lead to very serious consequences.

I offer you the above informal remarks upon the subjects treated of in your proposed letter to me. I should not feel authorized to reply to your

proposal definitively and officially, until I have received the opinion of the Governor-General Lord Sydenham, with whom I shall immediately communicate upon the subject.

June 11, 1841.

No. 28.

Mr. Fox to Viscount Palmerston.—(Received August 29.)

My Lord, *Washington, August* 8, 1841.

I HAVE the honour herewith to inclose copies of a series of communications, with their respective inclosures, which I have recently received from his Excellency the Governor-General of British North America, and from the Lieutenant-Governor of New Brunswick, upon various incidental matters connected with the present state of the Disputed Territory. The first part of these communications was referred to in my despatch to your Lordship of the 27th of June; they are now continued up to the 27th of July, which is the date of the last letter that I have received from the Lieutenant-Governor of New Brunswick

I have, &c.,
(Signed) H. S. FOX.

Inclosure 1 in No. 28.

Sir William Colebrooke to Mr. Fox.

Government House, Fredericton,
Sir, *New Brunswick, May* 10, 1841.

I HAVE the honour to inclose, for your Excellency's information, copies of two letters which I have had occasion to address to Lord Sydenham, relating to the prosecution before the magistrates at Madawaska, of a man named Baker and another, who have been convicted of having enticed some soldiers of the 56th Regiment to desert, and also concerning our relations with the Americans of the State of Maine in respect to the Disputed Territory.

I have, &c.,
(Signed) W. M. COLEBROOKE.

Inclosure 2 in No. 28.

Sir W. Colebrooke to Lord Sydenham.

Government House, New Brunswick,
My Lord, *Fredericton, May* 1, 1841.

I HAVE the honour to inform your Lordship that I have this day received a report from Mr. Mc Lauchlan, the Warden of the Disputed Territory, that he had arrested a person named Baker, and three others, with a charge of having enticed several soldiers to desert from the detachment of the 56th Regiment stationed at the Madawaska; that he had brought them before himself and another magistrate, and had fined Baker, on conviction, 20*l.*, who paid the money, and was discharged, though declining, as an American citizen, to acknowledge the jurisdiction.

I have called on Mr. Mc Lauchlan to make me a special report of these

proceeds, and to repair to Fredericton to afford explanations in a case which gives occasion to reference from the Authorities in Maine, the residence of Baker being near the Fish Rivers.

I have, &c.,
(Signed) W. M. COLEBROOKE.

Inclosure 3 in No. 28.

Sir W. Colebrooke to Lord Sydenham.

Government House,
Fredericton, New Brunswick.

My Lord,

REFERRING to my letter of the 1st instant, I have the honour to inclose to your Lordship, copies of two letters addressed to me by the Warden of the Disputed Territory.

Being in expectation of his arrival with a further report of his proceedings in the case of Baker, I did not enter into the circumstances of the case, in reference to which, so far as I am informed, the conduct of the Warden has been judicious.

It appears that Baker, an American of the United States, is the same person who was brought to trial in the Supreme Court of this province, in the year 1828, and found guilty of sedition in an attempt to subvert the British Authority in the Disputed Territory.

He has continued to reside in the same situation, about seven miles from the block-house erected on Fish River by the Americans, during the last year, and where, I am informed, a small number of persons from the State of Maine are still maintained.

Baker and three other persons residing with him, were arrested by a warrant from Mr. Mc Lauchlan, on the 21st ultimo, and tried on the 25th before himself and another magistrate, on a charge of assisting seven soldiers of the 56th Regiment to desert. He pleaded not guilty, and declined to make any defence, on the ground that, as an American citizen and on American territory he did not acknowledge the jurisdiction of the Court.

Baker and his servant were convicted and discharged on payment of the fine imposed. As the deserters took their route through the American post, it is probable they were assisted by the American posse; and if evidence to this effect had been obtained, it would have been equally the duty of the Warden to have apprehended those persons in the exercise of the undoubted jurisdiction with which he is invested.

It is to this circumstance that I would wish to draw your Lordship's attention.

After the correspondence which took place between His late Majesty's Government and the Government of the United States, in respect to the case of Baker, it is not probable that his complaint of the issue of the present proceedings against him will be attended to by the General Government at Washington, although it may be noticed by the authorities in the State of Maine, from whom he is understood to hold a commission; but if any of the armed posse should be apprehended for an infraction of the laws, it might give rise to renewed excitement, especially if the Warden should have occasion to require the assistance of the troops in support of his authority.

Not anticipating any immediate occurrence of this nature, and expecting shortly to see Mr. Mc Lauchlan, I do not think it necessary to give him any instructions in addition to those of Sir John Harvey, of the 25th of February. It is, however, impossible to answer for the conduct of the people of Maine, who are ready to avail themselves of any opening to advance their pretensions, and to embarrass the British Government during the pending negotiations, which I cannot but hope will be brought to a satisfactory issue in the course of the present summer.

I have, &c.,
(Signed) W. M. G. COLEBROOKE.

Inclosure 4 in No. 28.

Sir W. Colebrooke to Mr. Fox.

Government House, Fredericton,
New Brunswick, May 15, 1841.

Sir,

IN reference to my letter of the 10th instant, I have the honour to transmit to you the copy of a further communication which I have addressed to Lord Sydenham upon the subject of our relations upon the frontier, and the claims of Her Majesty's subjects in the Madawaska settlement.

I have, &c.,
(Signed) W. M. G. COLEBROOKE.

Inclosure 5 in No. 28.

Sir W. Colebrooke to Lord Sydenham,

My Lord, *Fredericton, New Brunswick, May* 11, 1841.

MR. McLAUCHLAN, the Warden of the Disputed Territory, arrived in town yesterday from Madawaska, and has communicated to me the proceedings in the case of Baker and others, referred to in my letter to your Lordship of the 8th instant. From the minutes of the Warden, taken before himself and another magistrate, it appears that Captain Ryan, who is in charge of the American armed posse stationed at the mouth of the Fish River, was present at the house of Baker when the deserters were in it.

The apprehension which I expressed, that the Americans might be implicated in acts which would subject them to the penalties of the law, has been strengthened by the circumstance.

From the report of the Warden, of the 9th of November, on the subject of the town meeting held by the Americans in the settlement, it appears Captain Ryan publicly declared himself to be invested with authority as a magistrate; and Mr. Mc Lauchlan considers that, if required to act in support of his own authority when any of the party might commit acts of aggression, he would be resisted in a manner to render it necessary to require the support of the troops: a proceeding which would doubtless revive the hostility of the people of Maine, and lead to collision with them.

Mr. Mc Lauchlan informs me he has reason to believe that it is intended by them, during this present summer, to run a road to the banks of the St. John, between the Great and Little Falls, and that elections will be held in the settlement, as in the last year. He delays, however, to report officially on the subject, until he has acquired more precise information; but threats have been held out to him that, in the event of his interference with such a proceeding, he would be arrested and sent to Augusta.

It is certain that the land-agent is selling lands in the Restook; that the settlement of the country is in progress by the Americans, and will be accomplished with a rapidity which would render it extremely difficult, if not impracticable, to disturb them.

Although Mr. Mc Lauchlan has of late effectually checked the cutting of timber in the Disputed Territory by the people of the province, he was lately informed by the land-agent, that he was about to grant licenses to the Americans to cut what he called "burnt timber," to which the Warden objected, alleging that it would lead to the burning of the woods and the cutting of the timber, on the plea that it was burnt; and considering that the alleged grounds for the employment of an armed posse in the Disputed Territory, was to prevent the destruction of the timber by Her Majesty's subjects, this proceeding must be regarded as indicating that other views are contemplated in the occupation.

Under all these circumstances, it is important at this time to consider of the measures to be taken for the maintenance of pacific relations between the two countries, pending the negotiations which are in progress.

In the consideration of the subject, I have referred to your Lordship's letters to Sir John Harvey.

In that of the 23rd of November last, you have stated that your instructions from Her Majesty's Government are not to permit Maine to occupy or possess land to the north of the St. John's, and to maintain in perfect security the communication by the Madawaska, between Fredericton and Quebec, and that whatever is indispensable for the purpose must be done; and in your Lordship's letter of the 4th of July, you distinctly declared, that Her Majesty's subjects on both sides of the St. John's River were entitled to the protection of the troops stationed at the Madawaska.

On the 20th of February, the Warden applied to Sir John Harvey for instructions for his guidance, not having received any instructions subsequent to the arrival of Her Majesty's troops in the settlement; to which Sir John Harvey replied, on the 20th of February, as follows: "That it was not the intention of Her Majesty's Government to relinquish, during the pending negotiations, any part of the jurisdiction over the Madawaska settlements; secondly, that the settlement was considered as extending up the River St. John as far as any inhabitants have been located and established, and would continue to be so considered; and thirdly, that in the event of an American armed posse entering the Madawaska settlement, either above or below the Fish River, it would be the duty of the Warden to put himself in communication with the officer in command of the Queen's troops, who had received instructions for his guidance."

The Warden was directed to apply for special instructions on any occasion which might call for interference out of the line of his ordinary duties as Warden and a magistrate. As the jurisdiction of the Warden had been exercised for so long a time over the whole Disputed Territory, and as it is still exerted in preventing Her Majesty's subjects from cutting timber in it, and as this prevention was the plea on which the American armed posse was first introduced, to limit now the jurisdiction of the Warden to the banks of the Fish River, would risk a renewal of collision of the posse with our lumberers, who, on any relaxed vigilance of the Warden, would probably renew their operations. The temptation is strong, from the fact that the most valuable timber is drawn from the Disputed Territory.

If the Americans should cut the timber, the people of the province would complain of being excluded, but as the whole would necessarily be transported by the St. John's River, where it would be liable to seizure, there is no immediate occasion for interference.

From the position of the armed posse at the confluence of the Fish River and the St. John's, the duties of the Warden in protecting the inhabitants of the Madawaska settlement will require much circumspection. In the erection of their block-house, called Fort Jarvis, they cleared land adjoining the improvement of one of the Madawaska settlers, which he claimed; and if, in opening the projected road, they should further proceed to encroach on the lands of the settlers, much embarrassment would ensue, as I find that, in contemplation of the adjustment of the Boundary, when the question was referred to the King of Holland, the British Government had discontinued granting lands to the settlers, who have, however, continued to colonize on both banks of the St. John's as far as the St. Francis, or sixteen miles higher than the American block-house, the settlement having become populous. Grants of land on both banks appear to have been made to the first settlers in 1786 and subsequently; although the difficulty, under actual circumstances, of defining the boundaries of ungranted lands on the south side of the Fish River may be an obstacle to conferring titles for their occupancies to those who have taken up lands without grants, I anticipate that, without such confirmation, the further encroachment of the Americans may be looked for, and their proceedings in settling the lands on the Restook will fully justify the British Government in securing the interests of their subjects who have so long been settled at the Madawaska, and whose conduct has entitled them to protection. It may be further observed, that by an act passed by the Legislature of this province in 1833, the Madawaska is distinctly recognized as a town or parish of the county of Carleton, and is declared to embrace all that part of the "county which lies to the northward of the towns or parishes (of Perth and Andover) on both

sides of the River St. John, and to be called known, and distinguished by the name of 'Madawaska.'"

The advance, therefore, of the American armed posse to the St. John's, at the mouth of the Fish River, and which immediately followed the removal of the 11th Regiment, has been extremely embarrassing, and it may be apprehended, will lead to their continued assertion of a right of jurisdiction along the right bank, which the British Government, in justice to its subjects, will be bound to resist.

In the Warden's report of the proceedings at the town meeting, in November last, he noticed the peaceable conduct of the Acadian settlers, who took no part whatever with the Americans; and although their appeal for protection against those proceedings had been delayed to obtain signatures, it manifests the feeling to which the conduct of the Americans has given rise.

It will therefore become a question how far the maintenance of pacific relations on the frontier will be practicable, unless the General Government of the United States may be prepared to co-operate, as before, with Her Majesty's Government in arresting the encroachments of the State of Maine, which are calculated to produce collision; and if this should be impracticable, to employ a body of regular troops to control the irregular force which is not wholly withdrawn, and may at any time be augmented.

The regular troops, if stationed at the Restook, and Her Majesty's troops at the Madawaska, would afford a guarantee for the strict observance of existing engagements between the two Governments pending the negotiations, which does not at present exist, and which could, under no circumstances, be left to depend on the irregular forces of the State of Maine, even if their disposition to encroachment had not been fully manifested.

As soon as the country is open, and the roads are practicable, I propose to proceed to Madawaska, and to inspect the frontier line, when I will again address your Lordship on these important subjects.

I have, &c.,
W. M. G. COLEBROOKE.

Inclosure 6 in No. 28.

Sir W. Colebrooke to Mr. Fox.

Government House,
Fredericton, June 2, 1841.

Sir,

WITH reference to my letter to your Excellency of the 18th ultimo, I do myself the honour of inclosing to you the copy of a further communication which I have this day addressed to Lord Sydenham on the subject of our relations with the Americans on the frontier.

I have, &c.,
(Signed) W. M. G. COLEBROOKE.

Inclosure 7 in No. 28.

Sir W. Colebrooke to Lord Sydenham.

My Lord, *Fredericton, New Brunswick, June* 2, 1841.

I HAVE had the honour to receive your Lordship's letter of the 21st ultimo, marked "Confidential," and, in pursuance of your request, I have given instructions to the Warden of the Disputed Territory, enjoining on him and the other magistrates of the division, the observance of the strictest caution in the exercise of their jurisdiction where the American posse may be concerned.

I inclose a copy of these instructions, referring to those of Sir John Harvey; but I must candidly avow to your Lordship, that in a review of the proceedings since 1838, I can feel no assurance that a collision with them can be

avoided; and unless the Boundary Question should be soon settled, I apprehend that the people of Maine will again attribute the delay, as they have done on former occasions of excitement, to the British Government, and which is calculated to lead to excesses in a population so little amenable to authority.

I am bound also to observe to your Lordship, that a strong feeling exists not only amongst the Acadian settlers at Madawaska, but generally throughout the province, as to the inefficacy of the concessions made to the Americans, and the undue advantage they have taken of the conciliatory disposition manifested towards them; and I am strongly of opinion, that if the negotiations are likely to be protracted, the employment of the regular troops of both States would be a measure of wise precaution, and probably the only one that would effectually guard against a collision.

I have, &c.,
(Signed) W. M. G. COLEBROOKE.

P.S.—I inclose to your Lordship the extract of a letter from M. Langevin, the Catholic priest at Madawaska, to Sir John Harvey, which may be considered to convey the sentiments of the people with whom he is connected.

(Signed) W. M. G. C.

Extract of a Letter from M. Langevin to Sir John Harvey.

Madawaska, 15 *Juin*, 1841.

QUANT aux affaires politiques, nous vivons tantôt dans l'espérance et tantôt dans la crainte de ce qui va se passer par rapport à la ligne; mais advienne ce que pourra, nous aimons mieux la guerre que de céder un pouce de terrain de Madawaska aux Américains.

Inclosure 8 in No. 28.

Lord Sydenham to Mr. Fox.

Sir, *Government House, Kingston, June* 8, 1841.

I HAVE the honour to transmit to you herewith, the copy of a despatch addressed to me by the Lieutenant-Governor of New Brunswick, on the 11th ultimo, together with a copy of my despatch to him of the 21st May, and an extract of my answer to his present despatch.

I trust that the further information which it was expected to obtain, and in anticipation of which I have hitherto delayed to address you, may show that some mistake exists as to the intentions of the people of Maine. Judging, however, from their former proceedings, it is but too probable that they are truly represented, and I therefore deem it expedient to possess you of these despatches, in order that you may, if possible, avail yourself of an opportunity to draw the attention, unofficially, of the United States' Government to the rumours which prevail of the intentions of Maine. They may perhaps, thus forewarned, be able to arrest such proceedings, should they be really meditated, and avert the necessity of any formal application, which would become indispensable under these circumstances.

They will readily perceive that Great Britain cannot acquiesce in any further encroachments by the State of Maine, or any further interference with Her Majesty's subjects on the banks of the St. John's. If, indeed, the people of Maine are permitted to extend their settlements in the Disputed Territory, as they have hitherto done, the claims of Great Britain will be virtually decided without the intervention of either Government; and against this result we are bound to take effectual precautions.

I have, &c.,
(Signed) SYDENHAM.

Inclosure 9 in No. 28.

Sir W. Colebrooke to Lord Sydenham.

[See Inclosure 5 in No. 28, p. 146.]

Inclosure 10 in No. 28.

Lord Sydenham to Sir W. Colebrooke.

Sir, *Government House, Montreal, May* 21, 1841.

I HAVE the honour to acknowledge the receipt of your Excellency's despatch of the 8th instant.

My official despatch of the 17th instant will have communicated to you my approval of the course pursued by the Warden of the Disputed Territory, in the case of Baker, to which reference is again made by your Excellency in your present letter. The offence committed by that person could not with propriety be passed over. He had already been made amenable to the laws of the province; and even under the limits assigned under Sir John Harvey's Convention, and maintained by him, there can be no doubt that he and those residing near him, fall under the jurisdiction of Her Majesty. In the event, therefore, of attention being given to any complaint he may prefer to the American Government, which I agree with you, however, in thinking unlikely, our answer is easy and direct.

But the case which you put as one of possible occurrence, namely, that of the implication of any of the American posse at Fish River, in similar offences demanding the exercise of his authority over any one of that body by the Warden in like manner, is one of a different character, and of a very delicate nature.

I entertain the most decided opinion, that the Americans ought never to have been permitted by Sir John Harvey to form that establishment which was in direct and open violation of the Convention made by himself; but it has been suffered, and thus the curious anomaly is presented of an armed posse, in the pay and under the authority of a Foreign State, being stationed within a district over which Her Majesty claims and has exercised jurisdiction. Whilst, therefore, it is true that the authority of the Warden extends, even according to the interpretation above referred to, over the fort at Fish River, it would, in my opinion, be extremely imprudent and unwise to call it in question unless we are prepared to carry it to its full extent, which would really be the removal of the American posse altogether. A case might arise of so grave a character, in the shape of insult or injury to Her Majesty's subjects along the St. John's, as would necessitate interference with this force and justify the collision which must attend it, but every endeavour should be used to avoid it, and certainly the offence contemplated as likely to call for it, is one of the last which would be a sufficient motive for what might be attended with such serious consequences.

I would, therefore, request your Excellency to enjoin the strictest caution on the Warden, with regard to his conduct in this respect, and to direct him in the special case in question to abstain from any interference with the American civil posse. Whilst it is incumbent upon him to afford protection to the inhabitants of the settlements in the event of their being aggrieved, and to prevent the assumption and exercise of jurisdiction over them by any American authority, it is no less desirable, under the peculiar state of the question, carefully to avoid any step which may, without grave cause, renew agitation, or, above all, bring on a collision.

I take the opportunity of informing your Excellency that a portion of the

troops now at Madawaska will be withdrawn to the barrack at the Dégelée, in conformity with an arrangement desired by the Commander of the Forces, on military grounds.

I have, &c.,
(Signed) SYDENHAM.

Inclosure 11 in No. 28.

Lord Sydenham to Sir W. Colebrooke.

(Extract.) *Kingston, June* 8, 1841.

I HAVE the honour to acknowledge the receipt of your Excellency's despatches of the 11th, 15th, and 27th of May, on the subject of the Disputed Territory, and the proceedings adopted by the Warden for its protection. I had abstained from answering you before, in expectation of receiving the further intelligence, which the concluding sentence of your despatch of the 11th of May led me to expect.

From my despatch of the 21st ultimo, your Excellency will have learned my views in regard to the exercise by the Warden of any authority over that part of the Disputed Territory now in possession of the State of Maine. I still continue to think that every exertion should be made not inconsistent with the national honour and the safety of Her Majesty's subjects, to prevent a collision; but it is impossible to allow the people of Maine to carry out the scheme which you suppose to be in contemplation, without an entire sacrifice of British interests. I trust that the further information which Mr. Mc Lauchlan is seeking, will shew that some mistake exists as to their intentions, if not, I shall immediately, upon receiving your letter and further report, apply to Mr. Fox, with a request that he will at once appeal to the Federal Government to prevent acts on the part of Maine, which are contrary to the existing arrangements between the countries, and which, if persisted in, must inevitably lead to collision. I shall, without waiting for the report, inform that gentleman of the rumours which prevail, in order that he may take an opportunity of bringing them privately before the United States' Authorities, with a view to their prevention.

In the meantime, the instructions which were addressed by the Secretary of State and myself to Sir John Harvey will sufficiently point out to your Excellency the course to be pursued, to protect the inhabitants of the Madawaska settlement, and to keep open the communications between the Lower Provinces and Quebec.

In regard to the cutting timber, the Warden should continue, as heretofore, to prevent any of Her Majesty's subjects from infringing in this way on the existing agreement, and any timber cut by citizens of Maine, should, without fail, be seized on its passage down the St. John's. It would probably be expedient to make known the intention of the British Authorities in this respect, as a means of deterring the American population from any proceeding of the kind.

Inclosure 12 in No. 28.

Sir W. Colebrooke to Mr. Fox.

Sir, *Government House, Fredericton, June* 9, 1841.

I HAVE the honour to inclose to your Excellency, for your information, the copy of a despatch which I have this day addressed to Lord Sydenham, with a communication I have received from the Warden of the Disputed Territory.

I hope that early intimation may be given to me of any military movements which may be intended upon the frontier of this province.

I have, &c.,
(Signed) W. M. G. COLEBROOKE.

Inclosure 13 in No. 28.

Sir W. Colebrooke to Lord Sydenham.

My Lord, *Fredericton, New Brunswick, June* 9, 1841.

I HAVE received this day a despatch from the Warden of the Disputed Territory of which I inclose to your Lordship a copy, and of my reply to it.

Your Lordship will have been prepared, by my previous communications, for the interference of the Americans with the settlers at the Madawaska, and I regret that a magistrate of this province should have been so far misled as to have entered into the transactions alluded to in complying with the demand of the land agent for the payment of dues on the timber.

I have referred to the Attorney-General on the subject; but it must have been known to the American Agent, that the licence to cut timber in the Disputed Territory could not exempt it from seizure, if attempted to be introduced into this province.

I hope to receive instructions from your Lordship or Her Majesty's Minister at Washington, of any arrangement which may be made respecting the intended employment of troops on the frontier, and of the relief of the armed posse at the Fish River.

I have, &c.,
(Signed) W. M. G. COLEBROOKE.

P.S. I inclose copy of the Attorney-General's Report just received.

Inclosure 14 in No. 28.

Mr. Mc Lauchlan to Sir W. Colebrooke.

May it please your Excellency, *Grand Falls, June* 4, 1841.

PERMISSION having been given by his Excellency the Governor and Council in March last, upon the recommendation of the Surveyor-General, for allowing the settlers of Madawaska, as well as other persons, to haul and take to market any old white pine timber in their possession, by paying a duty of 4*s*. to 5*s*. a ton into the crown-land office; it now appears, by a letter I have received from Mr. Coombs, a magistrate of Madawaska, a copy of which I have the honour to transmit to your Excellency, showing, that he has purchased from the settlers residing on the St. John's, above the block-house occupied by the American armed posse at the entrance of the Fish River, a quantity of timber, about 500 tons, part of which I find old, and part new, and for which he is obliged to pay to the land agent of the State of Maine 5*s*. per ton, previous to his being allowed to remove the same.

I am informed by Mr. Coombs, the indulgence granted by our Government to the settlers of Madawaska was previously allowed by the land-agent of Maine to that portion of the settlement above the Fish River; and further, that permission had not only been given to remove the old timber, but to manufacture new, through the woods where timber had been iujured by fire.

Mr. Coombs has also stated to me, that in a conversation he had a few days ago with the officer in charge at the Fish River, that the civil armed posse was shortly to be removed, and the block-house occupied by a military force; and that no jurisdiction, on the part of the Civil Authorities of Madawaska, would be permitted by the State of Maine beyond the Fish River. I find Mr. Coombs is of opinion, that the instructions recently received by the assessors of county rates from Her Majesty's Attorney-General, for assessing all the property through the settlement, which must include that in possession of the American armed posse, will lead to a collision between the two Governments, as, no doubt, some of the peace-officers, in the execution of their duty, will be arrested and sent on to Houlton or Bangor.

I have, &c.,
(Signed) JAMES A. Mc LAUCHLAN.

Inclosure 15 in No. 28.

Mr. Coombs to Mr. Mc Lauchlan.

Sir, *Madawaska, May* 31, 1841.

I HEREWITH inclose you a receipt from Captain Rines, Deputy land-agent at Fish River, for 642½ tons of timber, at 5*s.* per ton duty, which was manufactured on lands occupied by, and purchased by me from, the settlers in the vicinity of Fish and St. Francis Rivers, the said timber being principally old timber, and the remainder made of trees partially burnt over whilst clearing land.

I, therefore, beg that you will lay this communication before Her Majesty's Government for consideration, and trust that I may be allowed to carry said timber to market free of any further duty.

I have, &c.,
(Signed) L. R. COOMBS.

Receipt of Captain Rines.

Fish River, May 29, 1841.

RECEIVED of L. R. Coombs 642 dollars and 50 cents in full, for the stumpage of 642½ tons of white pine timber, cut on the public lands in the vicinity of the St. Francis Rivers, by the settlers, viz.:—

	Tons.
Messrs. Johnson and Savage - -	420
Nathaniel Bartlett - - -	50
Dominick and Kendall - - -	111
Augustus Pickard - - -	40
J. H. Ryan - - - -	21½
Total -	642½

(Signed) STOVERT RINES,
Deputy Land-Agent of the State of Maine.

Inclosure 16 in No. 28.

Sir W. Colebrooke to Mr. Mc Lauchlan.

Fredericton, New Brunswick,
Sir, *June* 9, 1841.

I HAVE received your letter of the 4th instant, inclosing to me an application you had received from Mr. Coombs, a magistrate of Madawaska, dated the 30th ultimo, to be allowed to bring to market, free of duty, certain timber for which he had paid the American agent, but which he had purchased from the settlers residing on the St. John's, above the American block-house at the entrance of the Fish River, who had cut it, under permission given by the Lieutenant-Governor in Council in March last. You also inform me that certain instructions, recently received by the assessors of county rates from the Attorney-General, for assessing all property through the settlement, which, as you state, (must include that in possession of the American armed posse,) would lead to a collision between the two Governments.

I have referred to the Attorney-General for his explanation upon the foregoing subjects; but, as I conclude from the date of your letter, that you had not received my instructions of the 2nd instant, I need only refer you to them for your guidance; it being obviously important, that the assessors should not be allowed to interfere in any measure with the Americans at the block-house, by proceeding to assess their property at that place.

In respect to the application of Mr. Coombs, I cannot at all recognize the transaction between himself and the American land-agent. If the timber is the property of British settlers, it would be admissable only on the terms and conditions of the licence from this Government, and not in virtue of any authority to cut it by the American land-agent; and if obtained otherwise than by authority from hence, it is liable to seizure under the special commission granted to you.

You will not fail to report to me by an express messenger, any occurrence of importance at the Madawaska, giving me immediate intimation of the arrival of any troops at the block-house, and of the relief of the armed posse.

I have, &c.,
(Signed) W. M. G. COLEBROOKE.

Inclosure 17 in No. 28.

Mr. Peters to Sir W. Colebrooke.

May it please your Excellency, *Fredericton, June* 9, 1841.

I HAVE the honour to return the inclosed papers.

With respect to that part of Captain Lauchlan's letter which relates to the timber claimed by Mr. Coombs, and for which he (Mr. Coombs) states he has paid what he calls "stumpage" to the American deputy land-agent, (by which term I understand him to mean, licence to cut the same within the Disputed Territory), it does appear to me that under existing circumstances, the fact that the timber was cut under such licence, must of itself prevent the Government from allowing it to pass; as the doing so would be considered as a sanction to the American claim to the Disputed Territory in question. The occupation of the same by the armed posse, wrongful as it is, was professed to be solely to prevent trespassers, and to save the territory from devastation, until the final settlement of the question in dispute, and not to give them permission to give licences which this Government withholds.

If Mr. Coombs' case had been simply the purchase of timber cut under the order of the Governor and Council in March last, there would be no difficulty; but when, from his own showing, the said timber (or some part at least) was cut by authority of the State of Maine, and beyond what was intended by that order, and which, I presume, is now so intermixed as to prevent a distinct separation, I do not see how it can be allowed to pass free.

I also consider that any of the timber in question, which was not cut under the licence in March last, was illegally cut, and, as such, the right of property therein is not legally vested in the trespasser.

Captain Mc Lauchlan has no power, as Warden of the Disputed Territory, to seize the timber; but he holds a commission under the Great Seal of the province, giving him such an authority.

The communication from the assessors at Madawaska did not state for what purpose the assessment was ordered. It was stated to be for parish rates, and, therefore, I am unable to refer your Excellency to the particular provincial statute. The Court of Sessions have power to assess the inhabitants in different counties, "for money to support the poor, to pay county contingencies, to build jails, and court-houses, and buildings for the safe-keeping of the county records," and, occasionally, for other county purposes; and it would require that I should be furnished with a copy of the assess warrant, before I could point out the particular Act to your Excellency.

I have, &c.,
(Signed) CHARLES J. PETERS,
Attorney-General.

Inclosure 18 in No. 28.

Sir W. Colebrooke to Mr. Fox.

Sir, *Fredericton, June* 19, 1841.

I HAVE the honour to inclose to your Excellency copy of two despatches I have addressed to the Secretary of State for the Colonies, on the subject of the defence of the frontier and the settlement of the Boundary Question.

I have, &c.,
(Signed) W. M. G. COLEBROOKE.

Inclosure 19 in No. 28.

Sir W. Colebrooke to Lord John Russell.

My Lord, *Fredericton, New Brunswick, June* 14, 1841.

REFERRING to my despatch dated 9th June, I have the honour to report to your Lordship, that on the 10th instant, I proceeded to Woodstock with the object of inspecting the site of the barracks proposed to be erected at that place, and of forming an opinion of the necessity of proceeding with the work.

The township of Woodstock, which is situated on the St. John's River, is the most prominent settlement in that quarter, and the elevated ground selected for the barrack is extremely well chosen for the defence of the position.

After inspecting the ground I proceeded to the frontier line opposite to the American settlement of Houlton.

This settlement, which is increasing rapidly, is distant about ten miles from Woodstock, and a military post has been formed which is occupied by a body of the troops of the United States.

The post is retired about two miles from the frontier, and is overlooked from an eminence within the British territory called Parkes' Hill.

Roads having been opened from Woodstock in various directions, and extending to the frontier, several thriving settlements have been formed; and as a doubt exists whether these settlements may not, in some cases, be found to be beyond the line as recently retraced by the American surveyors, much anxiety prevails; and I regretted to understand, that the feelings of the people on both sides of the border had been, of late, considerably excited.

The British settlers, being aware of the influence which those of the State of Maine are able to exert upon their Government, are not disposed to rely upon the pacific disposition of those in authority; and I confess that I am apprehensive that no adequate security at present exists for the maintenance of tranquillity. I am, therefore, of opinion, that as a measure of precaution as well as of defence, the establishment of a body of regular troops at Woodstock is desirable; by giving confidence and a sense of security to the settlers, it will tend to allay the excitement which at present prevails, and to prevent those movements on the part of the people of Maine, which might disturb the peace of the frontier.

It is not now a question whether the valuable lands within the line should be reclaimed and settled, or left in a wilderness state with a view to defence. The country is now in progress of settlement on both sides of the line, and it appears to me to be of the utmost importance, that while the American population is rapidly augmenting, the settlement of the British territory should not be retarded.

The Assembly having passed a resolution in the last session to enable the Government to purchase the land required for the intended barracks, the tenders have been recently approved in Council; and I beg leave to recommend to your Lordship that the work should be proceeded with, as soon as it may be practicable.

From the various information I have recently received, I am strongly impressed with a conviction that the only practicable means of effecting a

settlement of the long-pending Question of the Boundary Line, will be for the Government of England and the United States to appoint competent persons to draw a line of mutual convenience which should divide the two countries, leaving to arbitration the various claims to pecuniary compensation arising from the surrender of lands on either side. The settlement of the Americans upon the lands south of the Restook River, would render them extremely reluctant to resign any part of that valuable territory; but I have reason to believe that they would at present agree to a line being drawn from the point where the north line crosses the Restook to the confluence either of the St. Francis, or of the Fish River with the St. John's; by such a line the British settlers on both banks of the St. John's would be protected,—a measure which is very desirable, both in justice to them and in consideration of the moral effect which an abandonment of them would have within the province. It is not necessary that I should inform your Lordship that while the inhabitants of this province entertain a strong feeling against any concession being made to the Americans, those of the neighbouring States of the Union are equally strenuous in their claim to the Territory in dispute, and that their influence might be effectually exerted in defeating the plan of the General Government for the settlement of the boundary on any basis which would involve a renewal of the question of right By the proposed line the communication with Quebec would also be adequately secured, and a better boundary line secured than that of the river of Woodstock. I found that the Governor of Maine had left the place but a few hours previous to my arrival, having come there in the course of his tour through the new settlements. From Major Ruxton, who has recently arrived at this place from Canada by the way of Boston, I learn that the question is much discussed at the present time by the Americans, and not always in a friendly spirit.

I have, &c.,

(Signed) W. M. G. COLEBROOKE.

Inclosure 20 in No. 28.

Sir W. Colebrooke to Lord John Russell.

My Lord, *Government House, June* 18, 1841.

WITH reference to my despatch, dated June 14, recommending an early settlement of the Boundary Question by drawing a line which might be agreed upon as mutually convenient, I beg to observe that I have not failed to consider the advantages of a line of separation drawn from the due north line at Mars' Hill to the confluence of the St. Francis or Fish River with the St. John's.

Circumstances might at one time have induced the Americans to assent to such a line, and, if now attainable, it would undoubtedly be preferable to the line which I have proposed from the point where the north line intersects the Restook; but the settlement of the lands south of that river by the people of Maine would probably lead them to oppose it, and such opposition would, as I apprehend, effectually prevent the Government of the United States from acceding to it.

The encroachments which have taken place, and the embarrassment they have occasioned, induce me to consider that no time should be lost in effecting such a settlement as may now be practicable, and that would not compromise the just rights of the settlers on both banks of the St. John's River at Madawaska, who have a just claim to the protection of the British Government.

There is another question which has been mooted regarding the navigation of the St. John's by the Americans.

The project alluded to in the Report of the British Consul in Maine, inclosed with your Lordship's despatch of the 27th of May, of cutting a canal to unite the waters of the Allegash with those of the Penobscot, would indicate that the Americans are looking to other means of transporting the lumber to their markets.

The St. John's would, however, still be the most convenient channel for the valuable timber cut near the Restook; and if any equivalent advantage should be obtained in the settlement of the boundary, I am of opinion that the privilege might be accorded to the Americans of floating their timber down the St. John's, it being understood that the privilege should be strictly limited to that object.

I have, &c.,
(Signed) W. M. G. COLEBROOKE.

Inclosure 21 in No. 28.

Sir W. Colebrooke to Mr. Fox.

Government House, Fredericton,
New Brunswick, June 26, 1841.

Sir,

I DO myself the honour to inclose to you, for your information, the copy of a letter which I have this day addressed to Lord Sydenham on the state of our relations with the Americans on the frontier of this province.

I have, &c.,
(Signed) W. M. G. COLEBROOKE.

Inclosure 22 in No. 28.

Sir W. Colebrooke to Lord Sydenham.

Fredericton, N.B., June 25, 1841.

My Lord,

ON the 23rd instant I had the honour to receive your Lordship's letter, dated Kingston, the 8th instant, and by the same opportunity I received one from Mr. Mc Lauchlan, dated Madawaska, the 19th.

Since the dates of my letters now acknowledged by your Lordship, I have successively addressed you on the 2nd, 9th, and 19th instant, and the communications of the Warden, which I herewith inclose, will put your Lordship in possession of the present state of affairs upon the frontier.

When I wrote to your Lordship on the 11th of May, it was my intention to have proceeded at an early period to Madawaska; but on further consideration I was induced to postpone that intention, unless circumstancs should occur to render it necessary; and I am of opinion that in the existing circumstances of our relations with the Americans, my presence could only have the effect of bringing on questions with the inhabitants, for the solution of which I was unprepared.

Your Lordship is aware that I considered it my first duty, in assuming charge of this Government, to make myself acquainted with the correspondence which has been held by my predecessor with your Lordship, and with Her Majesty's Government, on this intricate and important subject.

I took occasion to bring under your consideration the difficulties resulting from the position which the Americans had been permitted to assume; and from the responsibility devolving on me in the protection of Her Majesty's subjects and the administration of the laws, I expressed an apprehension that collisions could not be avoided without the adoption of timely measures of precaution by the Supreme Authorities.

It was my object to impress on your Lordship that my responsibility in reference to the question of the Boundary arose from the exercise of the jurisdiction of this province over the Disputed Territory, and more especially over the Madawaska settlement; and that the American posse having placed themselves at the Fish River within that jurisdiction, and in fact assumed it over the territory above their post, rendered it impracticable for the Warden and the other magistrates to exercise an authortty in that quarter without

collision. In point of fact, referring to the letter of the Governor of Maine to Sir John Harvey, of the 15th of December, 1840, it is quite evident that he distinctly claimed and asserted his intention to maintain that jurisdiction; and although, in conformity to your Lordship's instructions, Sir John Harvey informed the Warden, that "the inhabitants on both banks of the Madawaska were to be protected," he did not disclaim the pretensions of the Americans in respect to the settlement above the Fish River; and that the Warden has never felt himself authorized to do any act in that quarter which would, as he was aware, revive the question, or induce a collision.

On a recent occasion of the annual assemblage of the militia, the Acadian and English settlers from the Upper Madawaska turned out, whilst the French and American settlers disregarded the summons,—a result which is the natural consequence of a disputed jurisdiction; and I concur with Mr. Mc Lauchlan in opinion, that an attempt to levy the county rate in that quarter, while it would be resisted by some, would bring on a collision with the authorities of the State of Maine.

To be assured of this, it may be sufficient to refer to the letter of the Governor of Maine above-mentioned, and to the report of their Legislature in the month of March last, wherein it is stated, that "the territory contiguous to the mouth of the Fish River, on both sides of the St. John's, is not considered in any proper sense as included in the Madawaska settlement, which is confined to the immediate vicinity of that river, and does not extend even to the mouth of the Merumpticook; and although obliged to yield to the continuance of the illegal occupation at the proper original settlement of the Madawaska, they cannot allow its being extended to the Fish River, or upon the south bank of the St. John's, above the western bend, up to which Maine has at least regained and made good her ground."

By this assumption, so far as it has been partially acquiesced in, the interests of some of Her Majesty's subjects are involved, in the same manner that occurred in the case of the British settlers on the Restook in 1839.

By the separate proceedings of the British and American surveyors, the questions at issue have only hitherto been further complicated; and by the recent connexion of the north line by the American surveyors, the granted lands of several British settlers which were considered to be within that line, are now declared to be excluded.

I adduce these facts, in order to exemplify to your Lordship the consequences of delay in the definitive settlement of the Boundary by the two Governments; and important as may be the question as to the preservation of a line of communication between the British provinces, it is even more important as affecting the rights of Her Majesty's subjects, who claim the protection of the laws; for it must be obvious that the consequences which would result either from the enforcement of the laws, or from their suspension, where the jurisdiction may be disputed, are alike serious.

It is, therefore, that I would earnestly impress on your Lordship, that if the territorial claims of the two countries cannot be definitively adjusted, a convenient line should be drawn, which would at least define the extent of the jurisdiction of the respective Governments.

By the Report of the Legislature of Maine, above referred to, it would appear that the temporary arrangement of 1839, in itself imperfect, was never fully recognized in that State; and that the reservation of the Governor of Maine, in his agreement of the 25th of March, 1839, coupled with the declaration of that Legislature in the present year, has practically superseded it.

This would undoubtedly be quoted in the event of any complaint of the infraction of the agreement by the Americans. I cannot doubt that the two Governments must be conscious of the danger of leaving an intermediate territory subject to a disputed jurisdiction, and the subjects of both under doubtful allegiance to either, the effect of which could only be to induce the settlement of such territory, which is too inviting to be neglected, by outlaws from both countries, instead of the more respectable inhabitants of each, leading to border aggressions and to collisions which might involve the nations in hostilities.

When the jurisdiction is defined, the course would be to enforce the laws of either country within the respective limits, and to demand the restoration of offenders who may take refuge beyond them; a course from which both parties are withheld where the civil jurisdiction is in dispute, from the risk of recognizing a right or producing a collision.

There is another subject connected with the question, to which it is necessary that I should advert.

In 1839, measures were taken to prevent the cutting of timber in the Disputed Territory, and an act was passed under which the Warden was commissioned to seize any such timber which might be cut by British subjects. The American posse was also stationed there with the same ostensible object. Applications were subsequently made to the Government for the admission of timber which had been previously cut in 1838 and 1839, which was allowed; and a limited permission was also granted to the settlers at the Madawaska to cut timber in the lands occupied by them. Under these regulations, large quantities of timber were introduced in 1839 and 1840, bonds being taken for a duty of 4*s*. per ton upon it. My letter of the 9th instant will have apprized your Lordship that the American land-agent had levied a duty of 5*s*. per ton upon timber so cut at Madawaska; and from a subsequent application made to me, I have reason to believe that a similar duty has been levied upon all the timber introduced, on the alleged ground that it was cut in the winter of 1838 and 1839.

Mr. Mc Lauchlan is of opinion, that the quantity of timber from the Disputed Territory, now floating to St. John's, amounts to 10,000 tons; and as there is no practicable means of distinguishing timber cut in those years, and subsequently, it is obvious that the restriction imposed on the cutting of the timber is practically evaded by the Americans, who derive a large revenue from it. Mr. Mc Lauchlan adds, that he has no reason to think that the English lumberers have been engaged in these operations.

I have no doubt that the great demand for this timber at St. John's, and the apparent hardship of excluding that which had already been cut, led to the regulation; and as the timber has been purchased by persons within the province, it will be necessary that notice should be given of the enforcement of the restriction.

I have appointed the Council to assemble on Monday, the 28th instant, when the necessary measures will be taken.

The effect of excluding the timber will, I hope, lead the Americans to seek an early adjustment of the questions at issue; and if the claims to the respective portions of the territory were settled, or even a line defining the jurisdiction, I should see no objection to the readmission of the timber, on payment of a moderate duty, it being understood that the subjects of either Government should have permission to cut timber within their respective limits.

Till the regulations can be rescinded in Council, and a proclamation issued, I have required, in justice to our lumberers who have cut timber in the provinces subject to duty, that bond for the whole amount of the duties should be taken, without regard to the charges imposed by the Americans, and a declaration from the owners that the timber was cut in 1838 and 1839, previous to the agreement of the 25th of March. It may be proper to remark, that it had been the practice till then, to levy equal duties on the timber cut in the Disputed Territory and within the province, and to carry the amount of the former, when recovered on the bonds, to the account of a separate fund hereafter to be rendered when the Boundary Question should be settled.

The restriction on the importation of timber will be inconvenient to the merchants, but its admission is unjust to the British lumberers, and impolitic pending the negotiations.

It only remains for me to add to these lengthened details, that I will endeavour, as far as possible in the execution of the trust confided to me, to guard against collisions on the one hand, and the compromise of the rights of Her Majesty's subjects on the other.

In doing this, I am unable to foresee the occasions which may require that I should act, or abstain from acting. Your Lordship has observed, that the settlement of the Americans at the Fish River ought not to have been admitted, but that, under existing circumstances, it would not be advisable to

disturb them. There can be no doubt that, according to the laws of this province, they are legally within its jurisdiction, and that they are claiming, with the full sanction of their own Legislature, a jurisdiction over part of the district to which our authority has extended.

The land-agents of Maine and Massachusetts, I am informed, have been recently there to regulate the distribution of the charge of their establishments, those States having equal claims on the territory they may acquire, the value of each alternate township on the Restook being accounted for by Maine to Massachusetts.

The co-operation of those States, and indeed of others, is also apparent from the tenor of their Legislative Reports and Resolutions in the present year.

I have, &c.,
(Signed) W. M. G. COLEBROOKE.

Inclosure 23 in No. 28.

Mr. Mc Lauchlan to Mr. Reade.

Entrance of the Grand River Madawaska,
Sir, *June* 11, 1841, *Friday*, 11 *o'clock*, A.M.

I HAVE just had the honour to receive by express his Excellency the Lieutenant-Governor's despatch of the 9th instant, and I avail myself of the return of the person to Woodstock, to state to you, for the information of his Excellency, that I shall immediately communicate with the assessors of county rates, and desire them on no account to interfere with the American armed posse at the Fish River in their assessment of the parish of Madawaska, which takes place some time this month. With respect to the further instructions of his Excellency, I have only to say, that I shall strictly act up to them in every respect.

I have, &c.,
(Signed) J. A. Mc LAUCHLAN,
Warden.

P.S.—Your two letters bearing date the 2nd instant I had the honour to receive the 8th instant.

Inclosure 24 in No. 28.

Mr. Mc Lauchlan to Sir W. Colebrooke.

May it please your Excellency, *Madawaska, June* 19, 1841.

WITH reference to my communication to your Excellency of the 4th instant, I have again the honour of renewing that subject, and which I am induced to do from the circumstance of the reports that have reached me touching the probable result, should an assessment be made in the Madawaska settlement above the entrance of the Fish River.

In my letter to your Excellency's Private Secretary, of the 15th instant, I stated, for your Excellency's information, that the land-agent for the State of Maine and Massachusetts had passed through the settlement to that post at the Fish River, and where it now appears they were apprized of the intention of the Provincial Authorities to assess the inhabitants on the River St. John above the Fish River. This, I am informed, called forth their disapprobation, as well as a remark, that should the British Government attempt to exer-

cise jurisdiction above their block-house, it would not only be resisted, but a military force sent to occupy that section of the country.

I have therefore thought it advisable to address the assessors on the subject, a copy of which I beg to transmit to your Excellency; and as Her Majesty's Attorney-General requires my attendance at the Supreme Court at Fredericton next week, I shall then have the honour of bringing the subject again personally before your Excellency. But, in the mean time, I have to acquaint your Excellency that no assessment will be made in the settlement until the pleasure of your Excellency be known.

I have, &c.,
(Signed) J. A. Mc LAUCHLAN.

Inclosure 25 in No. 28.

Mr. Mc Lauchlan to the Assessors of Madawaska County and Parish Rates.

Gentlemen, *Madawaska, June* 19, 1841.

SINCE addressing you by desire of his Excellency the Lieutenant-Governor, on the 11th instant, circumstances have transpired which induce me to believe, should any assessment be made by you on the inhabitants of Madawaska residing above the American armed posse at the Fish River, must lead to a serious misunderstanding between Her Majesty's Government and that of the United States.

I have therefore to request that you will, for the present, defer making any assessments in that part of the settlement, until I am again afforded an opportunity of bringing the subject under the consideration of his Excellency.

I have, &c.,
(Signed) J. A. Mc LAUCHLAN,
Warden of the Disputed Territory.

No. 29.

Mr. Fox to Viscount Palmerston.—(Received August 29.)

My Lord, *Washington, August* 11, 1841.

SINCE writing my despatch of the 8th instant, I have received the inclosed despatch from Lord Sydenham, in reply to the communication which I had addressed to his Excellency upon the present state of the negotiation for regulating the provisional custody and occupation of the Disputed Territory.

I have, &c.,
(Signed) H. S. FOX.

Inclosure in No. 29.

Lord Sydenham to Mr. Fox.

Government House, Kingston,
August 3, 1841.

(Extract.)

MR. MOORE transmitted to me yesterday, by a special messenger, your despatch of the 27th of July.

I hear with pleasure that the Government of the United States have at length resumed the consideration of the best means for maintaining tranquillity and preventing further encroachments in the Disputed Territory pending the adjustment of the question of sovereignty, and that the propriety of effecting that object, through a force under the control of, and responsible to, the Central Government on either side, to the exclusion of the civil posse, has been admitted by the Secretary of State.

But the satisfaction which I should otherwise feel, is greatly diminished by the statement of the terms upon which, as it appears from your despatch, and from the projet of a note inclosed in it, Mr. Webster proposes to effect such an arrangement, which are such as I should neither feel authorized by my instructions to sanction, nor indeed could recommend Her Majesty's Government to agree to.

Mr. Webster's proposal goes not merely to the retention by the United States of the block-house at the mouth of the Fish River, and the establishment there of a military force in the place of the civil posse at present in occupation of that post, but to confine the occupation of the Territory in dispute by Her Majesty's forces to the north bank of the St. John's, thereby virtually excluding them from affording protection, if required, to Her Majesty's subjects on the south bank of that river, on which, as you have justly stated, a large population is extended, whose claims for such protection could not be overlooked or neglected.

Such a proposition I consider wholly inadmissible. The Madawaska settlement, as you are aware, extends along both banks of the river; and it would be impossible to refuse to Her Majesty's subjects, whether resident on the one or the other bank, that protection to which they are justly entitled, or to abandon that jurisdiction which has been uninterruptedly exercised ever since Canada became part of the British Empire.

The troops are, it is true, now stationed on the north bank of the river, and will probably remain so; but the moral protection which Mr. Webster professes to think would still be afforded by their presence there, would undoubtedly fail, if such an arrangement, which is one adopted at present purely with a view to the convenience of lodging the troops, were made obligatory, and it could be inferred that they were debarred from that active interposition which they are now directed to afford, in case of need, to the inhabitants resident on the one bank as well as on the other. No security whatever could be given, that any attempted exercise of jurisdiction by the State of Maine within that settlement on the south bank of the river, against which we have always protested, and which Her Majesty's civil servants have been instructed to resist by force, if necessary, would be prevented; and it is most improbable that such would be the case, if the duty of prevention were abandoned to the United States' Authorities, however well disposed they might be to perform it.

If, therefore, this condition be considered indispensable by Mr. Webster, an arrangement becomes quite impossible; and I must also add, that the pretension on his part appears perfectly unjustifiable, for it exceeds any which has hitherto been seriously advanced, even by the State of Maine itself.

The arrangement made between Sir John Harvey and the Government of Maine, and confirmed by General Scott, as is correctly stated in the draft of your note, which you have been good enough to transmit, limited the temporary jurisdiction of each party, on the one side, to the valley of the Restook, and on the other, to that of the St. John's; and although the block-house at the mouth of the Fish River was most improperly, and in direct

violation of that contract, erected by the Maine Authorities, it was contended that the Madawaska settlements did not extend to that point; and that circumstance was, to a certain degree, alleged in justification of the establishment of that post.

Whilst, therefore, I remain persuaded of the importance of arriving at an arrangement with the United States' Government, which shall remove the custody of this territory from the interference of the Government of Maine, I see no possibility of admitting this new condition; and if it be insisted on, I have no alternative, unless otherwise instructed by Her Majesty's Government, than to take such measures as may appear necessary to check any further encroachments on the part of Maine, even at the hazard of collision.

That object, however, is of so much consequence, that if this difficulty can be removed, and Mr. Webster is disposed to treat upon another basis, I am of opinion that we may depart, in some degree, from the terms which were stated in my despatch of the 25th of June, 1840, and which are in accordance with Sir John Harvey's agreement, namely: the valley of the St. John's on the one hand, and that of the Restook on the other; and I should be disposed to agree to the occupation of Fort Jarvis by the troops of the United States, confiding to them the exercise of jurisdiction over the southern bank of the river above the Fish River, but leaving to us that below its mouth.

No. 30.

Viscount Palmerston to Mr. Fox.

Sir, *Foreign Office, August* 31, 1841.

I HAVE to acknowledge the receipt of your despatches of the 8th and 11th instant, inclosing copies of your correspondence with Lord Sydenham, and of the papers therein referred to, relative to the present state of your negotiation with the Government of the United States, for regulating the provisional custody and occupation of the Disputed Territory.

I have to state to you, in reply thereto, that Her Majesty's Government concur in opinion with Lord Sydenham, that it would not be right or safe to agree to any arrangement which should preclude Her Majesty's troops from moving, if necessary, into that part of the valley of the St. John which lies south of the river; but Her Majesty's Government are of opinion, that it would be highly inexpedient to consent to an arrangement by which United States' troops should be permitted, with the consent of the British Government, to occupy any position in the valley of the St. John. The agreement made between Sir John Harvey and General Scott is perfectly clear, and is as fair as it is clear; and you are instructed to adhere to that arrangement, which leaves the Americans in occupation of the valley of the Aroostook, and the British in occupation of the valley of the St. John. If this basis of arrangement were once agreed to, no difficulty could be experienced in defining the boundary between those two valleys sufficiently for the purpose.

I am, &c.,
(Signed) PALMERSTON.

No. 31.

Mr. Fox to Viscount Palmerston:—(Received October 1.)

(Extract.) *Washington, September* 12, 1841.

IN my despatches of August the 8th and of August the 11th, I had the honour to forward to your Lordship copies of various correspondence between the Governor-General of British North America and myself, and between the United States' Government and myself, upon the subject of a proposed amended arrangement for the provisional custody and occupation of the Disputed Territory, by a limited force, on both sides, of regular troops, to the exclusion of the armed civil posse of the State of Maine.

I have not found it possible to conclude any satisfactory agreement with the United States' Government upon the general provisions, taken together, of the amended arrangement desired by Her Majesty's Authorities. The only measure at present adopted by the United States' Government, will be the substitution of two companies of United States' regular troops, in the place of the armed civil posse of the State of Maine, at the two posts occupied by the Americans in the Disputed Territory. I consider that this change will be of great advantage, both with a view to the preservation of peace on the border for the present, and with a view also to the safe and prompt delivery of the territory, if the British title thereto shall be eventually established. At the same time I have stated to Mr. Webster, in my official letter herewith inclosed, dated the 6th instant, that I am not prepared to say what view Her Majesty's Government will take of the movement of the United States' troops, adopted, as it now is, as a separate measure, without reference to those other provisions, of an amended arrangement, which were proposed by the British Government, and without reference, either, to the well-grounded and reiterated remonstrances of Her Majesty's Authorities against the establishment of the American post called Fort Jarvis, at the mouth of Fish River.

I had reason to complain of the conduct of the American Government in prematurely ordering the two companies of regular troops to be moved into the Disputed Territory, pending the negotiation of the other parts of the proposed arrangement. Mr. Webster, it will be seen, has given some explanation of the matter in his letter to me, herewith inclosed, of the 4th instant. I am persuaded that the equivocal conduct of the Government in this particular has not been owing to intentional bad faith, but to the state of discord and disorganization of the public departments at Washington during the present political and ministerial crisis.

I learn from reports in the newspapers, that the two companies of United States' troops, appointed to occupy the posts on the Aroostook and at Fish River, left the American station of Houlton, in Maine, for their new destination on the 31st of last month. The orders, therefore, which, in consequence of my communications with Mr. Webster, were dispatched from hence on the 2nd instant, to suspend the movement, will, as I apprehended, have arrived too late.

I should be in daily expectation of receiving further communications from Lord Sydenham upon the subjects treated of in this despatch, if it were not for the very severe accident which I lament to hear his Lordship has suffered by a fall from his horse.

Inclosure 1 in No. 31.

Mr. Webster to Mr. Fox.

Department of State, Washington, September 4, 1841.

Sir,

I HAVE laid before the President the communication which you did me the honour to place in my hands a few days since. He directs me to say to you that he thinks there must be some misapprehension on the part of Lord Sydenham, as to the motives which have led him to comply with the wishes of the State of Maine, to relieve its civil posse by small detachments of United States' troops.

The Government of the United States entertains the opinion that the Disputed Territory, during the time which may elapse before the final settlement of the title, should be protected from trespass and depredation by the Authorities of the Governments of the United States and Great Britain; in this opinion it appears that Her Majesty's Government entirely concur. The facts which the President found to be actually existing were, that the State of Maine was maintaining a civil posse at the mouth of the Aroostook, and another at the mouth of Fish River. The British Government had certainly complained of the establishment of this last-mentioned posse, as being contrary to the agreement entered into between the Governor of Maine and Sir John Harvey in the spring of 1839, and, on the other hand, the Government of

Maine complained, not less loudly, of infractions of the same agreement by the British Authorities, especially in the augmentation of their military force on the north side of the St. John's. As the whole matter related to a subject which would be but of temporary, and, as it was to be hoped, of short duration, the President thought that instead of discussing further the grounds of those mutual complaints, it would be for the benefit of all parties, that the civil posse of Maine should be withdrawn, and their places supplied by troops of the United States. In the beginning of July, as you will remember, I made an informal communication of these views to you, not, as Lord Sydenham seems to suppose, for the purpose of entering upon a formal negotiation for a convention on the subject, but for that of stating frankly, and in the most friendly manner, the President's opinion as to what was the best mode to be adopted by him, and suggesting to the British Government what occurred to him as worthy of its consideration as measures having the same general end.

You expressed the opinion that the British Government in Canada might see objections to a part of what the President proposed to do; but under the impression that both parties were agreed in the expediency of substituting as soon as possible, a regular force for the armed posse now in possession; and considering the advanced state of the season, it was thought necessary, at the Department of War, not to delay the movement of the two companies. There was no purpose in this, of acting suddenly or prematurely, or during the pendency of any negotiations upon the subject. For, as I have already stated, my informal communication to you was not intended as the commencement of a regular negotiation, but only as friendly information of the steps which the President thought proper to take, and a suggestion of what might be considered as proper on the side of the British Authorities as concurrent measures. It may be proper to observe here, that orders were given from the War Department for one of the field officers at Houlton to proceed with those companies; and as he would naturally meet with the commanders of the British posts, to explain to them, so far as necessary, the object of the movement.

The main fear expressed by Lord Sydenham appears to be, that part of the Madawaska Settlement which lies south of the St. John's, might be in danger by this occupation of the post at the mouth of the Fish River. When, in the communication already referred to, I suggested the propriety of confining the British forces to the north side of the St. John's, it was not intended to affect, in any degree, the question of the extent of the Madawaska Settlements, or the exercise of British jurisdiction, wherever heretofore that jurisdiction had been habitually exercised. The river was mentioned as a natural boundary which could not be mistaken, and proper, therefore, as the line between the posts of the respective Governments. It might have been added, that although neither Government accepted the award of the King of the Netherlands, yet the boundary recommended by him might be worthy of regard as a limit of the temporary possession held by the two Governments.

It is presumed not to be the purpose of either party to extend its jurisdiction over parts of the Disputed Territory where it has not heretofore actually existed. The officers commanding the United States' detachments will have orders to confine themselves to the objects which alone the Government has in view in placing them at their posts, and not to take upon themselves to interfere in any question of civil jurisdiction whatever. It is to be hoped that the observance of strict discipline by the troops on both sides, and a spirit of moderation and forbearance among the people along the frontier, will relieve both Governments from the difficulties and dangers on the subject of the temporary occupation of the Territory in dispute.

I have, &c.,

(Signed) DANIEL WEBSTER.

Inclosure 2 in No. 31.

Mr. Fox to Mr. Webster.

Sir, *Washington, September* 6, 1841.

I HAVE the honour to acknowledge the receipt of your letter of the 4th instant, upon the subject of the movement of two companies of United States' regular troops to certain posts in the Disputed Territory, in the place of the armed civil posse of the State of Maine now stationed there.

I shall lose no time in forwarding your communication to Her Majesty's Government in England, and to his Excellency the Governor-General of British North America.

Her Majesty's Authorities, I am persuaded, will concur with me in duly appreciating the friendly intentions of the President, as well as the conciliatory form in which you have conveyed to me his views and your own upon this occasion. I am likewise sensible of the advantages that may be expected to result from the employment, upon the service in question, of a detachment of regular troops, responsible to the General Government alone, instead of an irregular armed force under the orders of a State Government, of whose conduct Her Majesty's Authorities have had the strongest reason to complain. The change will, it is to be hoped, conduce to the maintenance of peace upon the border for the present, and will also eventually secure the safe and prompt delivery of the territory to whichever party shall establish its rightful title thereto.

At the same time, I am not prepared to say what view Her Majesty's Government will take of this movement of the United States' troops adopted as a separate measure, without reference to those other provisions of an amended arrangement for the provisional custody and occupation of the Disputed Territory, which, in pursuance of my instructions, I had proposed to the United States' Government, in communications heretofore addressed both to Mr. Forsyth and to yourself,—and without reference, either, to the well-grounded and reiterated remonstrances of the British Authorities against the establishment of the American post at Fish River.

With regard to the suggestion of adopting the channel of the River St. John as a temporary boundary between the two parties, I must at once state, that Her Majesty's Authorities can, under no circumstances, consent to relinquish the exercise of British jurisdiction through the Madawaska settlements, which extend along the south bank, as well as along the north bank of the St. John's; and that the right will be reserved of provisionally stationing a force of British troops in any part of those settlements, either south or north of the St. John's, where it may be found necessary for the due protection of the inhabitants. There seems no reason, however, to fear that this should lead to collision between the troops of the two nations, if the orders which you inform me are to be furnished to the United States' Commanding Officers, are, as I have no doubt they will be, carefully obeyed.

I avail myself, &c.
(Signed) H. S. FOX.

No. 32.

Mr. Fox to the Earl of Aberdeen.—(Received October 30.)

My Lord, *Washington, October* 12, 1841.

UPON receiving Lord Palmerston's despatch of the 24th of August relating to the North-Eastern Boundary Negotiation, I had a conference with Mr. Webster upon the subject. I found him entirely unacquainted with the last previous movements of the two Governments in that negotiation, and, consequently, unprepared with a definite answer to the proposals contained in Lord Palmerston's despatch. In order to understand the meaning of that despatch, it was absolutely necessary that Mr. Webster should make himself acquainted with the details of the last previous proposals of the two Governments, contained respectively in the British Draft of Convention presented by me to Mr. Forsyth on the 28th of July, 1840, and in the American Counter-Draft delivered to me shortly afterwards by Mr. Forsyth, and forwarded to Her Majesty's Government in my despatch of August 15, 1840. Under these circumstances, I gave to Mr. Webster a copy of Lord Palmerston's despatch, which copy, together with the two documents above-mentioned, namely, the British Draft, and the American Counter-Draft of Convention of 1840, he has carried with him to his residence in Massachusetts, where he is now staying. I hope that upon his return to Washington in the course of next month, he will be prepared to resume the negotiation. From several conversations which I have had with Mr. Webster, I am induced to believe that as far as his own wishes and opinion go, he would be very willing to conclude the dispute at once by a compromise, and by the adoption of what has generally, in the course of the negotiation, been termed a conventional line of boundary. But I am not yet aware what particular terms of compromise would satisfy Mr. Webster: nor, which is of equal moment, what means he would possess of rendering such terms of compromise as he might accept, acceptable also to the State of Maine.

I have, &c.,
(Signed) H. S. FOX.

NORTH AMERICAN BOUNDARY.

CORRESPONDENCE

RELATING TO THE

BOUNDARY

BETWEEN THE

BRITISH POSSESSIONS IN NORTH AMERICA

AND THE

UNITED STATES OF AMERICA,

UNDER THE

TREATY OF 1783.

[IN CONTINUATION OF PAPERS PRESENTED TO PARLIAMENT IN 1840.]

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