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NORTH AMERICAN BOUNDARY.

PART I.

C O R R E S P O N D E N C E

RELATING TO THE

BOUNDARY

BETWEEN THE

BRITISH POSSESSIONS IN NORTH AMERICA

AND THE

UNITED STATES OF AMERICA,

UNDER THE

TREATY OF 1783.

*Presented to both Houses of Parliament by Command of Her Majesty.
July, 1840.*

LONDON:
PRINTED BY T. R. HARRISON.

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CORRESPONDENCE

RELATING TO THE

NORTH AMERICAN BOUNDARY.

In continuation of the Correspondence presented to both Houses of Parliament, by Command of Her Majesty, in 1838.

No. 1.

Mr. Fox to Viscount Palmerston.—(Received March 8, 1838.)

(Extract.)

Washington, February 13, 1838.

It is probable that some weeks will elapse before a definitive answer is returned by the United States Government, to the official communication upon the question of the north-eastern Boundary, which I addressed to the Secretary of State, in conformity with the instructions contained in your Lordship's despatch of the 19th of November, 1837. Consultation and correspondence will be held between the Federal Government and the State Government of Maine, before a final decision can be taken by the President, upon the offer submitted to him by Her Majesty's Government. Mr. Forsyth has, in the meantime, addressed to me two papers upon certain points of the question adverted to in the notes, which by your Lordship's orders I presented to him. I shall have the honour to transmit copies of these papers to your Lordship by the *Messenger Knox*, whom I propose to dispatch to England at the latter end of this month.

No. 2.

Mr. Fox to Viscount Palmerston.—(Received May 16, 1838.)

(Extract.)

Washington, April 5, 1838.

THE United States Secretary of State has not yet addressed to me any definite reply to the official note, which, in pursuance of your Lordship's instructions, I presented to him on the 10th of January last, upon the question of the north-eastern Boundary.

The delay is occasioned by the reference which has been made to the State of Maine. But I expect, that in a short time I shall receive an official communication from Mr. Forsyth upon the subject.

Waiting the final reply of the United States Government, I have the honour to inclose, in this despatch, copies of two notes from Mr. Forsyth, upon divers points of the dispute referred to in the communications, which, by your Lordship's directions, I addressed to him in January last. I also inclose copies of my official notes to Mr. Forsyth, which, with the exception of the opening paragraphs, are literal transcripts of your Lordship's instructions.

Inclosure 1 in No. 2.

Mr. Fox to Mr. Forsyth.

Washington, January 10, 1838.

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

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

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

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

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

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

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

not be agreed to likewise for the boundary eastward from the River Can-
 adian?

Her Majesty's Government cannot refrain from again pressing this pro-
 position upon the serious consideration of the Government of the United States,
 as the arrangement which would be best calculated to effect a prompt and
 satisfactory settlement between the two parties.

The Government of the United States, indeed, while it expressed a doubt
 of its being able to obtain the assent of Maine to the above-mentioned proposal,
 did, nevertheless, express its readiness to apply to the State of Maine for the
 assent of that State to the adoption of another conventional line, which should
 make the River St. John from its source to its mouth the boundary between the
 two countries. But it is difficult to understand upon what grounds an objec-
 tion would have been formed, that such a proposition could be obtained by
 the British Government.

For such an arrangement would give to the United States even greater
 advantages than they would obtain, by an unconditional renunciation in their
 claim to the whole of the disputed territory; because such an arrangement would,
 in the first place, give to Maine all that part of the disputed territory which lies
 to the south of the St. John, and would, in the next place, it will give to the
 remaining part of the disputed territory which lies to the north of the St. John,
 and to the State of Maine a large district of New Brunswick, lying between the
 United States Boundary and the southern part of the course of the St. John, a
 district smaller, indeed, in extent, but much more convenient in shape, than the
 portion of the disputed territory which lies to the north of the St. John.

But with respect to a conventional line generally, the Government of
 Washington has stated, that it has not at present the means continually
 requisite for treating for such a line, and has no hope of obtaining such means,
 until the impossibility of establishing the line according to the Treaty shall have
 been more completely demonstrated by the failure of another attempt to trace
 that line by a local survey.

Under these circumstances, it appears that a conventional line cannot be at
 present agreed upon, and that that mode of settlement is in the existing state of
 the negotiation, impossible.

May, then, the award of the King of the Netherlands be thus abandoned
 by both parties, in consequence of its rejection by the American Senate; and a
 negotiation between the two Governments for a conventional line, which to the
 interests and convenience of the two parties has for the present been rendered
 impossible, by difficulties arising on the part of the United States; and both
 Governments are averse to a new arbitration. In this case of things, the Govern-
 ment of the United States has proposed to the British Cabinet that another
 attempt should be made to trace out a boundary, according to the letter of the
 Treaty, and that a Commission of Exploration and Survey should be appointed for
 that purpose.

Her Majesty's Government have little expectation that such a Commission
 could lead to any useful result; and on that account would be disposed to object
 to the measure; but at the same time, they are so unwilling to reject the only
 plan now left, which seems to offer a chance of an amicable settlement in this long
 pending matter, that they will not withhold their consent to such a Commission, if
 the principle upon which it is to proceed can be satisfactorily settled.

The United States Government have proposed two modes in which such a
 Commission might be constituted; first, that it might consist of Commissioners,
 named in equal numbers by each of the two Governments, with an umpire to be
 named by some friendly European Power; secondly, that it might be entirely
 composed of scientific Europeans to be selected by a friendly Sovereign, and
 might be accompanied in its operations by agents of the two Contracting Parties, in
 order that such agents might give to the Commissioners assistance and
 information.

If such a Commission were to be appointed, Her Majesty's Government think
 that the first of the two modes of constituting it would be the best; and that it
 should consist of members chosen in equal numbers by each of the two Govern-
 ments. It might, however, be better that the umpire should be selected by the
 members of the Commission themselves, rather than that the two Governments
 should apply to a third Power to make such a choice.

The object of this Commission, as suggested by Her Majesty's Government,

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

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

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

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

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

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

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

The Undersigned avails, &c.,

(Signed)

HENRY S. FOX.

Inclosure 2 in No. 2.

Mr. Fox to Mr. Forsyth.

Washington, January 10, 1838.

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

dary, which question forms the subject of the accompanying official note, which the Undersigned has the honour this day to address to Mr. Forsyth.

Her Majesty's Government with a view to prevail upon that of the United States to come to an understanding with that of Great Britain upon the river question, had stated, that the King of the Netherlands in his award had decided that question according to the British interpretation of it, and had expressed his opinion, that the rivers which fall into the Bay of Fundy are not to be considered as Atlantic rivers for the purposes of this Treaty.

Mr. Forsyth, however, in his note of the 28th of April, 1835, controverts this assertion, and maintains that the King of the Netherlands did not in his award express such an opinion; and Mr. Forsyth quotes a passage from the award, in support of this proposition.

But it appears to Her Majesty's Government, that Mr. Forsyth has not correctly apprehended the meaning of the passage which he quotes; for in the passage in question, Mr. Forsyth supposes that the word *alone* is governed by the word *include*, whereas an attentive examination of the context will show that the word *alone* is governed by the verb *divide*; and that the real meaning of the passage is, that the rivers flowing north and south from the Highlands, claimed by the United States may be arranged into two genera; the first genus comprehending the rivers which fall into the St. Lawrence: the second genus comprehending those whose waters, in some manner or other, find their way into the Atlantic; but that even if, according to this general qualification, and in contradistinction from rivers flowing into the St. Lawrence, the rivers which fall into the Bays of Fundy and Chaleurs might be comprised in the same genus with the rivers which fall directly into the Atlantic, still the St. John and Restigouche form a distinct species by themselves, and do not belong to the species of rivers which fall into the Atlantic; for the St. John and Restigouche are not divided in company with any such last mentioned rivers; and the award goes on to say, that, moreover, if this distinction between these two species were confounded, an erroneous interpretation would be applied to a Treaty in which every separate word must be supposed to have a meaning; and a generic distinction would be given to cases which are purely specific.

The above appears to be the true meaning of the passage quoted by Mr. Forsyth; but if that passage had not been in itself sufficiently explicit, which Her Majesty's Government think it is, the passage which immediately follows it, would remove all doubt as to what the opinion of the King of the Netherlands was upon the River Question; for that passage setting forth reasons against the Boundary claimed by the United States, goes on to say, that such line would not even separate the St. Lawrence Rivers immediately from the St. John and Restigouche; and that thus the rivers which this line would separate from the St. Lawrence Rivers, would need, *in order to reach the Atlantic*, the aid of two intermediaries—first, the Rivers St. John and Restigouche, and *secondly, the Bays of Chaleurs and Fundy.*

Now, it is evident from this passage, that the King of the Netherlands deemed the Bays of Chaleurs and Fundy to be, for the purposes of the Treaty, as distinct and separate from the Atlantic Ocean, as are the Rivers St. John and Restigouche; for he specifically mentions those rivers and those bays, as the channels through which certain rivers would have to pass on their way from the northern range of dividing Highlands down to the Atlantic Ocean; and it is clear that he considers that the waters of those Highlands' rivers would not reach the Atlantic Ocean until after they had travelled through the whole extent either of the Restigouche and Bay of Chaleurs, or of the St. John and Bay of Fundy, as the case might be; and for this reason, among others, the King of the Netherlands declared it to be his opinion, that the line north of the St. John, claimed by the United States, is not the line intended by the Treaty.

The Undersigned, &c.,

(Signed)

HENRY S. FOX.

Inclosure 3 in No. 2.

Mr. Forsyth to Mr. Fox.

*Department of State,
Washington, February 7, 1838.*

THE Undersigned, Secretary of State, has the honour to acknowledge the receipt of the note addressed to him on the 10th ultimo, by Mr. Fox, Her Britannic Majesty's Envoy Extraordinary, and Minister Plenipotentiary at Washington, with regard to the question pending between the two Governments upon the subject of the north-eastern Boundary, and to inform him that his communication has been submitted to the President. It has received from him the attentive examination due to a paper expected to embody the views of Her Majesty's Government, in reference to interests of primary importance to the two countries. But while the President sees with satisfaction the expression it contains of a continued desire on the part of Her Majesty's Government to co-operate with this, in its earnest endeavours to arrange the matter of dispute between them, he perceives with feelings of deep disappointment, that the answer now presented to the propositions made by this Government with the view of effecting that object, after having been so long delayed, notwithstanding the repeated intimations that it was looked for here with much anxiety, is so indefinite in its terms, as to render it impracticable to ascertain, without further discussion, what are the real wishes and intentions of Her Majesty's Government respecting the proposed appointment of a Commission of Exploration and Survey, to trace out a boundary according to the letter of the Treaty of 1783.

The President, however, for the purpose of placing in the possession of the State of Maine the views of Her Majesty's Government, as exhibited in Mr. Fox's note, and of ascertaining the sense of the State authorities upon the expediency of meeting those views, so far as they are developed therein, has directed the Undersigned to transmit a copy of it to Governor Kent, for their consideration. This will accordingly be done without unnecessary delay, and the result, when obtained, may form the occasion of a further communication to Her Majesty's Minister.

In the mean time, the Undersigned avails himself of the present occasion to offer a few remarks upon certain parts of Mr. Fox's note of the 10th ultimo. After adverting to the suggestion heretofore made by the British Government, that a conventional line, equally dividing the territory in dispute between the two parties, should be substituted for the line described by the Treaty, and regretting the constitutional incompetency of the General Government to agree to such an arrangement, without the consent of the State of Maine; Mr. Fox refers to the Conventional line adopted, although different from that designated by the Treaty, with respect to the boundary westward from the Lake of the Woods, and asks, why should such a line not be agreed to likewise, for the boundary eastward from the River Connecticut? The reply to this question is obvious. The parallel of latitude, adopted on the occasion referred to as a conventional substitute for the Treaty line, passed over territory within the exclusive jurisdiction of the General Government, without touching upon the rights or claims of any individual member of the Union, and the legitimate power of the Government, therefore, to agree to such line was perfect, and unquestioned. Now, in consenting to a conventional line for the boundary eastward from the River Connecticut, the Government of the United States would transcend its constitutional powers, since such a measure could only be carried into effect by violating the jurisdiction of a Sovereign State of the Union, and by assuming to alienate, without the colour of a rightful authority to do so, a portion of the territory claimed by the State.

With regard to the suggestion made by the Undersigned in his note of the 29th of February, 1836, of the readiness of the President to apply to the State of Maine for her assent to the adoption of a conventional line, making the River St. John, from its source to its mouth, the boundary between the United States and the adjacent British Provinces, Mr. Fox thinks that it is difficult to understand upon what grounds an expectation could have been formed, that such a proposal could be entertained by the British Government, since such an arrangement would give the United States even greater advantages than would

be obtained by an unconditional acquiescence in their claim to the whole territory in dispute. In making the suggestions referred to, the Undersigned expressly stated to Mr. Bankhead, that it was offered, as the proposition on the part of Great Britain that led to it was supposed to have been, without regard to the mere question of acres, the extent of territory lost or acquired by the respective parties. The suggestion was submitted in the hope that the preponderating importance of terminating at once, and for ever, this controversy, by establishing an unchangeable, and definite, and indisputable boundary, would be seen and acknowledged by His Majesty's Government, and have a corresponding weight in influencing its decision. That the advantages of substituting a river for a highland boundary could not fail to be recognized, was apparent from the fact, that Mr. Bankhead's note of 28th December, 1835, suggested the River St. John, from the point in which it is intersected by a due north line drawn from the monument at the head of the St. Croix, to the southernmost source of that river, as a part of the general outline of a conventional boundary.

No difficulty was anticipated on the part of His Majesty's Government in understanding the grounds upon which such a proposal was expected to be entertained by it, since the precedent proposition of Mr. Bankhead, just adverted to, although professedly based on the principle of an equal division between the parties, could not be justified by it, as it would have given nearly two-thirds of the disputed territory to Her Majesty's Government. It was, therefore, fairly presumed, that the river line, in the opinion of Great Britain, presented advantages sufficient to counterbalance any loss of territory by either party, that would follow its adoption as a boundary.

Another recommendation of the river line it was supposed would be found by His Majesty's Government in the fact, that whilst by its adoption, the right of jurisdiction alone would have been yielded to the United States, over that portion of New Brunswick, south of the St. John, Great Britain would have acquired the right of soil, as well as of jurisdiction, of the whole portion of the disputed territory, north of the river.

It is to be lamented that the imposing considerations alluded to have failed in their desired effect; that the hopes of the President in regard to them have not been realized; and, consequently, that Her Britannic Majesty's Government is not prepared at present to enter into an arrangement of the existing difference between the two nations upon the basis proposed.

It would seem to the Undersigned, from an expression used in Mr. Fox's late communication, that some misapprehension exists on his part, either as to the object of this Government in asking for information relative to the manner in which the report of a Commission of Exploration and Survey might tend to a practical result in the settlement of the Boundary Question, or as to the distinctive difference between the American proposal for the appointment of such a Commission, and the same proposition when modified to meet the wishes of Her Majesty's Government.

Of the two modes suggested by direction of the President for constituting such a Commission, the first is that which is regarded by Her Majesty's Government with most favour, viz. : the Commissioners to be chosen in equal numbers by each of the two parties, with an umpire selected by some friendly European Sovereign to decide on all points on which they might disagree; with instructions to explore the disputed territory, in order to find within its limits dividing Highlands answering to the description of the Treaty of 1783, in a due north or north-west direction from the monument at the head of the St. Croix; and that a right line drawn between such Highlands and said monument, should form, so far as it extends, a part of the boundary between the two countries, &c.

It is now intimated, that Her Majesty's Government will not withhold its consent to such a Commission, "if the principle upon which it is to be formed and the manner in which it is to proceed can be satisfactorily settled." This condition is partially explained by the suggestion afterwards made, that instead of leaving the umpire to be chosen by some friendly European Power, it might be better that he should be elected by the Members of the Commission themselves, and a modification is then proposed that "the Commission shall be instructed to look for Highlands, which both parties might acknowledge as fulfilling the conditions of the Treaty."

The American proposition is intended, and if agreed to, will doubtless be successful to decide the question of boundary definitively, by the adoption of the

Highlands reported by the Commission of Survey, and would thus secure the treaty line. The British modification looks to no such object; it merely contemplates a Commission of Boundary analogous to that appointed under the Vth Article of the Treaty of Ghent, and would in all probability prove equally unsatisfactory in practise.

Whether Highlands, such as are described in the Treaty, do or do not exist, it can scarcely be hoped that those called for by the modified instructions could be found. The fact that this question is still pending, although more than half a century has elapsed since the conclusion of the Treaty in which it originated, renders it in the highest degree improbable that the two Governments can unite in believing that either the one or the other of the ranges of Highlands claimed by the respective parties fulfils the required conditions of that instrument. The opinions of the parties have over and over again been expressed on this point, and are well known to differ widely. The Commission can neither reconcile nor change these variant opinions resting on conviction; nor will it be authorized to decide the difference. Under these impressions of the inefficiency of such a Commission was the inquiry made in the letter of the Undersigned of 5th of March, 1836, as to the manner in which the report of the Commission, as proposed to be constituted and instructed by His Majesty's Government, was expected to lead to an ultimate settlement of the question of boundary. The results which the American proposition promised to secure were fully and frankly explained in previous notes from the Department of State; and had its advantages not been clearly understood, this Government would not have devolved upon that of Her Majesty the task of illustrating them. Mr. Fox will therefore see that although the proposal to appoint a Commission had its origin with this Government, the modification of the American proposition, as understood by the Undersigned, was so fundamentally important that it entirely changed its nature; and that the supposition, therefore, that it was rather for the Government of the United States than for that of Great Britain to answer the inquiry referred to, is founded in misapprehension. Any decision made by a Commission, constituted in the manner proposed by the United States, and instructed to seek for the Highlands of the Treaty of 1783, would be binding upon this Government, and could without unnecessary delay be carried into effect; but if the substitute presented by Her Majesty's Government be insisted on, and its principles be adopted, a resort will then be necessary to the State of Maine for her assent to all proceedings hereafter in relation to this matter; since, if any arrangement can be made under it, it can only be for a conventional line to which she must of course be a party.

The Undersigned, in conclusion, is instructed to inform Mr. Fox, that if a negotiation be entertained at all upon the inconclusive and unsatisfactory basis afforded by the British counter-proposition or substitute, which possesses hardly a feature in common with the American proposition, the President will not venture to invite it, unless the authorities of the State of Maine, to whom, as before stated, it will be forthwith submitted, shall think it more likely to lead to a final adjustment of the question of boundary than the General Government deems it to be, though predisposed to see it in its most favourable light.

The Undersigned avails, &c.,

(Signed)

JOHN FORSYTH.

Inclosure 4 in No. 2.

Mr. Forsyth to Mr. Fox.

*Department of State,
Washington, February 6, 1838.*

THE Undersigned, Secretary of State of the United States, has the honour to acknowledge the receipt of the note of Mr. Fox, Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty, of the 10th ultimo, in which he presents by direction of his Government, certain observations in respect to the construction to be given to that part of the award of the arbiter, on the question of the north-eastern Boundary, which relates to the characters in which the Rivers St. John and Restigouche are to be considered in reference to that question. Sir Charles Vaughan, in his note to Mr. Mc Lane of February 10,

1834, alleged that, although the arbiter had not decided the first of the three main questions proposed to him, yet that he had determined certain subordinate points connected with that question, upon which the parties had entertained different views; and among others, that the Rivers St. John and Restigouche could not be considered, according to the Treaty, as "rivers flowing into the Atlantic."

The Undersigned, in his note to Sir Charles R. Vaughan, of the 28th of April, 1835, questioned the correctness of the interpretation which had been given by Sir Charles to the award of the arbiter in this particular; and after quoting that part of the award to which Sir Charles was supposed to refer, as containing the determination by the arbiter of the point just mentioned, observed, that it could not but appear from further reflection to Sir Charles, that the declaration that the Rivers St. John and Restigouche could not be *alone* taken into view without hazard in determining the disputed boundary, was not the expression of an opinion, that they should be altogether excluded in determining that question; or, in other words, that they could not be looked upon as rivers emptying into the Atlantic. The remarks presented by Mr. Fox in the note, to which this is a reply, are designed to show a misconception on the part of the Undersigned of the true meaning of the passage cited by him from the award, and to support the construction which was given to it by Sir Charles Vaughan; whether the apprehension entertained by the one party or the other of the opinion of the arbiter upon this minor point be correct, is regarded by the Undersigned as a matter of no consequence in the settlement of the Maine question.

The Government of the United States never having acquiesced in the decision of the arbiter, that "the nature of the difference, and the vague and not sufficiently determinate stipulations of 1783, do not permit the adjudication of either of the two lines, respectively claimed by the interested parties, to one of the said parties, without wounding the principles of law and equity with regard to the other," cannot consent to be governed in the prosecution of the existing negotiation by the opinion of the arbiter upon any of the preliminary points, about which there was a previous difference between the parties; and the adverse decision of which has led to so unsatisfactory, and, in the opinion of this Government, so erroneous a conclusion. This determination on the part of the United States, not to adopt the premises of the arbiter, while rejecting his conclusion, has been heretofore made known to Her Majesty's Government; and while it remains, must necessarily render the discussion of what those premises were, unavailing, if not irrelevant.

The few observations which the Undersigned was led to make, in the course of his note to Sir Charles Vaughan, upon one of the points alleged to have been thus determined, were prompted only by a respect for the arbiter, and a consequent anxiety to remove a misinterpretation of his meaning, which alone, it was believed, could induce the supposition, that the arbiter, in searching for the rivers referred to in the Treaty as designating the boundary, could have come to the opinion, that the two great rivers, whose waters pervaded the whole district in which the search was made, and constituted the most striking objects of the country, had been entirely unnoticed by the negotiators of the Treaty, and were to be passed over unheeded in determining the line, while others were to be sought for, which he himself asserts could not be found; that the imputation of such an opinion to the respected arbiter could only be the result of misinterpretation, seemed the more evident, as he had himself declared, that "it could not be sufficiently explained how, if the High Contracting Parties intended, in 1783, to establish the boundary at the south of the River St. John, that river, to which the territory in dispute was in a great measure indebted for its distinctive character, had been neutralized and set aside." It is under the influence of the same motives, that the Undersigned now proceeds to make a brief comment upon the observations contained in Mr. Fox's note of the 10th ultimo, and thus to close a discussion which it can answer no purpose to prolong.

The passage from the award of the arbiter, quoted by the Undersigned in his note of the 28th, April, 1835, to Sir Charles Vaughan, and the true meaning of which Mr. Fox supposes to have been misconceived, is the following—"If, in contradistinction to the rivers that empty themselves into the River St. Lawrence, it had been proper, agreeably to the language ordinarily used in Geography, to comprehend the rivers falling into the Bays of Fundy and Des

Chaleurs, with those emptying themselves directly into the Atlantic Ocean, in the general denomination of rivers falling into the Atlantic Ocean, it would be hazardous to include into the species belonging to that class, the Rivers St. John and Restigouche, which the line claimed at the north of the River St. John divides *immediately*, from the rivers emptying themselves into the River St. Lawrence, not with other rivers falling into the Atlantic Ocean, but *alone*; and thus to apply, in interpreting the delimitation established by a Treaty, where each word must have a meaning, to two exclusively special cases, and where no mention is made of the genus (*genre*), a general expression which should ascribe to them a broader meaning," &c.

It was observed by the Undersigned, that this passage did not appear to contain an expression of opinion by the arbiter, that the Rivers St. John and Restigouche should be altogether excluded in determining the question of disputed Boundary; or, in other words, that they could not be looked upon as "rivers emptying into the Atlantic." Mr. Fox alleges this to be a misconception of the meaning of the arbiter, and supposes it to have arisen from an erroneous apprehension by the Undersigned, that the word *alone* is governed by the verb *included*; whereas he thinks that an attentive examination of the context will show that the word *alone* is governed by the verb *divide*, and that the real meaning of the passage is this, "that the rivers flowing north and south from the Highlands claimed by the United States, may be arranged in two genera; the first genus comprehending the rivers which fall into the St. Lawrence; the second genus comprehending those whose waters in some manner or other, find their way into the Atlantic; but that even if, according to the general classification, and in contradistinction from rivers flowing into the St. Lawrence, the rivers which fall directly into the Bays of Fundy and Chaleurs, might be comprised in the same genus with the rivers which fall *directly* into the Atlantic, still the St. John and the Restigouche form a distinct species by themselves, and do not belong to the species of rivers which fall directly into the Atlantic; for the St. John and Restigouche are not divided in company with any *such last-mentioned rivers*." The Undersigned considers it unnecessary to enter into the question, whether, according to the context, the circumstance expressed by the adverb *alone* has reference to the verb *divide*, or the verb *include*, because, even allowing it to refer to the former, it does not appear to the Undersigned, that his interpretation of the passage is thereby impaired, or that of Mr. Fox sustained. The Undersigned conceives that the arbiter contemplated two different *species* of rivers as admissible into the genus of those which "fall into the Atlantic," to wit, those which fall *directly* into the Atlantic, and those which fall into it *indirectly*. That the arbiter was further of opinion, though at variance with the idea entertained in that respect by the United States, that the Rivers St. John and Restigouche, emptying their waters into the Bays of Fundy and des Chaleurs, did not belong to the species of rivers falling directly into the Atlantic. That, if they were considered *alone*, therefore the appellation of "rivers falling into the Atlantic Ocean," could not be regarded as applicable to them; because to use the language of the award, it would be "applying to two exclusively special cases, where no mention was made of the genus, a general expression which would ascribe to them a broader meaning"; but it is not conceived that the arbiter intended to express an opinion, that these rivers *might not be included with others* in forming the *genus* of rivers described by the Treaty as those which fall into the Atlantic; and that, upon this ground they should be wholly excluded in determining the question of the disputed Boundary; while, therefore, the Undersigned agrees with Mr. Fox, that the arbiter did not consider these rivers as falling directly into the Atlantic Ocean, the Undersigned cannot concur in Mr. Fox's construction, when he supposes the arbiter to give as a reason for this, that they are not divided in company with any *such last mentioned rivers*, that is, with rivers falling directly into the Atlantic. Conceding as a point, which it is deemed unnecessary for the present purpose to discuss, that the grammatical construction of the sentence contended for by Mr. Fox is the correct one, the arbiter is understood to say only, that those rivers are not divided *immediately* with others falling into the Atlantic, either directly or indirectly, but he does not allege this to be a sufficient reason for excluding them, when connected with other rivers divided mediately from those emptying into the St. Lawrence, from the genus of rivers "falling into the Atlantic." On the contrary, it is admitted in the award, that the line claimed to

the north of the St. John, divides the St. John and Restigouche in company with Schoodiac Lakes, the Penobscot, and the Kennebec, which are stated as emptying themselves *directly* into the Atlantic; and it is strongly implied in the language used by the arbiter, that the first named rivers might, in his opinion, be classed for the purposes of the Treaty with those last named, though not in the same species, yet in the same genus of Atlantic Rivers.

The reason why the St. John and Restigouche were not permitted to determine the question of Boundary in favour of the United States, is understood to have been, not that they were to be wholly excluded, as rivers not falling into the Atlantic Ocean, as Mr. Fox appears to suppose, but because, in order to include them in that genus of rivers, they must be considered in connection with other rivers which were not divided *immediately* like themselves from the rivers falling into the St. Lawrence, but *mediately* only, which would introduce the principle that the Treaty of 1783, meant Highlands that divide, as well mediately, as immediately, the rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean; a principle which the arbiter did not reject as unfounded, or erroneous, but which considered in connection with the other points which he had decided, he regarded as equally *realized by both lines*, and therefore as constituting an equal weight in either scale, and consequently affording him no assistance in determining the dispute between the respective parties.

The arbiter appears to the Undersigned, to have viewed the Rivers St. John and Restigouche as possessing both a specific and a generic character; that considered *alone*, they were specific, and the designation in the Treaty, of "Rivers falling into the Atlantic," was inapplicable to them; that considered *in connection with other rivers*, they were generic, and were embraced in the terms of the Treaty; but that as their connection with other rivers would bring them within a principle, which, according to the views taken by him of other parts of the question, was equally realized by both lines, it would be hazardous to allow them any weight in deciding the disputed Boundary. It has always been contended by this Government, that the Rivers St. John and Restigouche were to be considered in connection with the Penobscot and Kennebec, in determining the Highlands called for by the Treaty; and the arbiter is not understood to deny to them, when thus connected, the character of "rivers falling into the Atlantic Ocean."

This construction of the arbiter's meaning, derived from the general tenour of the context, it will be perceived, is not invalidated by the next succeeding paragraph cited by Mr. Fox, in which the Bays of Fundy and Des Chaleurs are spoken of as *intermediaries*, whereby the rivers flowing into the St. John and Restigouche reach the Atlantic Ocean, inasmuch as such construction admits the opinion of the arbiter to have been, that the St. John and Restigouche do not fall *directly* into the Atlantic, and that they thus constitute a species by themselves, while it denies that they are therefore excluded by the arbiter from the *genus* of "rivers falling into the Atlantic."

The Undersigned avails, &c.,

(Signed)

JOHN FORSYTH.

No. 3.

Mr. Fox to Viscount Palmerston.—(Received May 23, 1840.)

(Extract.)

Washington, May 4, 1838.

THE United States Secretary of State addressed to me the inclosed official note on the 27th ultimo, communicating the result of an application made by the Federal Government to the State of Maine, upon the subject of the north-eastern Boundary Line, with reference to the pending proposal for a new Commission of Survey and Exploration; and announcing to me the resolution which the President has formed thereupon. The President, it appears, is willing to enter into an arrangement with Great Britain for the establishment of a joint Commission of Survey and Exploration, upon the basis of the original American proposition, and

of the modifications offered by Her Majesty's Government. Your Lordship will perceive that, in the same note, Mr. Forsyth invited me to a conference, for the purpose of negotiating a convention that should embrace the above object, if I were duly empowered to proceed to such negotiation. I have replied to Mr. Forsyth in a letter which I have also the honour to inclose; that my actual instructions were fulfilled by the delivery of the communication which I addressed to the United States Government on the 10th of January last; that I was not at present provided with full powers for negotiating the proposed convention; but that I would forthwith transmit his official note to your Lordship, in order that such additional instructions might be furnished to me, or such other steps taken as the present situation of the question should appear to Her Majesty's Government to require. I believe that the President transmits instructions, by the present packet, to the American Envoy in London, to confer with your Lordship upon the nature and extent of the powers which it may be expedient to furnish to Her Majesty's Mission in this country.

Your Lordship will perceive that the unreasonable pretensions of Maine are still entertained by the Legislature of Maine, and are recorded in their resolutions of the 23d of March, inclosed in Mr. Forsyth's note to me of the 27th of April. I have stated to Mr. Forsyth, with reference to this part of the subject, that as long as the pretensions of the authorities of Maine, thus to settle the disputed question for themselves, were confined to words and resolutions, it would not, I believed, be the wish or the policy of Her Majesty's Government to take any public notice thereof; as Her Majesty's Government could only treat a national question with the National Government at Washington; but I have distinctly declared my opinion to Mr. Forsyth, that if the local authorities of Maine should attempt, under any circumstances, to act upon the resolutions referred to, such attempt would be repelled by force on the part of Her Majesty's Provincial Government of New Brunswick; and that a hostile collision would be the immediate and inevitable consequence. It is to be observed, moreover, that any such attempt on the part of Maine, as is contemplated in the resolutions, would, in fact, place Maine in a state of rebellion against the United States Government, as well as in a state of hostility against Great Britain.

I have to add that Mr. Forsyth stated to me, in reply to an inquiry which I made to him upon the subject, that he considered the third resolution of the Legislature of Maine, inclosed in his note, to contain, the consent of that State to the establishment of a joint commission, upon the basis agreed to by the President. Mr. Forsyth further states, that for the establishment of a Commission either to run the line according to the Treaty, or to interpret the terms of the Treaty; the powers of the General Government are by the Constitution fully competent; and that it is only in the contingency of a conventional line being adopted, which both parties would allow was not the line prescribed by the Treaty, that the formal consent of Maine must be obtained.

Inclosure 1 in No. 3.

Mr. Forsyth to Mr. Fox.

*Department of State,
Washington, April 27, 1838.*

THE Undersigned, Secretary of State of the United States, has the honour, by the directions of the President, to communicate to Mr. Fox, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, the result of the application of the General Government to the State of Maine, on the subject of the north-eastern Boundary line; and the resolution which the President has formed, after a careful consideration thereof. By the accompanying papers, received from the Executive of Maine, Mr. Fox will perceive, that Maine declines to give a consent to the negotiation for a Conventional Boundary; is disinclined to a reference of the points in dispute to a new arbitration; but is yet firmly persuaded that the line described in the Treaty of 1783 can be found and traced, whenever the Governments of the United States and Great Britain shall proceed

to make the requisite investigations, with a predisposition to effect that very desirable object. Confidently relying, as the President does, upon the assurances frequently repeated by the British Government, of the earnest desire to reach that result, if it is practicable, he has instructed the Undersigned to announce to Mr. Fox, the willingness of this Government to enter into an arrangement with Great Britain, for the establishment of a joint Commission of Survey and Exploration, upon the basis of the original American proposition and the modifications offered by Her Majesty's Government. The Secretary of State is therefore authorized to invite Mr. Fox to a conference upon the subject, at as early a day as his convenience will permit; and the Undersigned will be immediately furnished with a requisite full power by the President, to conclude a Convention embracing that object, if Her Majesty's Minister is duly empowered to proceed to the negotiation of it on the part of Great Britain.

The Undersigned avails himself, &c.

(Signed) JOHN FORSYTH.

Inclosure 2 in No. 3.

Governor Kent's Message to the Maine Legislature.

To the Senate and House of Representatives;

I HEREWITH communicate, for your consideration, a communication addressed to me by the Secretary of States of the United States, with the correspondence therein referred to, in reference to the north-eastern Boundary. This communication is made by request of the President of the United States; and in compliance with his suggestion, I ask your careful and deliberate attention to the facts and propositions therein contained. The duty devolving upon me would, perhaps, be performed by the simple communication of these documents, without any remarks or comments of my own. But this subject, always interesting to Maine, has become more so by this direct application on the part of the President of the United States, for the expression of the wishes and the will of this State, in reference to the adjustment of this long pending question; and feeling a deep interest, personally and officially, in everything that relates to it, and anxious, mainly, that the rights and honour of Maine should not be jeopardized or impaired, I feel it to be a duty which I owe to the people, who have assigned me my part of responsibility, to speak my honest opinions and views, plainly and unreservedly, upon the grave matters now submitted to you. I ask for my views no other weight or influence than such as their intrinsic value may entitle them to; and I desire only to be regarded as connected with you, in guarding with watchful care the great interests entrusted to us, and doing my duty in this important crises according to my best judgment. If my views are erroneous; or if I am, in your opinion, unnecessarily strict or severe in my judgment of intentions, or too limited in my suggestions of policy, I trust to you to correct or to overrule me. I assume no right to dictate or controul your action.

In the communication from Mr. Forsyth, in connection with a very lucid and interesting history of the negotiations between the two Governments, we are informed that the discussions between the Federal Government and that of Great Britain have arrived at a stage, in which the President thinks it due to the State of Maine, and necessary to the intelligent action of the General Government, to take the sense of this State in regard to the expediency of opening a direct negotiation for the establishment of a conventional line; and if Maine should deem an attempt to adjust the matter in controversy in that form advisable, then to ask the assent of Maine to the same.

The grave and important question, therefore, presented for your consideration, as you will more fully perceive by the documents referred to, is whether you will clothe the Executive of the United States with the unlimited power of fixing a new and conventional line, in lieu of the Treaty Boundary.

It is certainly gratifying to perceive, that the right of Maine to be heard and consulted before the Treaty line is abandoned, is fully recognized by the

General Government; and I have no doubt the Legislature of Maine will approach the consideration of the proposition in the same spirit it is offered, and with an anxious desire to terminate this long-pending and embarrassing question, if it can be done without too great a sacrifice of honour and right. Although the documents are somewhat voluminous, the proposition is single and simple in its character, and easily understood.

I have given to the subject all the reflection and examination I have been able to bestow, since the reception of the documents, and with a most anxious desire to acquiesce in any feasible scheme of adjustment, or any reasonable proposition for a settlement, I feel constrained to say, that I can see little to hope, and much to fear, from the proposed departure from the Treaty line.

I think that the most cursory examination of the correspondence and movements on the part of Great Britain, must satisfy any one, that the leading object which her diplomats have had in view since the revival of the controversy, has been to destroy or lay aside the Treaty line,—to lead us away from the clear, unambiguous, definite terms of that Treaty, and involve us in interminable discussions, propositions, and replies in relation to conventional lines, no one of which would be accepted unless it gave to them a large part of our territory. We find that in May, 1853, very soon after the President, in pursuance of the advice of the Senate, had opened a new negotiation to ascertain the line, according to the Treaty of 1783, to which Treaty line the negotiation of course was confined, the British Minister suggested, "that this perplexed and hitherto interminable question, could only be set at rest by an abandonment of the *defixive* description of boundary contained in the Treaty, and by the two Governments mutually agreeing upon a *conventional* line more convenient to both parties." The same intention is apparent in the refusal to acquiesce in the proposition, to refer the settlement of the Treaty line to a Commission, to be constituted of an equal number chosen by each party, with an umpire to be designated by a friendly Power from the most skilful men in Europe; or, secondly, that the Commission should be entirely composed of such scientific men of Europe, to be selected by some friendly Power, to be attended in the survey and view of the country by agents appointed by the parties. It was in answer to this proposition, that the suggestion of the impracticability of the Treaty line was made; and the intention became apparent, to lead us away from that inconvenient obstacle to their wishes and plans—the Treaty language. The proposition was so equitable and fair, so just to all parties, and so full of promise of adjustment upon proceedings satisfactory to us, that it could not be peremptorily rejected. But, although it was entertained, the answer to it clogged the proposition with so many conditions, and so limited the powers of the Commissioners, and required the concession on our part of the all important fact, that the St. John and Restigouche are not *Atlantic* Rivers; that the original plan was at once deprived of all utility, or power, or use; and, in fact, the reference would have been merely an agreement to abide by the decision, provided both parties should be satisfied and assent to it.

It is certainly somewhat remarkable that if the assumed fact is true, viz.: that the Treaty line cannot be laid down or fixed according to the Treaty, that so much unwillingness should be exhibited to have an attempt made to ascertain it; or if Great Britain is so strongly convinced of the justice and strength of her argument and claim, that she should be so reluctant to refer the whole question to disinterested and scientific Europeans. There is an apparent, and I doubt not a real anxiety to avoid discussion or examination based upon the Treaty, and I fear that if we once abandon that line in search of a conventional one, we shall never be able to bring them back again to consider the present line, or to recognize the Treaty as of any binding effect. I fear, too, that the only question in negotiation for a conventional line, will be how large a portion of our territory we must yield up. The suggestion made by our Government to take the river St. John, from its mouth to its source, as the boundary, was rejected, with a simple expression of wonder that it should have been made; and our Government is told explicitly, that "His Majesty's Government cannot consent to embarrass the negotiation respecting the boundary, by mixing up with it a discussion regarding the navigation of the St. John, as an integral part of the question." The intimation seems plain, that no negotiation for an exchange of territory or privileges will be entered into, but the single point will be how shall the disputed territory be divided between the parties? I fear that if we abandon the Treaty language, so clear and so decided in our favour, and so much at variance with their claim,

we shall leave a certainty for an uncertainty, and throw doubt, confusion and embarrassment over our claim and our course of action, and yield to Great Britain the great obstacle we now present to her grasping spirit—the solemn Treaty of 1763.

And what security have we that any line can be fixed upon which shall be permanent; or what certainty is there that the new line may not be declared to be "impracticable," whenever it may come in contact with any of the plans or wishes of Great Britain? It would certainly be difficult to present a stronger and clearer case than we now do; and if diplomacy and skill can manufacture doubts and embarrassments in the discussion of the question as now presented, we may well despair of ever fixing a certain and unalterable line of Boundary. If I am accused of injustice or severity in these remarks, I would point, in justification, to the remarkable progress of the doubts and assertions in relation to the Treaty line of Boundary. When the question as to which river was the true St. Croix of the Treaty (which was the only question then in dispute), was before the Commissioners under the Treaty of 1794, the British agent founded his principal argument for the westernmost river, upon the ground that a line due north from the source of that river would only include a part of one of the rivers (the St. John) which have their mouth within New Brunswick. He says, "The most accustomed and convenient rule in cases of this kind, is to leave to each Power respectively, the sources of those rivers that empty themselves, or whose mouths are within its territory upon the sea coast, if it can be done consistently with, or in conformity with the intent of the Treaty. A line due north from the source of the western or main branch of the Schouadiac or St. Croix, will fully secure this effect to the United States in every instance, and also to Great Britain in all instances except in that of the River St. John, wherein it becomes impossible, by reason that the sources of this river are to the westward, not only of the western Boundary line of Nova Scotia, but of the sources of the Penobscot, and even of the Kennebec, so that this north line must of necessity cross the St. John; but it will cross it in a part of it almost at the foot of the Highlands, and where it comes to be navigable. But if a north line is traced from the source of the Choptank, it will not only cross the River St. John within about fifty miles from Fredericton, the metropolis of New Brunswick, but will cut off the sources of the rivers which fall into the Bay of Chaleurs, if not many others, probably of the Meramich, among them which fall into the Gulf of St. Lawrence, and thereby be productive of inconvenient consequences to the two Powers, if not of contention between them, instead of "terminating their differences in such a manner as may be best calculated to produce mutual satisfaction and good understanding, which is one of the principal and avowed objects of the Treaty." At this time, then, there was no doubt that the line running due north to the Highlands of the Treaty, must cross the St. John River, and if the starting point was carried east, it is admitted that such line would cut off the Restigouch, which is nearly as far north as our claim. And certainly the line was to run equally far north, whether the starting point was east or west, upon the Highlands inclined to the south. And yet we are now required, as a preliminary, to admit that the St. John and Restigouch are not Atlantic rivers, within the meaning of the Treaty. In 1814, when the negotiations which resulted in the Treaty of Ghent were in progress, no pretence was made that our line did not extend beyond the St. John, and according to our present views.

Great Britain, then, by her negotiations, expressly stated, that she "desires the regularity of the frontier between her North American dominions and those of the United States, not with any view to an acquisition of territory, as such, but for the purpose of securing her possessions, and preventing in future, disputes, and such a variation of the line of frontier as may secure a direct communication between Quebec and Halifax." And when our negotiators peremptorily refused to agree to any cession of territory, the answer was, that they "were not prepared to anticipate the objections contained in the note of the American Plenipotentiary; that they were instructed to treat for a revision of their Boundary lines, with the consent which they have subsequently made; that they had no authority to cede any part, however insignificant, of the territories of the United States, ~~and that they were instructed to leave it open for them to demand an equivalent for such cession, in territory or otherwise.~~" And yet, now that territory which they offered to pay us for, is claimed as clearly their own; and that line which they now demand and recognize as including the territory as claimed by us, is now

declared to be impracticable, and must be abandoned, and a more convenient one sought for and established.

I feel most sensibly, that the question now presented is one of very grave importance, and that the action now to be had by the Legislature of Maine, may, and probably will, have a very material influence upon the relations between this Government and Great Britain.

The painful conviction is forced upon me, that Great Britain is determined to hold this territory, that she now claims, deeming it highly important as securing a connection between her provinces in time of war and peace; and I reiterate the assertion heretofore made, that "we have little to hope from the forbearance or action of the British Government. Their aim is apparent to expunge the treaty provision, and to hold on with an unyielding grasp, to their modern claim, and reject all propositions having the treaty line for their basis." I cannot but regard it as unfortunate, that our General Government, although it has recognized our right to be consulted before any conventional line should be adopted, has, in a degree at least, given countenance to the propriety and expediency of departing from the treaty line. In a note from the Department of State, dated 28th April, 1835, Sir Charles R. Vaughan was assured "that his prompt suggestion, as His Britannic Majesty's Minister, that a negotiation should be opened for the establishment of a conventional boundary, between the two countries, was duly appreciated by the President, who, had he possessed like powers with His Majesty's Government over the subject, would have met the suggestion in a favourable spirit." Such a suggestion, it seems to me, although dictated, doubtless, by a sincere desire to end the controversy, was well calculated to lead our opponents, as a matter of policy on their part, to clog the previous proposition with insuperable difficulties, and to encourage them to persevere in their attempt to obliterate the Treaty language. I think the same effect must have resulted from the singular announcement to the British Government, by the late President of the United States, in 1832, in opening the negotiation under the vote of the Senate, for a settlement of the Treaty line, "that if the Plenipotentiaries should fail in a new attempt to agree upon the line intended by the Treaty of 1783, there would probably be less difficulty than before, in fixing a convenient Boundary, as measures were in progress to obtain from the State of Maine, more extensive powers than were before possessed, with a view of overcoming the constitutional obstacles which had opposed themselves to such an arrangement."

If a direct proposition had come to us, through the General Government, for a specific line of Boundary, yielding to us territory, or privileges of navigation equivalent to the unsettled territory which we might cede to them, it would certainly have presented the question in a different aspect. But the question now is, as I understand it, whether we shall take the lead in abandoning the Treaty, and volunteer propositions for a conventional line.

In respect to the proposition for additional surveys, as it seems to me inexpedient, for this State to acquiesce in the proposed negotiation for a conventional line, until it is *demonstrated* that the Treaty line is utterly impracticable and void for uncertainty, I can have no doubt that the line ought to be run, either by a joint Commission of Exploration and Survey, or independently, by our General Government, by its own surveyors. It is evident to me, that Great Britain is determined to avoid, if possible, such an examination and exploration and establishment of the line, and such proof of the real facts of the case.

It will be perceived, that the President intimates, that if the consent of Maine is not obtained, for entering into direct negotiations for a conventional line, and all other measures failing, "he will feel it to be his duty to submit another proposition to the Government of Great Britain, to refer the decision of the question to a third party."

As this right is claimed on the part of the President as within his constitutional powers, without the consent of Maine, and as no action on the part of Maine, in reference to this mode of adjustment, is asked by the President, I forbear to comment upon it, but refer it to your consideration.

Our situation, in relation to this interesting question, at this moment, demands the exercise of cool and dispassionate judgment, and careful, cautious, but firm action. We owe it to the General Government and our sister States, to do nothing rashly or hastily—to bear and forbear for the sake of the peace of the nation and the quiet of our borders. But we have a duty to perform to our-

selves and our constituents, who have entrusted the rights and honour of Maine to our keeping. Relying upon your patriotism and intelligence, and caution, I place these documents before you, and ask your action upon them, in the confident hope, that the rights and the territory secured to us by our fathers, in the field and the cabinet, will not be impaired or surrendered.

(Signed)

EDWARD KENE.

Council Chamber, March 14, 1838.

Inclosure 3 in No. 2.

STATE OF MAINE.

Resolves in relation to the North-Eastern Boundary.

Resolved—That it is not expedient to give the assent of this State to the Federal Government to treat with that of Great Britain for a conventional line for our north-eastern Boundary, but that this State will insist on the line established by the Treaty of 1783.

Resolved—That, as this State has never heretofore given her consent to the appointment of an umpire under the Treaty of Ghent, in 1814, but has protested against the same; and as she believes it to be a grave question, whether the provision in the Treaty for this purpose has not done its office, and is therefore no longer in force, she is not now prepared to give her assent to the appointment of a new arbiter.

Resolved—That our Senators and Representatives in Congress be requested to urge the passage of the Bill for the Survey of the North-eastern Boundary of the United States, &c., now pending in Congress; and that, if said Bill shall not become a law during the present session of Congress, and if the Government of the United States, either alone or in conjunction with Great Britain or the State of Maine, shall not, on or before the first day of September next, establish and appoint a Commission for a survey of said Boundary line, it shall then be the imperative duty of the Governor, without further delay, to appoint forthwith suitable Commissioners and Surveyors, for ascertaining, running, and locating, the north-eastern Boundary line of this State, and to cause the same to be carried into operation.

Resolved—That the Governor be requested to transmit to the President of the United States one copy of his Message to the Legislature, on the subject of the north-eastern Boundary and these Resolutions, and one copy of the same to each of the Heads of Department at Washington, one copy to each of our Senators and Representatives in Congress, and one copy to the Governor of Massachusetts.

Read and passed, in the House of Representatives, March 23, 1838.

EUGENE H. ARNEY, Speaker.

Read and passed, in Senate, March 23, 1838.

N. S. LITTLEFIELD, President.

March 23, 1838. Approved.

EDWARD KENE.

Inclosure 4 in No. 2.

Mr. Fox to Mr. Forsyth.

Sir,

Washington, May 1, 1838.

I HAVE the honour to acknowledge the receipt of your official note of the 27th ultimo, in which you inclose to me a communication received by the Federal Government from the Executive of Maine, upon the subject of the north-eastern Boundary line, and in which you inform me, that the President is willing to enter into an arrangement with Her Majesty's Government, for the establishment of a Joint Commission of Survey and Exploration, upon the basis of the original American proposition, and of the modifications offered by Her Majesty's

Government, as communicated to you in my note of the 10th of January last; and you invite me to a conference, for the purpose of negotiating a Convention that shall embrace the above object, if I am duly empowered by my Government to proceed to such negotiation.

I have the honour to state to you, in reply, that my actual instructions were fulfilled by the delivery of the communication which I addressed to you on the 10th of January, and that I am not at present provided with full powers for negotiating the proposed Convention. I will forthwith, however, transmit to Her Majesty's Government the note which I have had the honour to receive from you, in order that such fresh instructions may be addressed to me, or such other steps taken, as the present situation of the question shall appear to Her Majesty's Government to require.

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

No. 4.

Mr. Fox to Viscount Palmerston.—(Received March 13, 1839.)

(Extract.)

Washington, February 23, 1839.

I RECEIVED this morning, the inclosed important communication from the Lieutenant-Governor of New Brunswick, containing a Proclamation issued by his Excellency, on the 13th instant, with a report from the authorities of Woodstock, in New Brunswick, upon which that Proclamation was founded;—and conveying to me the information of an unjustifiable incursion into a part of the disputed territory, situated on the Restook River, by an armed body of men from the State of Maine, acting to all appearance under authority of the Government of the State.

Upon receiving this communication from Sir John Harvey, I lost no time in addressing to the United States Secretary of State, the inclosed official note, in which I have duly asserted the claim of Her Majesty's Government to the exclusive right of jurisdiction over the disputed territory, pending the negotiation of the Boundary Question; and have invoked the interference of the General Government, to prevent the hostile collision, now imminent, on the north-eastern frontier, by causing the authorities of Maine to withdraw their armed force from the disputed territory, and to desist from all attempt to exercise jurisdiction therein, in obedience to the explicit agreement subsisting to that effect between the two Governments.

I have, also, since presenting the above note, had, in the course of the day, a personal interview with Mr. Forsyth. I am to have a further conference with Mr. Forsyth to-morrow: and I shall anxiously strive to meet the pacific wishes of the President, if any means may possibly be found of doing so, without detriment or dishonour to vital British rights or interests. In the present condition of things in Canada, and on the Canadian frontier, I am impressed with a sense of the more than usual importance of maintaining peace, if possible, on the border of New Brunswick and Maine.

Intelligence from the seat of the present disturbance, by many days more recent than what has been received at Washington, will be conveyed to England by the steamer "Great Western," which departs from New York on the morning of the 25th instant. I send the present despatch by a special messenger to New York, to be forwarded by the "Great Western." I shall have the honour again to address your Lordship, by the steamer "Liverpool," which is expected to leave New York, for England, on the 5th of March.

Inclosure 1 in No. 4.

Major-General Sir John Harvey to Mr. Fox.

Sir,

Fredericton, New Brunswick, February 13, 1839.

I SEND your Excellency a Proclamation issued by me this day. The act of the State of Maine, against which it is directed, is sufficiently explained by the Proclamation to which it has given rise. While I trust there will be found in that document evidence of my determination not to permit any of Her Majesty's subjects in this Province to take the law of reprisal, or resistance to foreign aggression into their own hands; at the same time aware as you are of the nature and extent of my instructions, I trust that this Proclamation will be regarded as conveying to your Excellency amply sufficient grounds upon which to rest a strong and energetic appeal to the chief government of a nation, against the conduct of one of its Confederated States, by which one of Her Majesty's Representatives has been placed in the trying position of either failing in the fulfilment of the commands of his Sovereign, or of placing the two Nations in a state of immediate and active hostility. I will write to your Excellency more in detail on this subject in a day or two. In the meantime, I trust that no protest or remonstrance may be delayed on the part of your Excellency, against a proceeding fraught with consequences so fatal to the peace of the two Nations. I inclose the copy of the Report upon which my Proclamation was founded.

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

Inclosure 2 in No. 4.

Proclamation by his Excellency the Lieutenant-Governor of New Brunswick.

WHEREAS, I have received information that a party of armed persons, to the number of two hundred, or more, have invaded a portion of this Province, under the jurisdiction of Her Majesty's Government, from the neighbouring State of Maine, for the professed object of exercising authority, and driving off persons stated to be cutting timber therein; and that divers other persons have, without any legal authority, taken up arms with the intention of resisting such invasion and outrage, and have broken open certain stores in Woodstock, in which arms and ammunition belonging to Her Majesty were deposited, and have taken the same away for that purpose,—I do hereby charge and command all persons concerned in such illegal acts, forthwith to return the arms and ammunition so illegally taken to their place of deposit, as the Government of the Province will take care to adopt all necessary measures for resisting any hostile invasion or outrage that may be attempted upon any part of Her Majesty's territories or subjects. And I do hereby charge and command all magistrates, sheriffs, and other officers to be vigilant, aiding and assisting in the apprehension of all persons so offending, and to bring them to justice. And in order to aid and assist the civil power in that respect, if necessary, I have ordered a sufficient military force to proceed forthwith to the place where these outrages are represented to have been committed, as well to repel foreign invasion, as to prevent the illegal assumption of arms by Her Majesty's subjects in this Province. And further, in order to be prepared, if necessary, to call in the aid of the Constitutional Militia Force of the country, I do hereby charge and command the officers commanding the first and second battalions of the Militia of the County of Carleton forthwith to proceed as the law directs, to the drafting of a body of men, to consist of one-fourth of the strength of each of those battalions, to be in readiness for actual service, should occasion require.

Given under my hand and seal at Fredericton, the thirteenth day of February, in the year of our Lord one thousand eight hundred and thirty-nine, and in the second year of Her Majesty's reign. By his Excellency's command.

(Signed) WILLIAM F. ODEL.

God save the Queen.

Inclosure 3 in No. 4.

The authorities of Woodstock to Major-General Sir John Harvey.

Sir,

Woodstock, N. B., February 12, 1839.

WE having received authentic information, that an armed force of the Militia of the State of Maine, consisting of upwards of 200 men, have arrived at Restook, for the avowed purpose of driving off certain persons cutting timber on the disputed territory on the Restook, and then proceeding to the disputed territory on the Madawaska, for the same purpose; we deem it our duty to acquaint your Excellency with these facts; and also further to report, that a number of persons unknown did on the night of the 11th instant, break open the stores of A. S. Carman, Esq., Charles Connel, Esq., and Mr. James Segee, in Woodstock, (in which stores a quantity of arms belonging to Her Majesty had been deposited for safe keeping,) and took away the said arms and ammunition, for the purpose, as we suppose, of opposing the said armed force. We beg to state, that the said party did not receive any sanction from the authorities in Woodstock, for so doing.

(Signed) R. KETCHUM,
Lieutenant-Colonel.
JOHN WINSLOW.
Sheriff of Carleton.

Inclosure 4 in No. 4.

Mr. Fox to Mr. Forsyth.

Sir,

Washington, February 23, 1839.

I HAVE this day received a despatch from Major-General Sir John Harvey, Lieutenant-Governor of the Province of New Brunswick, containing the inclosed Proclamation issued by his Excellency on the 13th instant, and conveying to me the information of an unjustifiable incursion into a part of the disputed territory situated on the Restook River, by an armed body of Militia from the State of Maine, acting to all appearance under the authority of the Government of the State.

The professed object of this incursion is stated to be, to capture or drive away a party of persons, who are alleged to be trespassing, and cutting timber, on lands in the neighbourhood of the Restook River.

But it is well known that all that part of the disputed territory is placed under the exclusive jurisdiction of Her Majesty's authority; and that it is bound to remain so, by explicit agreement between the Governments of Great Britain and the United States, until the final settlement of the Question of the north-eastern Boundary.

Her Majesty's officers, therefore, cannot permit any act of authority, such as is now attempted by the State of Maine, to be exercised within the territory in question; and it will become the bounden duty of the Lieutenant-Governor of New Brunswick to resist the attempt, and to expel by force the Militia of Maine, if the present incursion be persisted in.

Under these circumstances, I invoke the immediate interference of the General Government of the United States, to prevent the threatened collision, by causing the authorities of Maine to withdraw voluntarily their Militia Force, and to desist, in obedience to the agreement subsisting between the two Nations, from their present unwarrantable proceedings.

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

No. 5.

Mr. Fox to Viscount Palmerston.—(Received March 26, 1839.)

(Extract.)

Washington, March 7, 1839.

IN my despatch of the 23rd ultimo, I had the honour to report to your Lordship the course which had been pursued at Washington up to that day's date, with respect to the serious and alarming dispute that has arisen between the Governments of New Brunswick and Maine.

On the 25th of February, I received from the United States Secretary of State, the inclosed official reply to the letter which I had addressed to him on the 23rd, a copy of which letter was forwarded to your Lordship in my despatch of the 23rd. On the same day I addressed to Mr. Forsyth, in rejoinder to his reply, a second communication, of which I have likewise the honour herewith to inclose a copy.

The first part of Mr. Forsyth's letter is devoted to the object of explaining to me that the expedition first undertaken by the Authorities of Maine into the Restook district, and which has led to the subsequent hostile movements on both sides, was not a military incursion, and ought not to have been objected to or resented as such, by the Government of New Brunswick; that the expedition consisted of a land agent's party, employed for purposes of civil action, and escorted by an armed force, only because of the notoriously audacious and refractory character of the trespassers, whom it was the object of the land agent to disperse.

The above explanation is, perhaps, to some extent satisfactory; but the part of the quarrel to which it relates has been thrown out of sight by the aggravated character of the subsequent movements.

The second part of Mr. Forsyth's letter conveys, a denial, on the part of the Government of the United States, of the existence of an agreement, as understood by Her Majesty's Authorities, respecting the right of exclusive jurisdiction to be exercised by Great Britain within the disputed territory, pending the negotiation for a final settlement of the Boundary Question.

In the answer which I returned to this part of Mr. Forsyth's letter, I have confined myself to protesting against the ground now assumed by the United States Government. I have abstained from entering into a detailed argument upon the point at issue, until I shall have received a more full instruction from Her Majesty's Government; and hoping always that an early settlement of the general question may render this minor point of difference of little or no moment.

I am aware that our case, with respect to the right of present jurisdiction, does not rest upon any one specific article of contract, guaranteeing to us the exercise of that exclusive right; but that it rests upon an understood agreement, resulting by rigorous deduction from a long train of facts and admissions, spread over a controversy and correspondence of many years. As it was necessary that my reply should be delivered to Mr. Forsyth on the same day that I received his letter, with a view to its being annexed to the correspondence which was on that day to be communicated by the President to Congress, the time did not allow of my undertaking, in detail, an argument of the above character, even if it had appeared advisable on other accounts that I should do so.

It resulted from this correspondence, and from the Special Message which on the same day was transmitted by the President to Congress, that Her Majesty's Authorities in America were now placed directly at issue with the United States Government upon the subordinate point of the boundary controversy which relates to the exercise of present jurisdiction; and that if the Lieutenant-Governor of New Brunswick should persevere to carry out his instructions by force of arms, the event would be immediate war between Great Britain and the United States.

In order to avert honourably, if possible, this precipitate appeal to arms, I proposed that the United States Secretary of State and myself should sign provisionally a joint agreement, recording our opposite views upon the point at issue; declaring that an understanding upon that point could only be arrived at by further discussion between the two Governments, and recommending, in the

mean time, a suspension of hostile movements on the part of the Government of New Brunswick, and a voluntary withdrawal, by the State of Maine, of the armed force which had been marched into the disputed district.

The proposal was immediately acceded to by the President. The joint agreement, in the form of a memorandum, of which I have the honour herewith to inclose a copy, was signed by Mr. Forsyth and myself on the 27th of February. It was forwarded by me on the same day, by a special messenger, to Sir John Harvey. Major-General Scott, of the United States Army, was despatched from Washington on the 25th, the bearer of the same communication to the Governor of Maine; and charged by the President to use every effort in his power for the preservation of peace on the north-eastern border; consistently always with the ground now assumed by the United States Government with respect to the contested right of present jurisdiction, and with their resolution to resist the assertion of that right by armed force on the part of Her Majesty's Provincial Authorities. The memorandum was likewise on the same day communicated by the President, in a special message, to both Houses of Congress.

I herewith further inclose the copy of an official letter, which I addressed to the Lieutenant-Governor of New Brunswick, conveying my reasons for recommending to his adoption the terms of accommodation proposed in the memorandum. I hope that this pacific arrangement, in the conclusion of which no time was lost, will have the effect of averting a collision of arms, until such time as a definite understanding can be arrived at, by discussion, between the two Governments, upon the contested point of present jurisdiction; or until a final settlement of the Boundary Question shall have caused that minor point of difference to disappear.

I now proceed to report to your Lordship the proceedings in Congress, that have arisen out of the present dispute.

On the 22nd or 23rd ultimo, about the same time that I received the official communications addressed to me by Sir John Harvey, letters were received by the President from the Governor of Maine, calling upon the Federal Government to support the State of Maine in its resistance to the intended military occupation of the disputed territory by the Lieutenant-Governor of New Brunswick.

As a few days then only remained before the termination of the session of Congress, and as, under the view of the existing dispute assumed by the President, a case of war might arise before the meeting of the ensuing Congress,—the elections for which will not be completed until next September,—it was judged necessary to lay the whole matter, without delay, before the two houses, and to invite their counsel and action thereupon.

A special message was accordingly transmitted to Congress on the 26th of February, conveying copies of the correspondence which had passed between the President and the Governor of Maine, and between the Secretary of State and myself. A second special message was transmitted on the 27th, communicating the memorandum which had been that day signed by the Secretary of State and myself.

I herewith inclose printed copies of the above messages and documents.

The President, in his language to Congress, assumes, upon the points now at issue, the same ground which had been taken by Mr. Forsyth, in his official letter to me of the 25th of February; qualifying the first movement on the part of Maine, as a process of civil jurisdiction rather than a military expedition; denying the existence of an agreement for the exclusive exercise of jurisdiction by Great Britain; disavowing any right on the part of Maine, to hold military possession of the disputed district; but declaring, that if the authorities of New Brunswick shall attempt, on their side, to sustain by force of arms the claim to exclusive jurisdiction asserted by Great Britain, the Federal Government will then be bound to assist the State of Maine in repelling such attempt, as an invasion of the territory of the United States.

This last proposition is broadly and distinctly affirmed; but the general tone and language of the message are very far from being hostile or unfriendly towards Great Britain. No definite course of action is recommended to Congress, but its attention is invited to the subject, in order to obviate the possible necessity of convening an extra session.

The President's messages were referred by the two Houses to their Com-

mittees of Foreign Affairs. The Committees delivered their Reports on the 28th of February.

The Report from the Committee of the Senate consisted of four resolutions, reasserting the principal propositions above-mentioned, which had been contained in the President's message. These resolutions were passed unanimously by the Senate on the 1st of March; an amendment moved by Mr. Webster, the Senator from Massachusetts, of hostile character towards Great Britain, and favourable to the most violent pretensions of Maine, having been previously rejected by a vote of 26 to 19.

The Report from the Committee of the House of Representatives embodied in much stronger language, and with more detail, the same propositions which had been asserted by the President in his message, and by the Senate in their resolutions; and concluded by recommending to Congress, a Bill to clothe the President with additional powers for the defence of the territory of the United States against invasion.

This Bill, which forms the most important part of the proceedings of Congress, after undergoing some alterations from the original draft by the Committee, was passed in the House of Representatives on the 2nd of March, almost unanimously, by a majority, namely, of 201 to 6. It was on the same day passed unanimously, and without discussion, by the Senate; and immediately received the assent of the President.

The first section of the Bill authorizes the President to resist any attempt, on the part of Great Britain, to enforce by arms her claim to exclusive jurisdiction over the disputed territory. Other sections place the following means, for the above-mentioned purpose, at the disposal of the President:—the services of the army and militia of the United States as at present organized; authority to accept the services, in addition to the above, of 50,000 volunteers; to arm, equip, and man the whole navy of the United States; to equip armed steamboats on the frontier lakes and rivers, for resistance to invasion by Great Britain in that quarter; to repair and arm the seaboard fortifications; to raise by loan ten millions of dollars, for defraying the expense of the above armaments. The President is further authorized to appoint a Special Minister to England, to hasten the settlement of the boundary dispute.

Such are the principal provisions of the extraordinary Bill which has been passed by the Congress of the United States. It is impossible not to behold therein the evidence of a jealous and unfriendly intention towards Great Britain. A greater parade of preparation need scarcely have been made, if Great Britain had declared a desire to reconquer the United States as British colonies. I feel, however, that the prudent and pacific nature of the President, in whose hands these powers have been placed, and his well-known friendly feelings towards England, will go far to strip the Act of the offensive and mischievous character which it would otherwise have borne.

The discussions upon the President's message, and upon the reports of the Committees, which preceded the passage of the Bill, were distinguished, in both Houses, by unwonted unanimity; by extreme asperity against England; and by an unaccountable exhibition of dismay, at apprehended projects of invasion by British power.

I also inclose authentic copies of the resolutions of the Senate, of the report from the House of Representatives, and of the Bill for defence against invasion, in the form in which it was finally passed.

With reference to that section of the Act, which provides for a Special Mission to England, the President and Mr. Forsyth inform me, that Mr. Stevenson will be instructed to inquire from your Lordship, whether the appointment of such a Mission will be agreeable to Her Majesty's Government; and whether Her Majesty's Government are of opinion, that the measure would be likely to conduce to a more speedy settlement of the Boundary Question. No decision will be taken by the President until your Lordship's answer shall have been received.

It is scarcely necessary to add, that the more warlike clauses of the Bill will not be acted upon, excepting in the positive event of what the Bill qualifies as invasion of the United States by Great Britain.

With respect to the contested point of temporary jurisdiction, out of the recent agitation of which all the present excitement has arisen, I have reason to believe that the President will be satisfied, if Her Majesty's Government shall adopt, for the remaining period of the boundary negotiation, the terms of accommodation proposed in the memorandum signed by Mr. Forsyth and myself. The whole quarrel may, perhaps, by such means, be honourably and prudently composed. It would be a deplorable and senseless act, if while the two Governments are negotiating, in a friendly spirit, the general question of the disputed boundary, the nations should be hurried into war, in order to decide the minor point, as to which of them shall in the mean time exercise provisional jurisdiction over the territory in dispute.

According to the latest news received at Washington from the scene of action, the State of Maine was continuing to march troops into the disputed territory, and every effort was being used by the Authorities to inflame the excitement of their citizens. On the side of New Brunswick, it does not appear that Sir John Harvey had yet advanced beyond the line of the River St. John. More recent intelligence, however, of the actual operations on the border, will be conveyed to England by the way of New York.

The present despatch will be transmitted by the steam-ship "Liverpool," which departs from New York on the 9th instant.

Inclosure I in No. 5.

Mr. Forsyth to Mr. Fox.

Sir,

Department of State, Washington, February 25, 1839.

YOUR letter of the 23d instant, calling upon the General Government to interfere to prevent a collision between the Governments of New Brunswick and the State of Maine, which you apprehend will be the consequence of a recent attempt made by the State authorities to expel trespassers upon the public lands in the territory in dispute between the Governments of the United States and Her Britannic Majesty, has been laid before the President, who, after a careful examination of its contents, has instructed me to reply that your own note and the proclamation of Sir John Harvey, the Lieutenant-Governor of New Brunswick, which was sent with it, have been both prepared under erroneous impressions as to the facts of the transaction to which they relate. Communications from the Government of Maine enable me to state you that the recent movement in the disputed territory was founded upon a resolution of the Legislature, a copy of which is herewith inclosed. You will perceive that no military occupation of the territory was contemplated, the sole object having been to remove trespassers who, in violation of the right of property, to whomsoever it may belong, and the declared intentions of both Governments, were gradually and hourly diminishing its value. From the authority given to the agents of the State of Maine, and from information of an undoubted authenticity, it is known that the persons engaged in this affair, although armed, from an apprehension of resistance from the large body of armed lawless aggressors on the public domain, were not detailed from the militia of the State for that purpose, but were employed by the land agent of Maine and one of her sheriffs, who were to direct and control all their movements. Had the sole and avowed object been accomplished, the party would have immediately withdrawn, leaving the territory, in all other respects, in the condition in which it was found by them. This termination of the enterprise has been thus far suspended by the unexpected seizure and detention of the land agent of Maine, who was arrested by the trespassers when in the act of putting himself in communication with the agent of the Government of New Brunswick, appointed by that Government to watch the trespassers he had himself been directed to arrest or drive off. Her Majesty's Government cannot be surprised, however, much as it may regret, with the President, that Maine has thought herself compelled to adopt some decisive movement on the subject, when it is recollected that, as long ago as the year 1829, Mr. Clay, then the Secretary of State, apprized the British minister, Sir Charles R. Vaughan, on the occurrence of similar, but less extensive violations of the property in question, alleged to have been authorized by the Colonial

Government, that, if such trespasses were authorized or countenanced on the disputed territory, it was not to be expected that the State of Maine would abstain from the adoption of preventive measures. It is true that, in the present instance, the trespassers were not believed to have been either countenanced or authorized by Her Majesty's Colonial Government, but that circumstance would, itself, lead to some surprise at the excitement produced by an act equally required by the interests of both nations. Sir John Harvey has, indeed, subsequently taken measures which prove his own conviction of the necessity of interference on the part of one or both Governments to arrest a systematized plundering of the public domain. The President hopes, therefore, that, as you will perceive that there was no military occupation attempted; that the object in view was perfectly lawful, the necessity of it being acknowledged by the act of Sir John Harvey; that, as soon as the purpose is accomplished, the agent and his assistants will, as heretofore on like occasions, be withdrawn, that you will not find it difficult to satisfy Her Majesty's Colonial authorities that there can be no occasion for collision with Maine, growing out of the renewed exercise, on her part, of an oft-asserted right due to herself, and useful, in this instance, to Her Majesty's Government, whatever may be the result of the pending negotiation, especially on the supposition that the territory in question should hereafter be found to belong to the British provinces. In that event, the President persuades himself, from the known disposition and long-tried forbearance of the State authorities, that he will find it easy to prevent any military array on the territory on the part of Maine, or procure the voluntary disbandment of any militia that may have been brought together from the apprehension of a collision with the Colonial Government. The propriety of the prompt release, on each side, or the agents of the State and Colonial Governments, who have been arrested, as the President believes, under a mutual misapprehension, is so obvious, that he takes it for granted they will be respectively set at liberty, if that has not been already done.

It would give me pleasure to be able to conclude this communication without further remark; but there is another error in your letter, of so grave a character, that, to avoid all possibility of a misapprehension, the President has made it incumbent upon me to call it to your especial notice. It is the assertion that "it is well known that all that part of the disputed territory is placed under the exclusive jurisdiction of Her Majesty's authority; and that it is bound to remain so, by explicit agreement between the Governments of Great Britain and the United States, until the final settlement of the question of the north-eastern boundary." That Great Britain has sought, on several occasions, to prove argumentatively that the exclusive jurisdiction vested with her until the final settlement of the question, I shall not controvert; but the question of title, and of the right of jurisdiction as consequent thereon, or as resulting from the previous exercise thereof, has been a subject of continued controversy between the two Governments, in respect to which neither has released or waived its claims. So far from any relinquishment of right of jurisdiction having been made, or any agreement, either express or implied, entered into on the part of the Government of the United States, of the nature alleged by the Lieutenant-Governor of New Brunswick, and affirmed also in your note of the 23rd instant, it will appear from the whole course of the correspondence between the two Governments, extending through a series of years, that that of the United States has throughout, and on frequent occasions, solemnly protested as well against the existence of the right to the exclusive possession and jurisdiction as to the exercise thereof; and has upon every proper occasion asserted that both belonged to Maine and to the United States. The assertion now made, therefore, appears to the President to be so extraordinary, that I am instructed to ask from you a full explanation of the ground upon which it is placed, as the President owes it in duty to the General and State Governments, that the error may be traced to its source, and that the two Governments may know distinctly, and without delay, the true extent of their understanding on this point, that no unfortunate or fatal consequences shall spring from any misconception on either side in respect to it. In the present state of the intercourse between Great Britain and the American continent, and the rapidity with which Her Majesty's Government can be consulted on all questions arising with this Government, or in Her Majesty's possessions, the President believes that this state of the question

should, of itself, furnish an amply sufficient reason to prevent any hasty action on the part of the Colonial Government, which may lead to results fatal to the good understanding, and eminently hurtful to the prosperity of the two countries.

I cannot take leave of this subject without adverting to the delay of Her Majesty's Government in making some decisive proposition to advance the final settlement of the question of boundary; thus exposing the two Governments, as the present condition of things on the frontier too clearly shows, to consequences which neither can look to without pain, and full of mortification to that one to whom any unnecessary procrastination may be justly attributable.

I avail myself of the occasion to offer you assurances of the high respect and consideration with which I have the honour to be your obedient servant.

(Signed) JOHN FORSYTH.

Inclosure 2 in No. 5.

Mr. Fox to Mr. Forsyth.

Sir,

Washington, February 25, 1839.

I HAVE the honour to acknowledge the receipt of your letter of this day's date, written in reply to a communication which I addressed to you on the 23rd instant, upon the subject of the dispute that has arisen between the Governments of New Brunswick and Maine.

With reference to that portion of your letter which treats of the question of actual jurisdiction, pending the negotiation for the settlement of the disputed boundary, I deeply regret to find that the Government of the United States is now placed directly at variance with the Government of Her Majesty in its understanding of that question.

I shall lose no time in transmitting your letter to Her Majesty's Government, in order that I may be enabled to convey to you, if necessary, a full knowledge of the views and intentions of Great Britain upon this part of the subject. I confine myself, for the present, to protesting, in the most formal manner, against the views set forth in that part of your letter to which I am referring. I adopt this course in preference to entering at once into a detailed discussion of the matter, because, in the first place, I shall best be able to do so after a direct communication with my Government; and, in the second place, because I entertain the hope that an early settlement of the general question of the disputed boundary may render this subordinate point of difference of little moment.

I avail myself of this occasion to renew to you the assurance of my high respect and consideration.

(Signed) H. S. FOX.

Inclosure 3 in No. 5.

MEMORANDUM.

Washington, February 27, 1839.

HER Majesty's authorities consider it to have been understood and agreed upon by the two Governments that the territory in dispute between Great Britain and the United States, on the north-eastern frontier, should remain exclusively under British jurisdiction until the final settlement of the boundary question.

The United States Government have not understood the above agreement in the same sense; but, on the contrary, consider that there has been no agree-

ment whatever for the exercise, by Great Britain, of exclusive jurisdiction over the disputed territory, or any portion thereof; but a mutual understanding that, pending the negotiation, the jurisdiction then exercised, by either party, over small portions of the territory in dispute, should not be enlarged, but be continued merely for the preservation of local tranquillity and the public property; both forbearing, as far as practicable, to exert any authority; and when any should be exercised by either, placing upon the conduct of each other the most favourable construction.

A complete understanding upon the question thus placed at issue (of present jurisdiction) can only be arrived at by friendly discussion between the Governments of the United States and Great Britain; and as it is confidently hoped that there will be an early settlement of the general question, this subordinate point of difference can be of but little moment.

In the mean time the Government of the Province of New Brunswick and the Government of the State of Maine will act as follows: Her Majesty's officers will not seek to expel, by military force the armed party which has been sent by Maine into the district bordering on the Aroostook River; but the Government of Maine will, voluntarily and without needless delay, withdraw, beyond the bounds of the disputed territory, any armed force now within them; and if future necessity shall arise for dispersing any notorious trespassers, or protecting public property from depredation, by armed force, the operation shall be conducted by concert, jointly or separately, according to agreement between the Governments of Maine and New Brunswick.

The civil officers in the service, respectively, of New Brunswick and Maine, who have been taken into custody by the opposite parties, shall be released.

Nothing in this memorandum shall be construed to fortify or to weaken, in any respect whatever, the claim of either party to the ultimate possession of the disputed territory.

The Minister Plenipotentiary of Her Britannic Majesty having no specific authority to make any arrangement on this subject, the Undersigned can only recommend, as they now earnestly do, to the Governments of New Brunswick and Maine, to regulate their future proceedings according to the terms hereinbefore set forth, until the final settlement of the territorial dispute; or until the Governments of the United States and Great Britain shall come to some definite conclusion on the subordinate point upon which they are now at issue.

(Signed)

H. S. FOX,

*Her Britannic Majesty's Extraordinary
and Minister Plenipotentiary.*

(Signed)

JOHN FORSYTH,

Secretary of State of the United States of America.

Inclosure 4 in No. 5.

Mr. Fox to Sir John Harvey.

Sir,

Washington, February 27, 1839.

I RECEIVED on the 23rd instant, your Excellency's letter of the 13th, containing your Proclamation of that day's date, and conveying to me information of an armed incursion by the people of Maine, into a part of the disputed territory situated on the Restook River.

I herewith transmit to you copies of an official correspondence, which has passed between the Secretary of State of the United States and myself.

You will perceive from this correspondence, that the United States Government is now prepared to deny the existence of an agreement—to the extent as understood by us—respecting the exclusive exercise by Great Britain of jurisdiction over the disputed territory, pending the negotiation for the settlement of the north-eastern boundary.

The two Governments are thus placed pointedly at issue, upon this subordinate branch of the Boundary Question. It is only by direct negotiation and free discussion between them, that a definite understanding upon the point at issue can be arrived at.

In this state of the affair, I think it best to remain as at the service of a Sovereign whose generous forbearance is unequalled in the history of nations, to refrain from further action, until time shall have been afforded to Her Majesty's Government, to attempt the adjustment of the difference by friendly means.

Governed by these feelings, I have this day agreed to and signed, with the Secretary of State of the United States, the inclosed Memorandum, containing terms of accommodation which we recommend to the adoption, respectively, of your Excellency and of the Governor of Maine.

I am aware, considering the nature of your obligations, of the great responsibility which you will incur by acceding to the proposed terms of accommodation; but, I think, that in the present conjuncture such responsibility ought to be fearlessly met: and my share thereof, that shall fall upon me, for the advice which I am now giving, I will cheerfully accept.

We shall be making a large and generous concession to the pretensions of the people of Maine, by admitting the question of present jurisdiction to be in any way open and debatable: but I deem the concession worth making, if it enable us to preserve peace honourably between the two countries.

The question of present jurisdiction is not at all, from its nature, subordinate and provisional; it will cease to be any question at all as soon as the boundary controversy is determined. And surely it would be a lamentable act of imprudence if, while the two Governments are engaged, and in a friendly spirit, negotiating the general question of dispute, the nations should rush to war in order to decide the inferior point of which of them shall in the mean time exercise temporary jurisdiction within the limits in dispute.

The duplicate of the inclosed memorandum is forwarded to the Governor of Maine who, I have no doubt, under the recommendation of the President, will comply with the terms proposed, if your Excellency shall be willing equally to accede to them.

I have the
HON. Secy.
H. S. FOX

Inclosure 3 in No. 2.

Message from the President of the United States upon the subject of the present state of affairs between the State of Maine and the British Province of New Brunswick.

To the House of Representatives:

Washington, February 25, 1809.

I LAY before Congress several despatches from His Excellency the Governor of Maine, with inclosures, communicating certain proceedings of the Legislature of that State, and a copy of the reply of the Secretary of State, made by my direction, together with a note from H. S. Fox Esq. British Minister and Minister Plenipotentiary of Great Britain, with the answer of the Secretary of State to the same.

It will appear from these documents, that a numerous band of lawless and desperate men, chiefly from the adjoining British provinces, but without the authority or sanction of the Provincial Government, had possessed with the portion of the territory in dispute between the United States and Great Britain which is watered by the river Aroostook, and claimed to belong to the State of Maine; and that they had committed extensive depredations there, by cutting and destroying a very large quantity of timber. It will further appear that the Governor of Maine, having been officially apprised of the circumstances, had communicated it to the Legislature, with a recommendation of such provisions, in addition to those already existing by law, as would enable him to stop the course of said depredations, disperse the trespassers, and secure the timber which they were about carrying away; that in compliance with a Resolve of the Legislature, passed in pursuance of his recommendation, His Excellency had despatched the land agent of the State, with a force deemed adequate to that purpose, to the scene of the alleged depredations, who, after accomplishing a

part of his duty, was seized by a band of the trespassers, at a house claimed to be within the jurisdiction of Maine, whither he had repaired for the purpose of meeting and consulting with the land agent of the province of New Brunswick, and conveyed as a prisoner to Fredericton, in that province, together with two other citizens of the State, who were assisting him in the discharge of his duty.

It will also appear that the Governor and Legislature of Maine, satisfied that the trespassers had acted in defiance of the laws of both countries, learning that they were in possession of arms, and anticipating (correctly, as the result has proved) that persons of their reckless and desperate character would set at naught the authority of the magistrates, without the aid of a strong force, had authorized the sheriff and the officer appointed in the place of the land agent, to employ, at the expense of the State, an armed posse, who had proceeded to the scene of these depredations, with a view to the entire dispersion or arrest of the trespassers, and the protection of the public property.

In the correspondence between the Governor of Maine and Sir John Harvey, Lieutenant-Governor of the province of New Brunswick, which has grown out of these occurrences, and is likewise herewith communicated, the former is requested to recall the armed party advanced into the disputed territory for the arrest of trespassers, and is informed that a strong body of British troops is to be held in readiness to support and protect the authority and subjects of Great Britain in said territory. In answer to that request the Provincial Governor is informed of the determination of the State of Maine to support the land agent and his party in the performance of their duty; and the same determination, for the execution of which provision is made by a resolve of the State Legislature, is communicated by the Governor to the General Government.

The Lieutenant-Governor of New Brunswick, in calling upon the Governor of Maine for the recall of the land agent and his party from the disputed territory, and the British minister in making a similar demand upon the Government of the United States, proceed upon the assumption that an agreement exists between the two nations, concerning to Great Britain, until the final settlement of the Boundary Question, exclusive possession of, and jurisdiction over, the territory in dispute. The important bearing which such an agreement, if it existed, would have upon the condition and interests of the parties, and the influence it might have upon the adjustment of the dispute, are too obvious to allow the error upon which this assumption seems to rest, to pass for a moment without correction. The answer of the Secretary of State to Mr. Fox's note, will show the ground taken by the Government of the United States upon this point. It is believed that all the correspondence which has passed between the two Governments upon this subject has already been communicated to Congress, and is now on their files. An abstract of it, however, hastily prepared, accompanies this communication. It is possible that in thus abridging a voluminous correspondence, commencing in 1825, and continuing to a very recent period, a portion may have been accidentally overlooked; but it is believed that nothing has taken place which would materially change the aspect of the question as therein presented. Instead of sustaining the assumption of the British functionaries, that correspondence disproves the existence of any such agreement. It shows that the two Governments have differed not only in regard to the main question of title to the territory in dispute, but with reference also to the right of jurisdiction, and the fact of the actual exercise of it in different portions thereof. Always aiming at an amicable adjustment of the dispute, both parties have entertained, and repeatedly urged upon each other, a desire that each should exercise its rights, whatever it considered them to be, in such a manner as to avoid collision, and stay, to the greatest practicable extent, the excitement likely to grow out of the controversy. It was in pursuance of such an understanding that Maine and Massachusetts, upon the remonstrance of Great Britain, desisted from making sales of lands; and the General Government, from the construction of a projected military road in a portion of the territory of which they claimed to have enjoyed the exclusive possession; and that Great Britain, on her part, in deference to a similar remonstrance from the United States, suspended the issue of licenses to cut timber in the territory in controversy, and also the survey and location of a railroad through a section of country over which she also claimed to have exercised exclusive jurisdiction.

The State of Maine had a right to arrest the depredations complained of;

it belonged to her to judge of the exigency of the occasion calling for her interference; and it is presumed, that had the Lieutenant-Governor of New Brunswick been correctly advised of the nature of the proceedings of the State of Maine, he would not have regarded the transaction as requiring, on his part, any resort to force. Each party claiming a right to the territory, and hence to the exclusive jurisdiction over it, it is manifest that, to prevent the destruction of timber by trespassers, acting against the authority of both, and at the same time avoid forcible collision between the contiguous Governments, during the pendency of negotiations concerning the title, resort must be had to the mutual exercise of jurisdiction in such extreme cases, or to an amicable and temporary arrangement as to the limits within which it should be exercised by each party. The understanding supposed to exist between the United States and Great Britain has been found heretofore sufficient for that purpose, and I believe will prove so hereafter, if the parties on the frontier, directly interested in the question, are respectively governed by a just spirit of conciliation and forbearance. If it shall be found, as there is now reason to apprehend, that there is, in the modes of construing that understanding by the two Governments, a difference not to be reconciled, I shall not hesitate to propose to Her Britannic Majesty's Government a distinct arrangement for the temporary and mutual exercise of jurisdiction, by means of which similar difficulties may in future be prevented.

But, between an effort on the part of Maine to preserve the property in dispute from destruction by intruders, and a military occupation by that State of the territory, with a view to hold it by force, while the settlement is a subject of negotiation between the two Governments, there is an essential difference, as well in respect to the position of the State as to the duties of the General Government. In a letter addressed by the Secretary of State to the Governor of Maine, on the 1st of March last, giving a detailed statement of the steps which had been taken by the Federal Government to bring the controversy to a termination, and designed to apprise the Governor of that State of the views of the Federal Executive in respect to the future, it was stated, that while the obligations of the Federal Government to do all in its power to effect the settlement of the Boundary Question were fully recognised, it had, in the event of being unable to do so specifically, by mutual consent, no other means to accomplish that object amicably than by another arbitration, or by a Commission with an umpire in the nature of an arbitration; and that, in the event of all other measures failing, the President would feel it his duty to submit another proposition to the Government of Great Britain to refer the decision of the question to a third Power. These are still my views upon the subject; and, until this step shall have been taken, I cannot think it proper to invoke the attention of Congress to other than amicable means for the settlement of the controversy, or to cause the military power of the Federal Government to be brought in aid of the State of Maine, in any attempt to effect the object by a resort to force.

On the other hand, if the authorities of New Brunswick should attempt to enforce the claim of exclusive jurisdiction set up by them, by means of a military occupation on their part, of the disputed territory, I shall feel myself bound to consider the contingency provided by the constitution as having occurred; on the happening of which, a State has the right to call for the aid of the Federal Government to repel invasion.

I have expressed to the British Minister near this Government a confident expectation that the agents of the State of Maine, who have been arrested under an obvious misapprehension of the object of their mission, will be promptly released; and to the Governor of Maine, that a similar course will be pursued in regard to the agent of the province of New Brunswick. I have also recommended that any militia that may have been brought together by the State of Maine, from an apprehension of a collision with the Government or people of the British province, will be voluntarily and peaceably disbanded.

I cannot allow myself to doubt that the results anticipated from these representations, will be seasonably realized. The parties more immediately interested cannot but perceive that an appeal to arms, under existing circumstances, will not only prove fatal to their present interests, but would postpone, if not defeat, the attainment of the main objects which they have in view. The very incidents which have recently occurred will necessarily awaken the Governments

to the importance of promptly adjusting a *dispute*, by which it is now made manifest that the peace of the two nations is daily and immminently endangered. This expectation is further warranted by the general *conduct* which has hitherto characterized the conduct of the Governments and people on both sides of the line. In the uniform patriotism of Maine, her attachment to the Union, her respect for the wishes of the people of her sister States, of whose interest in her welfare she cannot be unconscious, and in the solicitude felt by the country at large for the preservation of peace with our neighbours, we have a strong guarantee that she will not disregard the request that has been made of her.

As, however, the session of Congress is about to terminate, and the agency of the Executive may become necessary during the recess, it is important that the attention of the Legislature should be drawn to the consideration of such measures as may be calculated to obviate the necessity of a call for an extra session. With that view, I have thought it my duty to lay the whole matter before you, and to invite such action thereon as you may think the occasion requires.

(Signed) M. VAN BUREN.

Inclosure 6 in No. 5.

The Governor of Maine to the President of the United States.

Sir,

Executive Department, Augusta, February 13, 1830.

I HAVE the honour herewith to inclose the Governor's message to the Legislature of this State on the 24th ultimo; resolve of the Legislature thereon; message of the 15th instant, and resolve of the same date; message of the 15th instant, and resolves passed by the House of Representatives of the same date; a proclamation issued by Sir John Harvey, Lieutenant-Governor of New Brunswick, on the 13th instant; and a letter received by express from him this morning, also dated February 13.

By these papers you will learn that the Honourable Basil McIntire, while engaged in the service of this State, as land agent, in endeavouring to expel from lands bordering on the Aroostook River in this State, a body of armed men, principally from the British provinces, who were engaged in cutting the timber, in defiance of the authorities of this State, has been seized, with Gustavus G. Cushman and Thomas Bartlett, Esquires, who were acting the land agent in this service, and have been transported to Fredericton, the capital of New Brunswick. The manner in which this was done I have described in my message to the Legislature of this day. It was, to say the least, a grossly insulting to Mr. McIntire, and is such an indignity to the State and the nation as cannot and ought not to be submitted to. These gentlemen have been seized upon territory which is regarded by Maine as having always been within her exclusive possession and jurisdiction, as will appear by a view of the maps alluded to in my message.

You will perceive, by the proclamation and letter of Sir John Harvey, that he assumes the extraordinary position that the British Government, by an agreement with the Government of the United States, is entitled to the exclusive possession and jurisdiction of the whole disputed territory until the question of right shall be settled; and that he has ordered out a large military force to expel the party in the service of the land agent from the territory, calling the proceeding on our part an invasion of Her Majesty's province of New Brunswick. In this state of things, I have to inform your Excellency that our citizens, now upon this territory, engaged in the service of the State, will not leave it without accomplishing their object, unless compelled to do so by a superior force; that one thousand draughted militia will march for the Aroostook on Wednesday, the 21st instant, to aid and assist the land agent in carrying into effect the resolve of the 24th of January. I shall also forthwith proceed to order a further draught of the militia of at least ten thousand men, who will hold themselves in instant readiness to march. Such further measures as it may be found necessary to

take, to maintain the rights of this State in the premises, I assure your Excellency I shall not fail to take, and that with as much promptness as circumstances will permit.

These, in brief, (in conjunction with the statements in the papers inclosed,) are the facts in the case; and, if I do not misconceive them, they authorize me to call upon the General Government, which I do, for that aid and assistance which the whole States have guaranteed to each in such an emergency.

In a case of such deep and vital interest to this State, I feel confident that you will not only rightly appreciate the common feeling of our citizens, but that you will act with that promptness and efficiency which our peculiar position demands.

I have not time to enter more at large into the circumstances of the case. John D. McCrate, Esq., the bearer of these Despatches, will communicate such further information as your Excellency may be desirous of obtaining.

I will only add, that in this State there is but one feeling upon this subject; and that is, of deep indignation at the outrages that have been perpetrated, and of a fixed and unyielding determination not to submit to the degrading terms proposed by the Lieutenant-Governor of New Brunswick—that of withdrawing from the Aroostook territory, and abandoning our soil to foreigners, and our property to a band of armed plunderers.

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

Inclosure 7 in No. 5.

Message from the Governor of Maine to the Senate and House of Representatives.

Council Chamber, January 23, 1839.

ON the 14th of December, 1838, the land agents of Massachusetts and of this State appointed George W. Buckmore to proceed to the Aroostook and Fish Rivers, for the purpose of preventing, as far as he was able, any trespassing upon the public land. Mr. Buckmore has just returned from those places, and made a report, which has been communicated to the Governor and Council, and is herewith laid before you for your consideration.

By this report it appears that a large number of men, (many of them, I am informed, from the British provinces,) are trespassing very extensively upon the lands belonging to this State; that they not only refuse to desist, but defy the power of this Government to prevent their cutting timber to any extent they please. Upon the Grand River it is estimated there are from forty to fifty men at work. On Green River, from twenty to thirty. On Fish River, from fifty to seventy-five men, with sixteen yoke of oxen and ten pair of horses, and more daily expected to go in. On township letter H, ten men, with six oxen and one pair of horses. On the little Madawaska, seventy-five men, with twenty yoke of oxen and ten horses. At the Aroostook falls, fifteen men, with six yoke of oxen. The quantity of timber which these trespassers will cut the present winter is estimated in value, by the land agent, at 100,000 dollars.

These facts, it seems to me, present a case in which not merely the property, but the character of the State is clearly involved. The supremacy of law, as well as the sanctity of right, cannot thus be contemned and set at naught with impunity, without impairing the general authority of the Government, and inviting renewed aggressions on the part of daring and lawless men.

Conduct so outrageous and high-handed as that exhibited by these reckless depredators upon the public property, calls for the most prompt and vigorous action of this Government.

Under these circumstances, therefore, I would recommend that the land agent be instructed forthwith to proceed to the place of operation on the Aroostook, and also upon Fish River, if practicable, with a sufficient number of men suitably equipped, to seize the teams and provisions, break up the camps, and disperse those who are engaged in this work of devastation and pillage. The

number suggested by the land agent as sufficient for this purpose is fifty. This estimate is probably too small.

The land agent, under the law of 1831, may perhaps be invested with sufficient authority for this purpose. But, considering that it would be an extraordinary measure, and would involve considerable expense, for which there should be an appropriation, it was deemed best to ask the sanction of the Legislature.

It is not to be supposed that the Provincial Government wink at these lawless proceedings on the part of its citizens. On the contrary, we are bound to believe that it would be as willing as this Government to have them arrested. Be it as it may, we are bound by every consideration of duty to ourselves and to those who have confided their interests to our care, to take some strong, decisive, and efficient measures in a case of so flagrant a character. Nothing else will save our beautiful and valuable forests from destruction and plunder.

I have deemed it expedient to make this communication to you confidentially, under the impression that if your proceedings should be communicated to the trespassers before the land agent was prepared to go in, they would combine their forces, and render any attempt to break them up more difficult, if not more dangerous.

(Signed) JOHN FAIRFIELD.

Inclosure 8 in No. 5.

STATE OF MAINE.

Resolve relating to trespassers upon the public lands.

Resolved,—That the land agent be, and is hereby, authorized and required 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; and that the land agent be, and is hereby, empowered to dispose of all the teams, lumber, and other materials in the hands and possession of the trespassers, in such way and manner as he may deem necessary and expedient at the time, by destroying the same or otherwise; and that the sum of ten thousand dollars be, and hereby is, appropriated for the purpose of carrying this resolve into effect; and that the Governor, with the advice of the Council, be, and is hereby, authorized to draw his warrant, from time to time, for such sums as may be required for the purpose aforesaid.

In the House of Representatives, January 23, 1839.

This resolve having had two several readings, and the engrossing of the same dispensed with, finally passed. Sent up for concurrence.

(Signed) H. HAMLIN, *Speaker*.

In Senate, January 23, 1839.

This resolve having had two several readings, and the engrossing of the same dispensed with, was finally passed in concurrence.

(Signed) JOB PRINCE, *President*.

January 24, 1839. Approved: (Signed) JOHN FAIRFIELD.

STATE OF MAINE.

Secretary's Office, Augusta, February 18, 1839.

I HEREBY certify that the foregoing is a true copy of the original deposited in this office.

Attest: (Signed) A. R. NICHOLLS,
Secretary of State.

Inclosure 9 in No. 5.

Message of the Governor of Maine to the House of Representatives.

Council Chamber, February 15, 1839.

IN compliance with the request of the House of Representatives, I herewith communicate such information as I have in relation to the "reported abduction of the land agent."

Under the resolve of the 24th of January last, entitled "a Resolve relating to trespassers upon the public lands," the land agent repaired, with about two hundred chosen men, to the scene of operations, on the Aroostook River. Prior to his reaching there, it is understood that the trespassers, amounting to about three hundred in number, all well armed, had combined and were determined to resist every effort that should be made to break them up. Finding, however, that the land agent had prepared himself with a brass six-pounder, they chose to retire from the ground, passing down the river.

The land agent, with his company, also passed down the Aroostook to near its mouth, finding the several places of operation abandoned by the trespassers. On Monday last they captured a gang of about twenty, who had been operating further up the river, and sent several, who were considered the ring-leaders, to Bangor, where it is supposed they are now in jail.

On Monday the land agent sent a letter to Mr. Maclauchlan, the land agent for the province of New Brunswick, inviting a meeting with him at the house of a Mr. Fitzherbert, about four miles from where our company were then stationed; and on the same evening, in company with four others, Mr. McIntire repaired to the house of Mr. Fitzherbert, intending to pass the night there. The trespassers, however, having in some way become possessed of the facts, detached a company of about fifty, seized the agent and those accompanying him, and transported them, it is believed, beyond the bounds of the State.

The company is now at No. 10, on the Aroostook, fortified, and anticipating an attack, in case any attempt should be made on our part to execute the Resolve of the 24th of January, by destroying the timber which has already been cut.

I have advised the sending in a reinforcement of three hundred men, as it is probable that the number of the trespassers will be constantly augmenting; and, if a resolve to that effect be passed, shall appoint an agent to supply, temporarily, the place of Mr. McIntire, and lead on the expedition.

I have also despatched a special messenger to Sir John Harvey, Lieutenant-Governor of New Brunswick, for the purpose, among other things, of ascertaining whether these high-handed proceedings of the trespassers are authorized, or in any way countenanced by the Provincial Government; and to procure the release of the agent and those taken with him. The agent was also charged with other matters pertaining to this most extraordinary and outrageous proceeding.

The facts above related, except in relation to my own doings, have been communicated to me verbally by the Sheriff of Penobscot, who formed one of the company of the land agent.

This is the only communication from the land agent or his company which I have had, verbally or otherwise, that could be relied upon.

(Signed) JOHN FAIRFIELD.

Inclosure 10 in No. 5.

STATE OF MAINE.

Resolve in relation to the North-Eastern Boundary.

Resolved, That the Governor be authorized to appoint, when circumstances in his opinion require it, some person or persons to supply, temporarily, the place of the land agent, in executing the Resolve of the 24th of January last, relating to trespassers on the public lands. And the person or persons thus appointed shall, for the time being, have all the power, and be subject to all the duties of the land agent, so far as it regards the resolve aforesaid.

In the House of Representatives, February 16, 1839. Read and passed.

(Signed) H. HAMLIN, *Speaker.*

In Senate, February, 16, 1839. Read and passed.

(Signed) JOHN PRINCE, *President.*

February, 16, 1839. Approved: (Signed) JOHN FAIRFIELD.

State of Maine, Secretary's Office, Augusta, February 18, 1839.

I HEREBY certify that the foregoing is a true copy of the original on file in this office.

Attest: (Signed) A. R. NICHOLLS, *Secretary of State.*

Inclosure 11 in No. 5.

Message of the Governor of Maine to the Senate and House of Representatives.

Council Chamber, February 18, 1839.

SINCE my last communication to you upon the subject of the trespasses upon the public lands, there has been forwarded to me a proclamation purporting to have been issued by the Lieutenant-Governor of the province of New Brunswick, which I deem it my duty to communicate to you, with a statement of my proceedings consequent thereon.

By this proclamation, it seems that while the Lieutenant-Governor disavows any authority from his Government for the seizure of the land agent, he yet speaks of the attempt of the civil authorities of this State to drive a band of armed trespassers off our public lands as "an outrage" and an invasion of the territory of the province of New Brunswick; and avows the fact of having ordered "a sufficient military force" to repair to the place where the land agent's party are endeavouring to execute your Resolve of the 24th of January, and to repel what he thus regards as an invasion of the province of New Brunswick.

Immediately upon the receipt of this extraordinary document, I took measures to hasten the departure of the land agent's party, understood to have been assembled at Bangor, awaiting orders, and numbering between four and five hundred men; and also issued an order to Major-General Isaac Hodsdon, of the third division, to detach one thousand men, by draught or otherwise, properly officered and equipped, who were to rendezvous at Bangor, and then proceed, at the earliest possible moment, to the place occupied by the land agent's party, on or near the Aroostook River, there to render such aid as would enable the land agent to carry into effect the Resolve of the 24th of January.

I also despatched a special messenger with a communication to Major Kirby, of United States Artillery, commanding at Hancock barracks, Houlton, informing him of the facts, and asking his co-operation with the troops under his command with the forces of this State in repelling an invasion of our territory, and sustaining our citizens in the lawful and authorized protection they are endeavouring to extend over a portion of the property of the State.

If these proceedings on my part meet the approbation of the Legislature, and an appropriation be made for the purpose, I shall feel it to be my duty to proceed forthwith to order a draught from the militia of at least ten thousand

men, who will hold themselves in instant readiness to march to the frontier, should circumstances require it.

I have not yet called upon the President of the United States for aid in repelling the invasion of our territory by foreign troops, deeming it proper to postpone that step until the return of Colonel Rogers from his special mission to Frederickton, or at least until some information should be received from him, which will, probably, be as early as the 20th or 21st inst. If, however, you should think otherwise, and that no delay should be allowed for this purpose, an intimation to that effect will be promptly obeyed.

If I have not entirely misconceived the circumstances of the case presented for your consideration, it is one calculated to excite the deepest feeling in the breasts of our citizens, and calls for the most prompt and determined action on the part of this Government. What is that case? You were informed that a large number of armed and desperate men, from a neighbouring province, had forced themselves into the territory of this State, with a fixed purpose of cutting a vast amount of timber, and of resisting, even unto blood, any attempts to arrest them in the prosecution of their unhallowed object. Deeming it your duty to make an effort to protect the interests of those who had confided them to your care, you instructed the land agent to proceed to the scene of devastation and plunder with a sufficient force to arrest those who were engaged in it, and to break up their daring and wicked enterprise. While in the act of executing this order, the land agent was seized, transported beyond the bounds of the State, and finally carried upon a sled, like a felon, and under the guard of provincial troops, to the capital of New Brunswick, for trial. Could a greater indignity be offered to any people having a particle of sensibility to its rights and its honour, or to the sacredness of the personal liberty of its citizens? It is true that the Lieutenant-Governor denies that the original seizure was by authority. But at Woodstock the *magistrates* took cognizance of the affair; sanctioned the proceedings by issuing a warrant, (acting, undoubtedly, under the authority of the proclamation,) and sending our citizens under an ignominious escort to Frederickton. Really if there be any apology or justification for this treatment of our citizens, it is not to be found in any code of international honour or comity with which I have been acquainted.

Not only this, but it seems that a military force is sent into a part of the territory of this State, to expel from it a civil force sent there by this Government for the protection of its property. How long are we thus to be trampled upon; our rights and claims derided; our power contemned; and the State degraded? If there ever was a time when the spirit of independence and self-respect should assert itself, that time is the present. We cannot tamely submit to be driven from our territory while engaged in the civil employment of looking after and protecting our property, without incurring a large measure of ignominy and disgrace.

No palliating circumstance for this outrage can be found in even a pretence that the place where it was committed is within the concurrent jurisdiction of the two Governments, much less that the British Government have had exclusive jurisdiction. Lands even higher up, and beyond this, were surveyed and granted by the State of Massachusetts more than thirty years ago; and Massachusetts and Maine have long been in the habit of granting permits to cut timber upon these Aroostook lands without being, to my knowledge, molested from any quarter, to say nothing of the sales and actual occupation of the land itself.

It must be gratifying to all who have a true sense of the honour and interests of the State to perceive that, upon this subject, the din of party warfare is hushed, and that a unanimity has prevailed alike honourable and patriotic. No interruption to this commendable spirit, I trust, will be suffered. Union and good feeling, no less than prudence and energy, are absolutely necessary in this extraordinary emergency.

(Signed) JOHN FAIRFIELD.

Since writing the foregoing, I have received a communication from the Lieutenant-Governor of the province of New Brunswick, in which he sets up an alleged agreement that the British Government shall have exclusive jurisdiction and possession of the disputed territory until the question be set-

ted; and informs us that he is instructed not to suffer any interference with that possession and jurisdiction. He entreats us to withdraw the land agent's party, and adds, that he has directed a strong force of "Her Majesty's troops to be in readiness to support Her Majesty's authority, and protect Her Majesty's subjects in the disputed territory, in the event of this request not being immediately complied with."

In regard to all this, I have only to say that, for one, I see no reason to doubt the entire correctness of the course we have thus far pursued, and that, with the blessing of God, I trust we shall persevere.

No such agreement as that alluded to by the Lieutenant-Governor can be recognised by us; and it is an entire misapprehension, to say the least of it, that such an agreement has ever been made.

The letter having been written before Mr. McIntire reached Frederickton, no official communication is made as to the course intended to be pursued in regard to him and those arrested with him. I learn, however, indirectly, that they are to be retained.

I am informed that the land agent's party have stationed themselves, for the present, at the termination of the Aroostook road. While there, Mr. Maclauchlan, the provincial land agent, presented himself, and, in the name of Her Majesty, warned the party to disperse. Mr. Maclauchlan and his two assistants were, thereupon, taken into custody; and the agent, with one assistant, immediately sent to Bangor, where they are now detained.

Copies of the proclamation and letter of the Lieutenant-Governor of New Brunswick are herewith communicated.

(Signed) JOHN FAIRFIELD.

Inclosure 12 in No. 5.

Resolves of the Legislature of Maine.

STATE OF MAINE.

An additional Resolve relating to trespassers upon the public lands.

Resolved,—That the Governor be requested forthwith to communicate to the President of the United States the measures recently adopted by the State of Maine in relation to the trespasses on the public lands of this State, and also copies of the correspondence between the Governor of New Brunswick and the Executive of Maine, in relation to those measures, together with any information in his possession relative to the subject; and to request the aid of the General Government in support of the rights of the State of Maine.

House of Representatives, February 18, 1839.

THIS resolve having had two several readings, passed to be engrossed. Sent up for concurrence.

(Signed) CHARLES WATERHOUSE, *Clerk.*

STATE OF MAINE.

Resolve for the protection of public lands.

Resolved,—That the honour and interest of this State demand that a sufficient military force be forthwith stationed on the Aroostook River, west of the boundary-line of the State, as established by the Treaty of 1783; and on the River St. John, if found practicable, at such points as may be best adapted to the object, to prevent further depredations on the public lands, and to protect and preserve the timber, and other lumber already cut there by trespassers, and to prevent its removal without the limits of the State.

Resolved,—That the sum of eight hundred thousand dollars be, and hereby is, appropriated for the purpose of enabling the Executive to carry out the purposes of the foregoing Resolve, and the Resolve passed January 24, 1839; and that the Governor be, and hereby is, authorized, with the advice of Council,

to draw his warrant for the same, from time to time, as it may be needed for that purpose.

House of Representatives, February 18, 1839.

I HEREBY certify that the foregoing resolves this day passed to be engrossed by an unanimous vote; one hundred and fifty members having voted thereon.

(Signed) CHARLES WATERHOUSE, *Clerk.*

Inclosure 13 in No. 5.

By his Excellency Major-General Sir JOHN HARVEY, K.C.B. and K.C.H., Lieutenant-Governor and Commander in Chief of the province of New Brunswick, &c.

A PROCLAMATION.

[See Inclosure 2 in No. 4, page 19.]

Inclosure 14 in No. 5.

Sir John Harvey to the Governor of Maine.

Government House, Frederickton,

(New Brunswick,) February 13, 1839.

Sir,

I HAVE just heard, with the utmost surprise and regret, that, without the courtesy of any previous intimation whatever to this Government, an armed force from the State of Maine has entered the territory, the claim to which is in dispute betwixt Great Britain and the United States, and which it has been agreed betwixt the two-General Governments shall remain in the exclusive possession and jurisdiction of England until that claim be determined.

It has been my duty, on more than one occasion, to apprise the Executive Government of Maine that my instructions do not permit me to suffer any interference with that possession and jurisdiction, until the question of right shall have been finally decided in discussion betwixt the two General Governments.

With the knowledge of these instructions thus explicitly made known, I cannot but repeat the expression of the deep regret which I feel, that, instead of seeking their recall or modification through the Presidential Government, the State of Maine should thus have forced upon a subordinate officer the alternative of either failing in his duty, by abstaining from the fulfilment of the commands of his sovereign, or, by acting up to them, placing the two countries in a state of border collision, if not the two nations in immediate and active hostility.

Such, nevertheless, is the position in which I find myself placed by this overt act on the part of the State of Maine; one from which I do not hesitate in entreating your Excellency to relieve me, by ordering the immediate recall of a force whose presence within the precincts of the territory as claimed by England it is contrary to my instructions to permit. And it is proper that I should acquaint your Excellency that I have directed a strong force of Her Majesty's troops to be in readiness to support Her Majesty's authority, and to protect Her Majesty's subjects in the disputed territory, in the event of this request not being immediately complied with.

With regard to any plea for these proceedings on the part of the State of Maine, connected with timber spoliations in that territory, I have to inform your Excellency that I have given directions for a boom to be placed across the mouth of the Aroostook, where the seizing officer, protected by a sufficient guard, will be able to prevent the passage of any timber into the St. John in the spring, or to seize it and expose it to public sale, for the benefit of the "disputed territory fund."

Similar precautions will be adopted in regard to any timber cut upon the Upper St. John, or the tributary streams falling into it.

Anxiously awaiting your Excellency's reply to this communication,

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

Inclosure 15 in No. 5.

The Governor of Maine to the President of the United States.

Sir,

Executive Department, Augusta, February 19, 1839.

YESTERDAY I had the honour to inclose you certain papers relating to the difficulties which have arisen upon our north-eastern frontier, with a brief statement of the facts.

I have now the honour to inclose you my reply to the letter of the Lieutenant-Governor of New Brunswick, under date of the 13th instant, and resolves passed by both branches of our Legislature.

I would further inform your Excellency that, by a communication just received from Major Kirby, of the United States artillery, commanding at Hancock barracks, Houlton, I learn that "the 36th Regiment, from a West India station, has arrived in the province;" that, "on the 16th instant, one company of that regiment passed Woodstock, destined to the mouth of the Aroostook;" that, "this morning (the 18th) another company followed; the whole under the command of Colonel Maxwell," &c. He adds, as a rumour, that "one of the regiments which recently passed through to Canada is ordered back, and that two more regiments are daily expected from the West Indies."

The Honourable Rufus McIntire is still detained by the provincial authorities at Fredericton.

Under these circumstances, I cannot but entertain the belief that as many regiments of United States troops as can possibly be spared from other service will be ordered forthwith to our frontier, and that Major Kirby will also receive orders to co-operate with the forces of this State in repelling an invasion of our territory.

Without time to add more, I subscribe myself, with assurances of high respect, your Excellency's obedient servant.

(Signed)

JOHN FAIRFIELD,

Governor of Maine.

Inclosure 16 in No. 5.

The Governor of Maine to Sir John Harvey.

Sir,

Executive Department, Augusta, February 19, 1839.

I HAVE the honour to acknowledge the receipt of your Excellency's letter of the 13th instant, by express; and avail myself of the return of your messenger, R. English, Esq., to make a reply.

You say, "I have just heard, with the utmost surprise and regret, that, without the courtesy of any previous intimation whatever to this Government, an armed force from the State of Maine has entered the territory, the claim to which is in dispute," &c.

In reply, I cannot but regret that your Excellency should have thought the use of such language suitable to be employed upon this occasion. If I am amenable to a charge of want of "courtesy" in any thing I have heretofore done, I will endeavour to manifest enough of that accomplishment in this reply, not to bandy epithets with one of whom I had formed so high an opinion as of your Excellency; and will only say further, that, while I have the honour to hold the place I now occupy, I trust that a sense of duty to my State and her interests will always predominate over a mere blind regard to the artificial rules of etiquette. I think, however, that your Excellency would not have used that term, if you had considered for a moment that the proceedings of our land agent were in execution of a Resolve of the Legislature of this State, adopted in *secret session*; and that no notice of these proceedings could have been given without an unqualified breach of faith and duty.

In speaking of the disputed territory, your Excellency says: "the claim to which is in dispute betwixt Great Britain and the United States, and which, it has been agreed betwixt the two General Governments, shall remain in the exclusive possession and jurisdiction of England until that claim shall be determined."

Now, Sir, I cannot hesitate to say that, in my opinion, your Excellency is

labouring under an entire misapprehension in regard to the facts. No such agreement, I am persuaded, has ever been made between the two Governments. I have looked in vain for it among the numerous documents which have grown out of this question, and have never heard of any recognition of it, verbal or otherwise, on the part of the officers of the General Government. If, however, such an agreement exists, your Excellency can undoubtedly point it out. At all events, such an agreement can never be recognised by this State. A decent self-respect will ever forbid it, if there were no other considerations in the way.

Your Excellency entreats me immediately to recall the force now upon the territory; and then adds, "It is proper that I should acquaint your Excellency that I have directed a strong force of Her Majesty's troops to be in readiness to support Her Majesty's authority, and to protect Her Majesty's subjects in the disputed territory, in the event of this request not being immediately complied with."

In reply, I have to say that the territory bordering upon the Aroostook River has always been, as I regard the facts, in the possession and under the jurisdiction of Massachusetts and Maine; that more than thirty years ago, Massachusetts surveyed and granted large tracts of it, which have ever since been, in some way, possessed by the grantees, and those claiming under them; that the rest of it was surveyed by, and some of it divided between Massachusetts and Maine, soon after the latter became an independent State; that both States have long been in the habit of granting permits to cut timber there without being molested from any quarter; that many persons have purchased these lands of Maine, and entered into their actual occupation, and that in various other ways Maine has exercised a jurisdiction which may fairly be regarded as exclusive over this territory. Under these circumstances, information was received that a body of armed men had gone into this territory, and were cutting vast quantities of the timber, defying the power of this State to prevent them. On these facts being communicated to the Legislature, the two branches immediately directed the land agent to take with him a sufficient force to arrest these depredators and to break up their enterprise. The party of the land agent is now in the territory, engaged in executing the trust with which it was charged, and, with my consent, will never leave it while the protection of the property of the State from plunderers renders it necessary for them to remain. If your Excellency chooses to send an armed force to attempt their expulsion, I can only say that this State will endeavour to meet such an attempt as it will deserve. I have no threats to make, no boastings to indulge. If Maine does her duty, as I trust in God she will, nothing that I could say in advance would add to the glory of her career. If she proves recreant to her duty, and tamely submits to be expelled from her territory by a force that she could successfully resist, nothing that I can say would tend to diminish the measure of her ignominy and disgrace.

I have, &c.,

(Signed) JOHN FAIRFIELD,
Governor of Maine.

Inclosure 17 in No. 5.

STATE OF MAINE.

Resolve for the protection of the public lands.

Resolved,—That the honour and interest of this State demand that a sufficient military force be forthwith stationed on the Aroostook River, west of the boundary-line of the State, as established by the Treaty of 1783; and on the river St. John, if found practicable, at such points as may be best adapted to the object, to prevent further depredations on the public lands, and to protect and preserve the timber and other lumber already cut there by trespassers, and to prevent its removal without the limits of the State.

Resolved,—That the sum of eight hundred thousand dollars be, and hereby is, appropriated for the purpose of enabling the Executive to carry out the purposes of the foregoing Resolve, and the Resolve passed January 24, 1839; and that the Governor be, and hereby is, authorized, with the advice of Council, to draw his warrant for the same, from time to time, as it may be needed for that purpose.

House of Representatives, February 18, 1839.

THIS resolve having had two several readings, passed to be engrossed.
Sent up for concurrence. (Signed) CHARLES WATERHOUSE, Clerk.

In Senate, February 19, 1839.

THIS resolve having had two several readings, passed to be engrossed, in
concurrence. (Signed) WILLIAM TRAFTON, Secretary.

A true copy. Attest: (Signed) WILLIAM TRAFTON,
Secretary of the Senate.

Inclosure 18 in No. 5.

The Secretary of State to the Governor of Maine.

Sir, *Department of State, Washington, February 26, 1839.*

IN acknowledging, by direction of the President, your communications to him of the 18th and 19th instant, on the subject of recent occurrences in the disputed territory, and the proceedings of the authorities of Maine and New Brunswick growing out of them, I have the honour to communicate to your Excellency copies of a message this day transmitted by the President to Congress, and of a note from the British Minister, with my answer.

From the last-mentioned paper, it will be perceived that the President entirely concurs with your Excellency in denying the existence of any such agreement between the United States and Great Britain as that appealed to on behalf of the latter, and supposed to give her, pending the Boundary Question, exclusive jurisdiction over the territory in dispute. It is hoped that, in consequence of the representations upon this head, conveyed through my note to Mr Fox, to the authorities of New Brunswick, any further advance of British troops towards or into the territory will be suspended; that this will be the signal for the cessation of all military array and movements on both sides of the line, and for the simultaneous release of the agents of the respective parties now in custody; and that the renewed efforts now making to effect an amicable adjustment of the principal difference will, at an early day, be successful.

If, unfortunately, the President should be disappointed in this expectation, your Excellency may rest assured of the disposition and readiness of the Executive branch of the Government of the United States to perform such further duties as may be imposed upon him by circumstances.

Looking, in the mean time, to a satisfactory termination of present difficulties, the President instructs me to suggest to your Excellency the expediency of a mutual understanding between the authorities of Maine and those of New Brunswick, for the prevention of further depredations upon the territory in dispute. Such an understanding, dictated by a proper spirit of forbearance, and the mutual desire for the preservation of peace which is supposed to prevail on both sides of the line, might, it is believed, be easily effected, with an express reservation that it should not be so construed as to impair the right of the parties, whether to the actual proprietary title or the temporary jurisdiction of either over the disputed territory, or any portion of it. No objection is perceived to this course. Should the Governor of New Brunswick be disposed to acquiesce, it may be, as to its duration, until the decision of the British Government in the matter can be obtained; and if, for reasons which cannot be apprehended, an arrangement of the character referred to should prove impracticable with the local authorities, the President, on being informed thereof, will use endeavours to make such an arrangement with the Government of Great Britain. It would be lamentable, indeed, and present a singular spectacle, if, while the parties to whom it belongs to adjust the main point in controversy are engaged in discussions, with a sincere desire to bring them to a satisfactory result, the peace of the country, and the real and best interests of the people more directly concerned, were to be involved by disagreements between the local authorities upon points of secondary importance, and susceptible, as it is believed, of being easily reconciled. It would produce consequences which the nation at large could not but deplore, and which, the President believes, the Government and people of Maine are as anxious as he is to use every effort to avert.

I have, &c.,

(Signed)

JOHN FORSYTH.

Inclosure 18 in No. 2.

Mr. Fox to Mr. Foy.

Washington, February 25, 1839.

[See Inclosure 4 in No. 1, page 20.]

Inclosure 23 in No. 2.

Mr. Foy to Mr. Fox.

Department of State, Washington, February 25, 1839.

[See Inclosure 1 in No. 3, page 25.]

Inclosure 21 in No. 2.

Mr. Fox to Mr. Foy.

Washington, February 25, 1839.

[See Inclosure 2 in No. 3, page 25.]

Inclosure 22 in No. 2.

Message of the Governor of Maine to the House of Representatives.

Concord Chamber, February 21, 1839.

UNDER the order of the House of Representatives of the 19th instant, I herewith lay before you certain correspondence since had with the Lieutenant-Governor of New Brunswick, and the correspondence between George Field Street, Esq., Solicitor-General for the province of New Brunswick, and Charles Jarvis, Esq., provisional land agent of this State.

The reply of Mr. Jarvis to the inadmissible and preposterous claims and pretensions of Her Majesty's Solicitor-General for the province of New Brunswick, must, I think, command the unqualified approbation of every one having a just regard for the honour of his State. It is in the true spirit. And I have every reason to believe that the same spirit animates the whole body of our citizens. While it prevails, though success will be delayed, defeat can bring no disgrace.

You will see by the accompanying papers, and I take great pleasure in communicating the fact, that Mr. McLaine and his assistant have been released. It was, however, upon their parole of honour to return when thereto required by the Government of that province. Immediately upon the receipt of this information, I advised the release of James Macdonald, Esq., provincial land agent, and his assistant, upon the same terms.

Since my last communication the land agent's forces at the Amherstburg have been reinforced by about 600 good and active men, making the whole force now about 750.

I have a letter from Mr. Jarvis, dated the 19th, being the reinforcement had arrived, and when his company consisted of only about 150 men. He says he "found the men in good spirits, and that they had been active in making temporary, but most effectual, defences of land."

After describing his defences, he says: "By to-morrow noon a force of 100 men would make good our position against 500. Remaining standing, is out of the question; we shall make good our position, and have that we can reasonably expect would be brought against us." He says, further, "I take pleasure in saying to you that a fine looking set of men I have seen than those now with me, and that the honour of our State, so far as they are concerned, is in safe keeping."

The draught of 1,000 men from the third division has been made with great despatch. The troops, I understand, arrived promptly at the place of rendezvous at the time appointed, in good spirits, and anxious for the orders to march to the frontier. The detachment from the second division will be

ordered to march at the earliest convenient day; probably on Monday next. Other military movements will be made, which it is unnecessary to communicate to you at this time.

The mission of Colonel Rogers to the Lieutenant-Governor of New Brunswick has resulted successfully, so far as relates to the reclaim of the land agent and his assistant, and has been conducted in a manner highly satisfactory.

(Signed)

JOHN FAIRFIELD.

Enclosure 23 in No. 5.

Sir John Harvey to Governor Fairfield.

Sr,

Government House, Fredericton, (N. B.,) February 18, 1839.

I HAVE the honour to acknowledge the receipt, by the hands of the honourable Mr. Rogers, of your Excellency's letter of the 15th inst. Mr. McIntire, and the gentlemen with him, have been subjected to an examination before Her Majesty's Attorney-General of this province, who has reported to me that the offence of which they stand charged is one rather against the laws of nations, and of treaties, than against those of this province; they must accordingly be regarded as "state offenders." In this view, their disposal rests exclusively with Her Majesty's Government, to which I shall accordingly report the case; in the mean time, I have had the pleasure in directing that they shall be immediately allowed to return to the State of Maine, upon pledging their parole of honour to present themselves to the Government of this province, whenever Her Majesty's decision may be received, or when required to do so. The high respectability of their characters and situations, and my desire to act, in all matters relating to the disputed territory, in such a manner as may evince the utmost forbearance consistent with the fulfilment of my instructions, have influenced me in my conduct towards these gentlemen; but it is necessary that I should, upon this occasion, distinctly state to your Excellency—

1st. That if it be the desire of the State of Maine that the friendly relations between Great Britain and the United States should not be disturbed, it is indispensable that the armed force from that State now understood to be within the territory in dispute be, immediately withdrawn, as, otherwise, I have no alternative but to take military occupation of that territory, with a view to protect Her Majesty's subjects, and to support the civil authorities in apprehending all persons coming to exercise jurisdiction within it.

2d. That it is my duty to require that all persons, subjects of Her Majesty who may have been arrested in the commission of acts of trespass within the disputed territory, be given up to the tribunals of this province, there to be proceeded against according to law.

3d. That in the event of the rumour which has just reached me, relative to the arrest, detention, or interruption of James Macclachlan, Esq., the warden of the disputed territory, being correct, that that officer be enlarged, and the grounds of his detention explained. Mr. Rogers takes charge of this letter, of which a duplicate will be placed in the hands of the honourable Mr. McIntire, with both of whom I have conversed, and communicated to them my views in regard to the actual position in which I shall be placed, and the measures which will be forced upon me, if the several demands contained in this letter be not complied with; and I have reason to believe that Mr. McIntire leaves me fully impressed with the anxious desire which I feel to be spared the necessity of acting as the letter of my instructions would both warrant and prescribe.

With regard to trespassers upon the lands of the disputed territory, I beg to assure you that the extent to which those trespasses appear to have been carried, as brought to my knowledge by recent occurrences, will lead me to adopt without any delay, the strongest and most effectual measures which may be in my power for putting a stop to and preventing a recurrence of such trespasses.

With high respect, I have, &c.

(Signed)

JOHN HARVEY,

Major-General, Lieutenant-Governor, &c.

Inclosure 24 in No. 5.

Sir John Harvey to Messrs. McIntire, Cushman, Bartlett, and Webster.

Frederickton, (N. B.) February 18, 1839.

WHEREAS the offence wherewith you stand charged has been pronounced by the law officers of this province as one rather against the law of nations and of treaties than against the municipal laws of this country, and as such must be referred for the decision of Her Majesty's Government, you are hereby required to pledge your parole of honour to present yourselves at Frederickton, in this province of New Brunswick, whenever such decision shall be communicated or you shall be otherwise required by or on the part of this Government; and, for this purpose, you shall make known the place or places to which such requisition shall be sent.

(Signed) J. HARVEY.

I HAVE no hesitation in giving, and hereby do give, the parole of honour above referred to.

Inclosure 25 in No. 5.

Governor Fairfield to Sir John Harvey.

Sir,

Executive Department, Augusta, February 21, 1839.

I HAVE the honour to acknowledge the receipt of your Excellency's communication of the 18th instant, by the hand of Colonel J. P. Rogers.

To your demand for the discharge of the persons arrested by the authorities of this State for being engaged in acts of trespass upon the public lands of this State, I have to say, that the persons named are now in the custody of the law. With that custody I have neither the disposition nor the authority to interfere.

In regard to James MacLachlan, Esq., provincial land agent, and Mr. Tibbets, his assistant, I have advised that they be released upon the same terms upon which the Hon. Rufus McIntire and his assistants were released, to wit: upon their parole of honour, to return to Bangor whenever they should be thereto required by the Executive Government of this State, to answer to any charges that may be brought against them for their acts and proceedings upon what your Excellency is pleased to call "the disputed territory."

For a reply to the remainder of your Excellency's communication, I must refer you to my letter of the 18th instant, which you will receive by the hand of R. English, Esq.

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

Inclosure 25 in No. 5.

The Solicitor-General of New Brunswick to Mr. Jarvis.

Sir,

*At the mouth of the Aroostook, River St. John,
Province of New Brunswick, February 17, 1839.*

I AM directed by his Excellency Major-General Sir John Harvey, Lieutenant-Governor and Commander-in-chief of this province, to express to you his great surprise at the very extraordinary occurrence of an armed force, of the

description now with you, having entered upon the disputed territory, so called, and attempted to exercise a jurisdiction there, through to the British Government: seizing upon and maltreating British subjects, and retaining many of them prisoners, without having, in the first instance, given any notice or made any communication whatever to the Government authorities of this province of such your intentions, or the causes which have led to these acts of aggression. If you are acting under any authority from your own Government, the proceedings are still more unjustifiable, being in direct defiance and breach of the existing treaties between the Central Government of the United States and England. If you have not any such authority, you and those with you have placed yourselves in a situation to be treated by both Governments as persons rebelling against the laws of either country; but be that as it may, I am directed by his Excellency to give you notice that, unless you immediately remove with the force you have with you from any part of the disputed territory, so called, and discharge all British subjects whom you have taken prisoners, and at once cease attempting to exercise any authority in the said territory not authorized by the British Government, every person of your party that can be found or laid hold of, will be taken by the British authorities in this province, and detained prisoners to answer for this offence, as his Excellency is expressly commanded by his sovereign to hold this territory inviolate, and to defend it from any foreign aggression whatever, until the two Governments have determined the question of to whom it shall belong; and to enable him to carry these commands into full effect, a large military force is now assembling at this place, part of which has already arrived, and will be shortly completed to any extent that the service may require. In doing this, his Excellency is very desirous to avoid any collision between Her Majesty's troops and any of the citizens of the United States that might lead to bloodshed; and if you remove from the territory peaceably and quietly, without further opposition, such collision will be avoided, as, in that case, his Excellency will not think it necessary to move the British troops further; but if you do not, he will, in execution of the commands of the British Government, find it necessary to take military possession of the territory, in order to defend it from such innovation: and the consequences must be upon the authority, if any, upon which you act.

The three gentlemen who were with you, and were taken prisoners by some of our people, have been forwarded on to Fredericton by the magistrates of the country, and will be detained, (as all persons heretofore have been who on former occasions, were found endeavouring to set up an exercise any British jurisdiction or authority in the territory in question.) They will however be well treated, and every necessary attention paid to their comfort; but I have no doubt they will be detained as prisoners to be disposed of as may hereafter be directed by the British Government. The Warden of the disputed territory, Mr. Marchand, went out, I understand, a few days since to explain all this to you, but, he not having returned, we are led to suppose you have still further violated the laws and treaties of the two nations, by detaining him, who was a mere messenger of communication, together with Mr. Tibbets, the person who was employed to convey him. But as Mr. Marchand was an accredited officer, acknowledged by the American Government as well as the British, and appointed for the very purpose of looking after the territory, I can not well, on reflection, see the great impropriety and risk you run even with your own Government, by detaining him or his attendant, Mr. Tibbets, any longer, shall await at this place to receive your answer to this.

I am, &c.

(Signed)

GEO. FRED. STREET,

Solicitor-General of the Province.

Inclosure 27 in No. 5.

Mr. Jarvis to the Solicitor-General of New Brunswick.

Confluence of the St. Croix Stream, Westward River,

Township No. 10, State of Maine, February 19, 1832.

Sir,

YOUR communication of the 17th instant has been this moment received. The Solicitor-General of the provinces must have been misinformed as to the place where the force under my direction is now located, or he would have been

spared the impropriety of addressing such a communication to me, a citizen of Maine, one of the North American confederacy of the United States.

It is also to be hoped, for the honour of the British empire, that, when Major-General Sir John Harvey, Lieutenant-Governor and Commander-in-chief of the province of New Brunswick, is made acquainted with the place where the Honourable Rufus McIntire, land agent of the State of Maine, and the two other gentlemen with him, were forcibly arrested by a lawless mob, that he will direct their immediate discharge and bring the offenders to justice.

The officer to whom you allude, and the person in company with him, were arrested for serving a precept on a citizen of Maine. He was sent on immediately to Augusta, the seat of Government, to be dealt with by the authorities of the State. Their persons are not, therefore, in my power, and application for their discharge must be made to the Government of the State.

If, however, I have been in error as your being under a mistake as to the place where I am now stationed, on land which was run out into townships by the State of Massachusetts, and covered by grants from that State before Maine was separated from Massachusetts, and which has therefore been under the jurisdiction of Maine since she has taken her rank among the independent States of the North American Union, then, as a citizen of Maine in official capacity, I have but one answer to return to the threat conveyed. I am here under the direction of the Executive of the State, and must remain until otherwise ordered by the only authority recognised by me; and deeply as I should regret a conflict between our respective countries, I shall consider the approach to my station, by an armed force, as an act of hostility, which will be met by me to the best of my ability.

I am, &c.,
(Signed) CHARLES JARVIS,
Land Agent.

Inclosure 28 in No. 5.

Extracts from a Report made by E. L. Hamlin, Land Agent of Maine, showing the possession and operations of that State on the Aroostook territory, dated January 1, 1839.

"IN the month of April, Ebenezer Webster, Esq., of Orono, was employed to examine the public lands, situate on the St. John and Aroostook Rivers, and ascertain what trespasses had been committed in that quarter, and report what measures could be adopted to prevent future depredations. It will be seen from his report, accompanying this, that for many years past great depredations have been committed on those rivers.

"The method adopted by the provincial authorities to stop trespassing, by seizing the timber after it had been cut, has had but little tendency to stop depredations, and as there has been no road opened, by which our agents could have a communication with this country, the trespassing has gone on, increasing from year to year, until nearly all the timber on the banks of these rivers has disappeared.

"Upon consultation with the land agent of Massachusetts, it was determined to expend a portion of the money appropriated for the Aroostook road, on the upper part, which would not be turnpiked the present season so as to make a good winter road, and to appoint an agent to remain on the Aroostook River during the winter, and by keeping up a communication with this quarter to prevent, if possible, the timber from further depredation.

"About the middle of October, information reached this office that persons were trespassing on township number 10, in the 5th range. I immediately left Bangor, in company with George W. Buckmore, who had received a special deputation, for the purpose of arresting this trespass, and putting into operation the arrangements made between the two land agents. Upon our arrival at township number 10, we found that the trespassers had left, had ascended the Great Machias, and were then at work on township number 11, in the 6th range, belonging to Maine. We found here Benjamin Gardner, a settler from township letter G, in the second range, with a crew of six men, and Lewis Bradley, a settler from the same place, with a crew of five men, and a team of six oxen.

They had been here about a week, and had made two hundred and fifty tons of timber, including that cut upon township number 10.

“Writs of trespass were served upon these persons, their cattle and supplies attached, and the whole expedition broken up.

“We here learned that preparations were making to cut several thousand tons of timber on Beaver brook, which we ascended about five miles, and found two camps recently built on township number 13, in the 5th range, belonging to Massachusetts, but the crews had left and gone down river, hearing, most probably, of the trouble on the Machias. Peter Bull, a settler on township letter G, had engaged to supply these persons, and to haul their timber. We called on him, on our way down, and informed him, that an agent would be employed by Maine and Massachusetts, to remain on the river during the winter, and that his cattle would be taken off if found engaged in any trespass.

“He informed us that he should stop at once, that the crews should not return to number 13, and that he would not be concerned in any farther depredation.

“On township number 12, in the 4th range, belonging to Maine, we found Mr. Mumford, a settler, and two persons, named Churchill and Earskins, from New Brunswick, building a camp. Upon representing to these persons that their teams would be taken off if they persisted, they immediately quit.

“About a mile up the Salmon stream, we found a crew of six men, located for the winter, on township number 13, in the 3d range, belonging to Massachusetts. They had got in their supplies, and were just beginning to cut timber, having made about one hundred and fifty tons. Their names were Wilder Stratton, James Swetor, David Swetor, Michael Keely, James Coffee, and John Smiley, all from New Brunswick. William Pyle, a settler, had agreed to haul their timber on shares. A writ of trespass was served upon these persons, their supplies attached, and the depredations stopped.

“Near the mouth of the Little Madawaska, we met Captain Maclauchlan, going up the river, with a crew of six men. He informed me that he was sent up by the Governor of New Brunswick to drive off the trespassers, and, if necessary, to cut up their timber.

“I informed him what I had done with the trespassers above; and also informed him of the depredations which I understood were about to be committed on the Madawaska and St. John Rivers, above the Grand Falls. He replied, that he should visit those places before he returned, and would do all in his power to protect the timber from trespass.

“Below this, we found several crews just commencing to make timber, all of whom, upon representing to them the consequences of continuing their trespass, immediately desisted, and left the woods. I did not visit the St. John River, being of opinion that it would be in vain to attempt to arrest trespassers, or to secure the timber from pillage on that river, until a road should be opened, by which the land agent could reach it without being compelled, as he now is, to pass through the province of New Brunswick. From twelve to fifteen thousand tons of timber would undoubtedly have been cut by these trespassers, the ensuing winter, if they had been unmolested; and this amount of timber has thus been saved, by opening a communication to the Aroostook River, so as to bring these depredators within the reach of civil process.

“The land agent of Massachusetts having granted several permits to cut timber near the head-waters of the Aroostook, the most of those trespassers who were routed ascended the river, and engaged to work for the winter, with those holding permits, so that no further trouble is apprehended from them at present. Mr. Buckmore has been appointed to remain, during the winter, on the Aroostook territory, and it is confidently believed, that, with these precautionary measures, the townships on this river will be effectually protected from further depredation.

“During the survey of townships number 10 and 12, the Surveyor-General received a visit from James Maclauchlan, of Frederickton, who protested against the survey. I herewith annex a copy of the correspondence which took place between said Maclauchlan and the Surveyor-General.”

“It will be seen from the written communication of Captain Maclauchlan, that the British Government claim to exercise jurisdiction over the whole northern part of the State, by virtue of ‘existing arrangements subsisting between the British Government and that of the United States.’ I am not aware of any arrangements between the Government of the United States and Great Britain, which have surrendered to the latter the jurisdiction of the disputed territory.

"It is believed that nothing further has been done between the two Governments, than intimations from each that the other should forbear to exercise any act of jurisdiction, pending the negotiation, beyond the territory then in actual possession of each Government, as may be seen from the correspondence between the ministers of the two Governments in 1832 and 1835."

"As Massachusetts and Maine, since they became independent Governments, have always had the possession of the territory south of the St. John, it is believed that no other opposition than the formal protest of Mr. Maclauchlan will be attempted by the provincial authorities against the further prosecution of surveys which may be made in this quarter."

"Written applications have been filed in this office, by different persons, for the privilege of selecting lots and erecting mills, under the provisions of the new land law, in townships numbers three, eleven, and thirteen, in the fourth range, township number twelve, in the fifth range, and township number nine, in the sixth range, west from the east line of the State; and settlements will be commenced on most of these townships this season, if not on all.

"Joseph Pollard and others commenced last spring erecting mills on township number nine, in the fourth range, on the St. Croix stream, which will be finished in a few weeks; and they claim the privilege of selecting twenty lots in that township, as soon as it shall be surveyed.

"George W. Buckmore and others have completed a dam across the Great Machias River, in township number eleven, in the fifth range, and are now engaged in building mills, which will be finished early in the spring.

"This township belongs to Massachusetts; and lying between townships numbers ten and twelve, belonging to Maine, surveyed for settlement the last year, and being in the midst of the improvements that our citizens are making on the Aroostook, it is very important that Maine should become the owner of this township."

"The Aroostook road has been made the last year about twenty-three miles; and, including what was built the year before, it has been finished to township number five, in the sixth range, a distance of thirty miles, under the superintendence of Ira Fish, Esq., of Lincoln, whose report is herewith communicated."

Inclosure 29 in No. 5.

Colonel Webster's Report to the Land Agent of Maine.

Sir,

Orono, May 7, 1838.

AGREEABLY to my instructions from the land office, dated March the 20th, for the purpose of examining the public lands upon the St. John and Aroostook Rivers, to ascertain, as near as may be, the amount of timber cut by trespassers the past winter, I have attended to that duty, and submit the following report:—

I left Orono on the 9th day of April, and arrived at the Grand Falls, on the St. John, on the 12th.

The next day I proceeded up the river to the boundary-line, which is two or three miles above the falls.

One mile above the boundary-line, I found hauled upon the bank of the river about three hundred tons of timber, of a very large size; the owner I could not ascertain. This was on the south side of the river.

On the north side, about one mile above this, I found about one hundred tons; and about one mile further up, I found, on the south side, about two hundred tons. About twelve miles from the boundary-line, at the mouth of Grand river, I found about four hundred tons, cut by Debays, a Frenchman, who was supplied by Messrs. Smith and Upham, of Woodstock, New Brunswick. I then proceeded to the mouth of the Madawaska, where I learned that many teams had been at work during the winter, on what was called the Seignory, near the head of this river. I then proceeded up the St. John's as far as Captain Joseph Machaux's, where the Aroostook road, as laid out by the Surveyor-General, strikes the St. John's. I here ascertained that five teams had been getting timber during the winter, on the main St. John, above the mouth of the St. François River.

The names of the men were Christopher Macay, Joseph Damewick,

Captain Machaud, N. M. Wheelock, and I. Cating; the three first are Frenchmen, living at Madawaska, the other two live in New Brunswick. They have cut, from the best information I could obtain, about three thousand tons.

I here engaged a guide, and, after purchasing provisions, snow shoes, &c., started through the woods for the Aroostook River. I left the road line to the west; and, after travelling about six miles south, I struck the Fish River lake. This lake lies about north and south, and is eight miles long. I travelled about six miles on this lake, and saw fine timber growing upon the shores. I discovered from the lake a very extensive ridge of hard-wood land, very level, lying nearly north and south, about a mile from the lake, to the eastward, which I think would afford a much better location for a road than the one selected.

I proceeded westwardly to the outlet of the lake, about two miles. I followed down the outlet about three-fourths of a mile, to another smaller lake on Fish River, which abounds with fine timber. I crossed this lake about three miles to the outlet, thence down the outlet until I struck the road line about one mile from the outlet of the second lake. I followed down the road to the fifteen-mile tree, where I encamped. The snow was two feet deep, on a level, between the Aroostook and St. John's Rivers. I proceeded, the next day, down the road to the twenty-eight mile tree, where we encamped.

This distance was mostly over black land. The next day I travelled to the thirty-nine mile tree, where I struck Beaver brook; and, finding that teams had been passing up and down, I concluded to follow the stream down to the Aroostook, distant about five miles.

I found on this stream about four hundred tons of timber, which, I think, must have been taken from township number 13, in the fourth range. Considerable more than this must have been cut above the road line, from the appearance of teams passing, &c., making in the whole at least a thousand tons cut on this stream. From the best information I could get, this timber was cut by Peter Bull, and two men by the name of Gardner, and a Mr. Brown. Peter Bull is a settler upon the Aroostook, the other men are from the provinces.

On township number 12, in the fifth range, I found about five hundred tons cut on the south side of the Aroostook by Peter Bull and two men by the names of Becket and Hale; the two latter being from the province.

I then proceeded to township number 10, in the fifth range, belonging to Maine, where I found about five hundred tons, cut by Samuel Leavitt, a settler, and Mr. Hooper, from the province.

William Johnson and several others have been getting timber on the Little Madawaska; and, from the best information I could obtain, they would cut about one thousand tons. They were all from the province.

Four men, Joseph Trumball and Daniel Dow, Americans, and William Brown and John Auxley, from the province, have been trespassing on township number 9, in the sixth range, and have made about four hundred tons.

I have no doubt the timber cut on the disputed territory—on the St. John's and Aroostook Rivers—the last winter, amounts to ten thousand tons. As the largest trees only are selected, such as will square from twenty to thirty inches, and nothing but clear stuff cut out, there is a great waste of the timber.

I have it from good authority, that, within the last fifteen years, there has been taken from the disputed territory several hundred thousand dollars' worth of stumpage. The merchants on the St. John's River fit out teams and supply men, who go on and plunder the timber; the timber is driven below the line, and marked and rafted with timber cut under permits. This timber is frequently seized, but the trespassers generally manage to escape without much loss. The Warden of the disputed territory frequently passes up the St. John's and warns off the trespassers, and notifies them that the timber will be seized; but the plunderers pay no attention to him. They go on and cut timber, and, when the ice goes out, it is turned in and run down, and marked as province timber, cut below.

It is distressing to see our lands in that section of the country stripped by plunderers of valuable pine timber.

The trespassers follow up the St. John's and Aroostook Rivers, and their tributary streams large enough to float timber; and where they are unable to get on teams, they get in the timber by hand; and in fifteen years, at the rate they go on, but little timber will be left.

I was upon the St. John's and Aroostook seven years ago, when I saw beautiful groves of pine timber standing on the banks of these rivers, now all plundered and carried off; and for thirty miles in extent upon the Aroostook River, every pine-tree fit for ton timber has been carried off, and every half mile presents some old timber landing where the trespassers made a winter's work.

There are a number of Americans settled on the Aroostook, who have nothing to do with getting off timber, and feel very anxious that something should be done to prevent the British subjects from coming into their settlement and plundering the timber, which would be of great advantage to them when the boundary-line is settled.

As I have been requested to give my opinion upon the best mode to be adopted by the State to protect this country from trespass, I would say that, in my opinion, there is but one effectual mode to preserve the timber on these rivers; and that is, to open to them a good road. I would recommend that the Aroostook road be immediately made passable for a horse and wagon and ox teams. This can be done by grubbing out the centre of the road, and laying causeways over the swampy places, of sufficient width to be turnpiked, so that, ultimately, nothing will be lost to the State when the road is finished. It is very important that a good communication should be opened with the Aroostook immediately; for when this is done, an officer can be sent in, and remove the teams that are concerned in any trespass. When the trespassers find that the State is in earnest, and determined to arrest them, there will be no further trouble; but so long as the State takes no prompt measures to stop them, or bring them to justice, they will double their diligence and numbers, and increase their depredations. I understood that the lumbermen were making great calculations to cut timber on the disputed territory the ensuing season, as it was likely to bear a high price in the province. If this road should be made, as suggested, and an officer appointed to look after trespassers on the Aroostook, in my opinion there would be an end to depredations, and thousands of dollars would be saved yearly to the State. There are at present on the Aroostook American settlers sufficient to give all needful assistance to an officer in serving any legal process.

Another reason why the road should be completed, or made passable, is, that the settlers on the Aroostook require it, in order to have a communication with Bangor. Mr. Joseph Pollard, with seven men, has commenced building mills on the St. Croix, and many settlers intend moving to the Aroostook in June.

If it is therefore any object to the State to have the public lands settled, the State should be willing to open communications by which the settler can reach his abiding-place. If all the money appropriated upon the Aroostook road is laid out upon the lower part of the road, and nothing done upon the upper part, and as it will not be completed beyond township No. 4, here the settlers must come to a dead stop.

They must either back in their provisions, or carry them up the Sebois; and so across a number of exceedingly bad carrying-places, in order to reach the Aroostook. I would, therefore, recommend that a portion of the Aroostook appropriation be laid out on the road above township No. 4, so as to make it passable for teams the whole distance.

I would also beg leave to suggest the propriety of opening a road fourteen feet wide from the Aroostook to the St. John's River, so as to be passable for teams in the winter. I think this road can be cut out, bridged, and causeways laid, the whole distance, forty-five miles, for about one hundred dollars per mile. This road will enable the State to have a communication with the St. John's River; and I have no doubt ten thousand dollars worth of stumpage may be saved the next winter.

The French inhabitants near the termination of this road, on the St. John's, are very desirous to have it opened.

I would recommend an alteration in the location of this road. The land over which this road now passes is covered with a black growth, and good land for roading, but not for settling.

A few miles to the eastward of this, there appears to be an extensive hardwood ridge, reaching from the St. John's to the Aroostook, excellent settling land, and over which the road should be located to accommodate settlements. The distance would not be increased, and the road would strike the St. John's, near the place where it now does.

By opening these roads, the State will be able to protect the timber on the Aroostook and St. John's Rivers, and a rapid settlement of the country will immediately ensue, as large portions of the land in this part of the State are a superior quality for cultivation.

I am, &c.,
(Signed) EBENEZER WEBSTER.

Inclosure 30 in No. 5.

Message of the President of the United States to the House of Representatives of the United States.

Washington, February 27, 1839.

I TRANSMIT to Congress copies of various other documents received from the Governor of Maine, relating to the dispute between that State and the Province of New Brunswick, which formed the subject of my message of the 26th instant; and also a copy of a memorandum signed by the Secretary of State of the United States and Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary near the United States, of the terms upon which it is believed that all hostile collision can be avoided on the frontier, consistently with and respecting the claims on either side. As the British Minister acts without specific authority from his Government, it will be observed that this memorandum has but the force of recommendation on the provincial authorities, and on the Government of the State.

(Signed) M. VAN BUREN.

Inclosure 31 in No. 5.

The Governor of Maine to the President of the United States.

Sir, *Executive Department, Augusta, February 22, 1839.*

I HAVE the honour to inclose, herewith, copies of a letter from the Lieutenant-Governor of New Brunswick, under date of February 18th, with my reply thereto; letter from the Solicitor-General of the province of New Brunswick to the Honourable Charles Jarvis, temporary land agent, under date of the 17th instant, with Mr. Jarvis's reply; parole of honour given by Messrs. McIntire, Cushman, Bartlett, and Webster, dated 18th February; my message to the Legislature, of the 21st instant.

These papers will give your Excellency all the additional information, of any importance, not heretofore communicated, that has been received in relation to the state of affairs upon our Eastern frontier. I cannot but persuade myself that your Excellency will see that an attack upon the citizens of this State by a British armed force is, in all human probability, inevitable, and that the interposition of the General Government at this momentous crisis should be promptly afforded.

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

Inclosure 32 in No. 5.

Sir John Harvey to the Governor of Maine.

Frederickton, (N. B.) February 18, 1839.

[See Inclosure 23 in No. 5, page 43.]

Inclosure 33 in No. 5.

The Governor of Maine to Sir John Harvey.

Augusta, February 21, 1839.

[See Inclosure 25 in No. 5, page 44.]

Inclosure 34 in No. 5.

The Solicitor-General of the Province of New Brunswick to the Officer in command in the disputed Territory.

Mouth of the Aroostook, February 17, 1839.

[See Inclosure 26 in No. 5, page 44.]

Inclosure 35 in No. 5.

Mr. Charles Jarvis, (Land Agent,) to the Solicitor-General of the Province of New Brunswick.

Confluence of the St. Croix, February 19, 1839.

[See Inclosure 27 in No. 5, page 45.]

Inclosure 36 in No. 5.

Sir J. Harvey to Messrs. McIntire, Cushman, Bartlett, and Webster.

Frederickton, (N. B.) February 18, 1839.

[See Inclosure 24 in No. 5, page 44.]

Inclosure 37 in No. 5.

Message of Governor Fairfield to the House of Representatives.

Council Chamber, February 21, 1839.

UNDER the order of the House of Representatives of the 19th instant, I herewith lay before you certain correspondence since had with the Lieutenant-Governor of New Brunswick; and the correspondence between George Frederick Street, Esq., Solicitor-General for the province of New Brunswick, and Charles Jarvis, Esq., provisional land agent of this State.

The reply of Mr. Jarvis to the inadmissible and preposterous claims and pretensions of Her Majesty's Solicitor-General for the province of New Brunswick, must, I think, command the unqualified approbation of every one having a just regard for the honour of his State. It is in the true spirit. And I have every reason to believe that the same spirit animates the whole body of our citizens. While it prevails, though success will be deserved, defeat can bring no disgrace.

You will see by the accompanying papers, (and I take great pleasure in communicating the fact,) that Mr. McIntire and his assistants have been released. It was, however, upon their parole of honour to return when thereto required by the Government of that province. Immediately upon the receipt of this infor-

mation, I advised the release of James Maclauchlan, Esq., provincial land agent, and his assistant, upon the same terms.

Since my last communication, the land agent's forces at the Aroostook have been reinforced by about six hundred good and effective men, making the whole force now about seven hundred and fifty.

I have a letter from Mr. Jarvis, dated the 19th, before the reinforcement had arrived, and when his company consisted of only one hundred men. He says he "found the men in good spirits, and that they had been active in making temporary but most effectual defences of logs," &c.

After describing his defences, he says, "by to morrow noon, a force of one hundred men would make good our position against five hundred. Retreating, therefore, is out of the question. We shall make good our stand against any force that we can reasonably expect would be brought against us." He says further, "I take pleasure in saying to you that a finer looking set of men I never saw than those now with me, and that the honour of our State, so far as they are concerned, is in safe keeping."

The draught of one thousand men from the third division has been made with great dispatch. The troops, I understand, arrived promptly at the place of rendezvous at the time appointed, in good spirits, and anxious for the order to march to the frontier. The detachment from this second division will be ordered to march at the earliest convenient day—probably on Monday next. Other military movements will be made, which it is unnecessary to communicate to you at this time.

The mission of Colonel Rogers to the Lieutenant-Governor of New Brunswick has resulted successfully, so far as relates to the release of the land agent and his assistants, and has been conducted in a manner highly satisfactory.

(Signed) JOHN FAIRFIELD.

Inclosure 38 in No. 5.

MEMORANDUM.

Washington, February 27, 1839.

[See Inclosure 3 in No. 5, p. 26.]

Inclosure 39 in No. 5.

Resolutions of the Senate, February 28, 1839.

THE following is a correct copy of the series of resolutions reported from the Committee on Foreign Relations by Mr. Buchanan:—

Resolved,—That the Senate can discover no trace, throughout the long correspondence which has been submitted to them, between the Governments of Great Britain and the United States, of any understanding, express or implied, much less of any "explicit agreement," such as is now alleged, that the territory in dispute between them on the north-eastern boundary of the latter shall be placed and remain under the exclusive jurisdiction of Her Britannic Majesty's Government until the settlement of the question; on the contrary, it appears that there was, and is, a clear subsisting understanding between the parties, under which they have both acted, that, until this question shall be finally determined, each of them shall refrain from the exercise of jurisdiction over any portion of the disputed territory, except such parts of it as may have been in the actual possession of the one or the other party.

Resolved,—That, whilst the United States are bound in good faith to comply with this understanding, during the pendency of negotiations, the Senate cannot perceive that the State of Maine has violated the spirit of it by merely sending, under the authority of the Legislature, her land agent, with a sufficient force, into the disputed territory, for the sole purpose of expelling lawless trespassers engaged in impairing its value by cutting down the timber; both

parties having a common right, and being bound by a common duty, to expel such intruders from a territory to which each claims title, taking care, however, to retire within their acknowledged limits when this single object shall have been accomplished.

Resolved,—That, should Her Britannic Majesty's Government, in violation of the clear understanding between the parties, persist in carrying its avowed determination into execution, and attempt, by military force, to assume exclusive jurisdiction over the disputed territory, all of which, they firmly believe, rightfully belongs to the State of Maine, the exigency, in the opinion of the Senate, will then have occurred, rendering it the imperative duty of the President, under the Constitution and the laws, to call forth the militia, and employ the military force of the United States, for the purpose of repelling such an invasion. And in this event, the Senate will cordially co-operate with and sustain the President in defending the rights of the country.

Resolved,—That, should the British authorities refrain from attempting a military occupation of the territory in dispute, and from enforcing their claim to exclusive jurisdiction over it by arms, then, in the opinion of the Senate, the State of Maine ought, on her part, to pursue a course of similar forbearance. And should she refuse to do so, and determine to settle the controversy for herself by force, the adjustment of which is intrusted under the Constitution to the Federal Government, in such an event there will be no obligation imposed on that Government to sustain her by military aid.

Inclosure 40 in No. 5.

Report of the House of Representatives.

MR. HOWARD, from the Committee on Foreign Relations, made the following report:—

The Committee on Foreign Affairs, to which have been referred two messages from the President of the United States, inclosing sundry papers relating to the disturbances upon the Aroostook River, in the State of Maine, report—

That they have examined the papers submitted to them by the House with great care, and will offer such reflections upon them as the limited time for the preparation of this report will admit. The very near approach of the termination of the present Congress, and the desire of the Committee that as much time as possible should be afforded to the House for the examination of the Bill herewith reported, are considerations of such a powerful nature, that some incidental matters, connected with the subject, cannot be fully investigated. The main points, however, of the controversy, are not numerous, and upon them the opinion of the Committee is clear and decided. The position assumed by the President in his message, is correct, and ought to be sustained, if necessary, by the legislative powers of Congress.

It is well known that an informal arrangement or understanding has existed, for many years past, between the United States and Great Britain, relating to the territory in dispute between them, and having for its object the avoidance of clashing authorities, calculated to endanger the peace of the two nations. The Committee have not time to give a detailed and historical statement of the origin and progress of this arrangement, the examination of which might perhaps elucidate the cause of the strange error into which the British Government is represented by its agents in this country to have fallen with respect to its provisions. Suffice it to say, that it never appears to have gone further, in its greatest extent, than to adopt the basis of the "uti possidetis," leaving each party to the continued exercise of the jurisdiction which it had previously maintained in practice. The idea which is occasionally suggested in some of the British documents, that, prior to the Peace of 1783, the Government of Great Britain was in possession of the whole country, and therefore, that this constructive possession must be considered as continuing until she is divested of it with her own consent, is one which the United States can never sanction, or even listen to without strong repugnance.

It implies that the people of the United States hold their country by a grant from the British Crown, made in the Treaty of 1783—a doctrine which was successfully resisted by the ministers of the United States, even when it was advanced by remote implication, prior to the signature of that Treaty, by their refusing to treat with the British ministers until their credentials were changed. At a subsequent period of our history, the same doctrine was advanced in argument; and at that period, also, was, as it must ever be, met with instant contradiction. The people of the United States hold their country by virtue of the declaration of the 4th of July, 1776; and the Treaty of 1783 did nothing more than arrange the boundary lines between the two nations, independent of each other in fact and in right. So far, therefore, as the claim of Great Britain to the jurisdiction over the unsettled parts of Maine is founded upon the twice exploded theory that she is the rightful sovereign of all that she has not granted away, it cannot be submitted to without sacrifices of honour, which the American nation never will make.

When the discussion became active between the two Governments, as to their respective rights to the territory now in dispute, the greater part of it was, and indeed still remains, uninhabited by permanent settlers. Here and there a small settlement could be found, consisting in some cases of a single house, and in others of more than one, placed near each other for the convenience of the inhabitants. The extent of the arrangement between the two Governments does not appear, as construed by the American Government, to have gone further than the recognition of the jurisdiction of each over the people and lands then operated upon by it. If these inhabitants had taken out the titles to their lands from either one Government or the other, and were in the habit of resorting to its judicial authority for the preservation of order, then they were to continue so to do until the question of ultimate ownership should be finally decided in some mode satisfactory to both Governments. The propriety of this arrangement will not be questioned by the Committee.

If it left to the British Government the jurisdiction over the inhabitants along the military road which lead from Halifax to Quebec, and thereby furnished it with a motive for procrastinating the controversy, inasmuch as it continued in the enjoyment of nearly all that rendered the country valuable as a British possession, it also furnished a strong proof of the desire of the American Government to deal fairly and liberally with its antagonist in the argument. Demonstrating in this conclusive manner, that it was not influenced by a captious spirit of discontent, the Government of the United States derived from this state of the case a right to appeal to the British Government to expedite the final adjustment of the controversy, and to claim, in the mean time, the full benefit, on its part, of an arrangement which, perhaps, gave to its adversary more than an equal share of advantages. But the arrangement has been entirely misunderstood or misconstrued, if the Lieutenant-Governor of New Brunswick be correct in his exposition of the orders under which he is acting. The United States never did, and never can, consent that the exclusive jurisdiction of the whole territory in dispute shall be consigned to the care of any officer of the British Government.

The pretension now advanced is as unreasonable in itself as it is unsustained by any agreement between the two Governments.—Supposing that the parties to the controversy stand upon an equal footing as to their rights, (and there is none other in the case, except the inadmissible one formerly alluded to,) the United States have as much reason to expect that Great Britain will yield to them the exclusive jurisdiction of the whole of the contested territory, together with the care and custody of the timber and other public property, as she has to require from us such an extravagant concession. On the part of the United States, it has never been claimed or asked, as far as the Committee are informed; and the true position of the President now is, that he resists the application of a principle which no Executive of this country ever adopted as his guide. It has not been asked of Great Britain, nor can it be submitted to from her. What the United States ask from others, they are always willing to grant; nor can they grant what it would be deemed unreasonable to ask.

That portion of the territory in which the recent and present disturbances exist, has been, for a number of years past, subject to the laws of Maine; and, before the separation of Maine from Massachusetts was under the control of the latter. In December, 1807, Massachusetts conveyed one township, lying

on both sides of the Aroostook, and that the boundary line from the source of the St. Croix, according to a selection survey, which was made under a resolve passed in March, 1806. In January, 1827, the Congress of the United States, lying west of the aforesaid territory, and on both sides of the Aroostook, passed to a survey and plan made under the same resolve. This jurisdiction has been continued, through the medium of land grants, and since that time, and the settlers, who have been there for a number of years past, (commencing since 1809), have always, in practice, held their property under grants from Massachusetts and Maine.

The part remaining unsettled has been applied to no other useful purpose than to use the timber, in which it is now contained; and the State of Massachusetts has been in the habit of granting lands to the people to cut timber from the public domain. The exercise of jurisdiction was a question of the nature of the country would permit. The use of the timber, however, is of timber, to certain individuals, and the jurisdiction of the State was held to be an object of great consequence, and that the State of Massachusetts, refusing to permit the timber to be cut, and to be used in any other way, to go to the use of taking other measures for the preservation of timber, or the passing or permitting them to be cut, was the State of Massachusetts. Every State Government in the Union has a right to regulate the landed interests, whether public or private, within its limits, and Maine stands upon the same footing, and is a subject of its own State, not to be under its jurisdiction by the exercise of the constitutional powers of the Federal Government.

But, as has been already observed, to suppose an extension of the Federal Government can be made, which is not a subject of Federal jurisdiction, just such as that now claimed and exercised by Maine. Whether the Legislature of that State ought or ought not to comply with the Federal Government, to have invoked its interposition, and to have done so with a strong hand, is a question which the Congress can be supposed to decide; because the pretensions advanced by the Legislature of New Brunswick, which equally exclude the right of the United States to interfere, in the United States had been applied, and the exercise of the one had required a prompt and forcible interposition, and the exercise of the other had been made to such intentions of the Legislature of New Brunswick, and the same question arises in the present case.

The conflicting claims of Great Britain and the United States are now presented in antagonistical position to each other, and the question as to the manner in which they have the best right to be exercised is not of sufficient importance to require a final decision. It may be argued that the conduct of the Legislature of New Brunswick is directing a boom to be placed across the mouth of the Aroostook River, for the purpose of intercepting, and to prevent the timber which is cut in no sufficient satisfaction to the State of Maine, which has come to possess its own timber, while it argues that the Legislature of the State of Maine authorities, over their own people, and that the State of Maine should enforce her own laws. In the Country of Great Britain, there is nothing in it to justify, but on the contrary, to ratify the jurisdiction of Maine over the part of her territory, which has long been familiar, and the interposition of the Legislature of New Brunswick is a violation of the existing understanding. In the proceedings of Maine, the force sent to arrest or drive off the timber, and the nature of the proceedings who were depreddating upon the public property, appears to have been in the nature of a civil process, in execution of the law of the State. The nature of a ministerial officer, such as a sheriff, or a constable, or a constable, is to the law, and to summon to his aid a sufficient number of the militia, or the militia, to subdue opposition, is well known by the law, and is sanctioned by early laws in the history of England. The nature and desperate character of the ministerial officer, and the nature of the proceedings, is justified by the fact of their breaking, and to prevent the timber, in order to supply themselves with a sufficient quantity, and to enable themselves to resist and repel the force which was sent to enforce the law.

officer, to require submission to the laws. The proclamation of the Lieutenant-Governor of New Brunswick was issued before any steps were taken by Maine to sustain the civil by the military power, and was directed against the interference of the ministerial officer of the law, acting in strict conformity with what are believed to be fundamental principles of British as well as American law. The first appeal to military force was made by him, and the subsequent proceedings of Maine are defensive merely. The pretension of the Lieutenant-Governor of New Brunswick excludes the civil as well as military power of Maine and the United States from interfering to preserve order in this seat of the ancient jurisdiction of Massachusetts; and would compel the United States and Maine to rely upon the justice, the vigilance, or the generosity of the British authorities for the maintenance of good order and the enforcement of the laws, in a country where nothing but a naked claim can be said to exist upon the part of the British Government. It demands of Maine that she should assert herself of a jurisdiction practically established and ascertained, and transfer it to Great Britain. It demands of the United States that an arrangement, alleged to have been made between the two Governments, of the existence of which the United States are unconscious, should be summarily carried out, according to the construction which one of the parties is said to have placed upon it, and without giving to the other party an opportunity to contest such construction. It is difficult, in the opinion of the Committee, to believe that the Government of Great Britain maintains such an interpretation of that arrangement, and thus converts what was intended for the preservation of friendly feelings into a source of great and instant discord. But the assertion of the Lieutenant-Governor of New Brunswick has been twice officially, deliberately, and publicly made, that he is acting under the instructions of his Government; a fact of which he and his Government can be the only judges. The execution of these orders is incompatible with the honour of the United States. The Executive branch of the Government has expressed this opinion, and in this opinion the Committee fully concur. The sudden execution of these orders may bring on a crisis for which as much preparation ought to be made as the short time remaining of the present session of Congress will permit; and the Bill, which is herewith submitted, is intended to accomplish that purpose.

The Committee refer with much pleasure to the efforts which have been made by the British Minister at Washington, evidenced by the memorandum of a conference between him and the Secretary of State, to avert the events which seem to be approaching. If the Lieutenant-Governor of New Brunswick shall desist from any attempt to take or hold military possession of the whole of the disputed territory, it will be easy to restore things to their former condition. If he shall determine to suspend further movements until the decision of the British Government be known, it will be for that Government to say what shall be the political relations between the United States and Great Britain; whether the friendship which now so happily prevails between the two nations, for the preservation of which the essential interests of both loudly call, shall be suddenly and rudely broken by assuming a principle as a ground of action to which the United States cannot submit.

The Committee cannot but entertain the hope that no precipitate counsels on the part of the Lieutenant-Governor of New Brunswick will deprive the Government of Great Britain of an opportunity of explaining, before any more serious difficulties shall have occurred, orders which he is believed to have misunderstood. In this event, all immediate difficulties will disappear. The insuperable objection to the military occupation of the disputed territory by Great Britain, requires, in common fairness, that no attempt of the kind should be made by Maine or the United States. Having accomplished the intention of driving off or arresting the trespassers upon the Aroostook, and thus enforcing her laws, Maine will, it is not to be doubted, be satisfied with this vindication of her sovereignty, and withdraw the military force which is now in arms to sustain the civil authority and repel invasion. A contemporaneous cessation of measures by Maine and New Brunswick will compromise the honour of neither; and time will thus be afforded for the British Government to select the position which it intends to occupy in the relations between it and the United States. If any motive were necessary to induce Maine to adopt a course so manifestly proper,

it would be found in the prompt response of the Executive of the United States to the appeal made to it at the present crisis, and the jealous sensibility which has been manifested for the protection of her rights, by spreading over them the ample powers of the Federal Union.

The Committee ought, perhaps, here to close this report. But the anxiety which they feel that no measure should be left unemployed to preserve peace between the United States and Great Britain, by removing, not only temporarily but permanently, the causes of discontent between them, induces them to offer another recommendation to the House. It is, the expression of an opinion by the House, sustained by a legislative provision, that a Special Embassy should be sent to England, for the purpose of co-operating with the resident Minister there, in endeavouring to adjust this long pending controversy. The precedents for this measure in our history are numerous and encouraging.

The object of such an Embassy is, to express a deep conviction on the part of the Government of the extreme urgency of the case, and the absolute necessity of adjusting existing difficulties. The ordinary forms of negotiation appear insufficient to rouse the British Government to the danger that the two nations may find themselves involved in war, notwithstanding the desire of the Governments of both to avoid it; and the step proposed would manifest to the world, at all events, that the United States are sincerely anxious to exert every means in their power to maintain the most amicable relations with a Government and People, so eminently entitled to the respect and regard of every civilized nation on the globe.

The Committee are conscious that some of the provisions of the Bill herewith reported would more properly have emanated from some of the other Committees of the House, upon whose jurisdiction they are reluctant to encroach: but the few days which remain of this session would not have permitted any delay, with a view of referring these subjects to other Committees, with the slightest hope of obtaining any action on the part of the House. They submit the whole matter, therefore, as the result of their anxious reflections, to the better judgment of the House.

Inclosure 41 in No. 5.

Law for the Defence of the United States.

An Act giving to the President of the United States additional powers for the defence of the United States, in certain cases, against invasion, and for other purposes.

BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the President of the United States be, and he hereby is, authorised to resist any attempt on the part of Great Britain to enforce, by arms, her claim to exclusive jurisdiction over that part of the State of Maine, which is in dispute between the United States and Great Britain; and, for that purpose, to employ the naval and military forces of the United States, and such portions of the militia as he may deem it advisable to call into service.

Section 2. And be it further enacted, That the militia, when called into the service of the United States by virtue of this Act, or of the Act entitled "An Act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, repel invasion, and to repeal the Act now in force for those purposes," may, if in the opinion of the President of the United States the public interest require it, be compelled to serve for a term not exceeding six months after the arrival at their place of rendezvous, in any one year, unless sooner discharged.

Section 3. And be it further enacted, That in the event of actual invasion of the Territory of the United States by any foreign Power, or of imminent

danger of such invasion discovered, in his opinion, to exist, before Congress and be convened to act upon the subject, the President be, and he is hereby, authorized, if he deem the same expedient, to accept the services of any number of volunteers not exceeding fifty thousand, in the manner provided for in an Act entitled "An Act authorizing the President of the United States to accept the services of volunteers, and to raise an additional regiment of dragoons or mounted riflemen," approved May 23, 1836.

Section 4. And be it further enacted, That, in the event of either of the contingencies provided for in this Act, the President of the United States shall be authorized to complete the public armed vessels now authorized by law, and to equip, man, and employ, in actual service, all the naval force of the United States; and to build, purchase, or charter, arm, equip, and man such vessels and steam-boats on the Northern lakes and rivers whose waters communicate with the United States and Great Britain, as he shall deem necessary to protect the United States from invasion from that quarter.

Section 5. And be it further enacted, That the sum of ten millions of dollars is hereby appropriated and placed at his disposal for the purpose of executing the provisions of this Act; to provide for which the Secretary of the Treasury is authorized to borrow money on the credit of the United States, and to cause to be issued certificates of stock, signed by the Register of the Treasury, for the sum to be borrowed, or any part thereof; and the same to be sold upon the best terms that may be offered after public notice for proposals for the same: Provided, That no engagement or contract shall be entered into which shall preclude the United States from reimbursing any sum or sums thus borrowed after the expiration of five years from the first of January next; and that the rate of interest shall not exceed five per cent., payable semi-annually.

Section 6. And be it further enacted, That the sum of eighteen thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for outfit and salary of a special Minister to Great Britain: Provided, The President of the United States shall deem it expedient to appoint the same.

Section 7. And be it further enacted, That in the event of either of the contingencies provided for in the first and third sections of this Act, the President of the United States shall be authorized to apply a part not exceeding one million of dollars of the appropriation made in this Act to repairing or arming fortifications along the seaboard and frontier.

Section 8. And be it further enacted, That whenever militia or volunteers are called into the service of the United States, they shall have the organization of the Army of the United States, and shall receive the same pay and allowances.

Section 9. And be it further enacted, That the several provisions of this Act shall be in force until the end of sixty days after the meeting of the first session of the next Congress, and no longer.

(Signed)

JAMES K. POLK,

Speaker of the House of Representatives.

(Signed)

WM. R. KING,

President pro tem. of the Senate.

Approved, March 3, 1839.

(Signed)

M. VAN BUREN.

No. 6.

Viscount Palmerston to Mr. Fox.

(Extract.)

Foreign Office, April 6, 1839.

I HAVE received and laid before the Queen your despatch of the 7th ultimo, relative to the occurrences which have lately taken place between the authorities of Maine and of New Brunswick, with respect to the disputed territory.

Her Majesty's Government approve of the provisional agreement which you signed with Mr. Forsyth on the 27th of February, and which they trust will have the desired effect of preventing any conflict from arising out of these local proceedings, until the matter at issue can be amicably arranged between the two Governments.

No. 7.

Viscount Palmerston to Mr. Fox.

Sir,

Foreign Office, April 6, 1839.

I INCLOSE for your information a copy of a note which I have received from Mr. Stevenson, dated the 30th ultimo, inviting the immediate attention of Her Majesty's Government to the subject of the pending controversy with respect to the north-eastern boundary of the United States, and to the occurrences which have lately taken place between the authorities of Maine and of New Brunswick. I also inclose a copy of my answer to Mr. Stevenson's note; and of Mr. Stevenson's reply.

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

Inclosure 1 in No. 7.

*Mr. Stevenson to Viscount Palmerston.**Portland Place, March 30, 1839.*

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary from the United States, has the honour to acquaint Lord Viscount Palmerston, Her Majesty's Principal Secretary of State for Foreign Affairs, that he has recently received from his Government special instructions, which make it his duty to invite the immediate attention of Her Majesty's Government to the subject of the pending controversy in relation to the north-eastern boundary of the United States, and the painful occurrences which have lately taken place between the authorities of Maine and New Brunswick; of the character and extent of which, Her Majesty's Government are doubtless in possession of full and authentic information.

In hastening to fulfil the wishes of his Government, the Undersigned feels that it would be useless and unprofitable to recur to a recapitulation of the considerations and arguments which he has heretofore had the honour of urging upon the attention of Her Majesty's Government, as to the importance of an immediate settlement of this controversy, or the evils which would inevitably spring from continued delay. This has been so recently done, and the anxious desire of his Government so repeatedly expressed, that the Undersigned would feel no small degree of embarrassment in attempting to add anything to the representations which he has heretofore made, and which his Lordship doubtless, so well understands.

The recent events which have taken place in Maine and New Brunswick, and the imminent peril to which the interests and well being of both countries are now hourly exposed, evince too strongly the urgency which calls for the immediate settlement of this controversy, to make it needful that the Undersigned should do more, than again invite the attention of Her Majesty's Government to the subject, and in the most solemn and earnest manner, invoke its speedy and prompt interposition.

Whilst the Undersigned, however, feels assured that Her Majesty's Government is not less sincerely anxious for the amicable adjustment of this controversy, than that of the United States, it is cause of deep regret that it should not have suited the convenience of Her Majesty's Government to have adopted the necessary measures to meet the just expectations of that of the United States, by advancing the pending negotiation providing for the survey and exploration of the disputed territory. Assurances that suitable measures for that purpose would be immediately adopted, and instructions forwarded to Mr. Fox, Her Majesty's Minister at Washington, were long since given to the Undersigned, and by him communicated for the information of his Government. These assurances, for reasons no doubt sufficiently strong to justify the delay, have not been fulfilled, nor has any answer yet been received, as to the final determination of Her Majesty's Government on the subject. Whatever the causes, therefore, may have

been which have delayed these instructions, the time has now arrived which makes it indispensably the duty of both Governments that the subject should not remain longer unsettled.

Indeed, if Her Majesty's Government needed additional proofs of the danger of longer delay, and impatience under it, they are to be found in the late proceedings on the northern frontier, and the embarrassing difficulties which have arisen between the State and Provincial authorities of Maine and New Brunswick.

Both Governments must now be aware of the serious difficulties which such proceedings are calculated to throw in the way of all attempts at conciliation. Passions highly exasperated under impressions of injury and wrong, or collisions between parties interested, can have no other effect than to protract and embitter a controversy which might otherwise be happily terminated.

Indeed, the experience of every day shows, more and more, the obligations on both sides to enter seriously into the means of guarding the peace and harmony of the two countries against the dangers by which they are threatened, and preventing those repeated collisions which have already, more than once, put in jeopardy their peaceful relations. It would be lamentable, indeed, if whilst the two Governments, to whom it belongs to decide this controversy, were delaying the negotiation for its final settlement, the peace of the two countries should be involved by discussions and conflicts between the local authorities upon points of minor importance, and consequences ensue which all would have such just cause to deplore.

Deeply lamenting then, as the President sincerely does, the delay which has already taken place, whatever its cause may have been, the Undersigned has been specially instructed, in bringing the subject again before Her Majesty's Government, to express the confident hope that no further delay will be suffered to take place; that the motives derivable from a knowledge of the recent occurrences will be too cogent to be disregarded, and that Her Majesty's Government will take immediate measures to bring the negotiation to an end, and avert the calamities which now impend over the two countries.

That this appeal will not have been made in vain, the Undersigned will not for a moment permit himself to doubt.

Lord Palmerston has probably already been apprized that among the proceedings of the Congress of the United States at the close of its late Session, provision was made for a special mission to Great Britain in relation to the subject of this controversy, should it in the opinion of the President be deemed advisable to appoint one.

In virtue of this provision, the Undersigned has now the honour of acquainting his Lordship, that the President of the United States (desirous of conforming to the indicated wishes of Congress) has directed him to announce to Her Majesty's Government his willingness to institute such a mission, and change the place of negotiation, which had heretofore been agreed on, from Washington to London, provided it should be agreeable to Her Majesty's Government to do so, and would, in their opinion, be the means of hastening or facilitating the final adjustment of the controversy.

In submitting this proposition of the President to Her Majesty's Government, which he has now the honour of doing, the Undersigned flatters himself that Lord Palmerston will not fail to appreciate the motives which have influenced the President in making it; and see in it, not only an additional proof of his desire to terminate amicably this protracted and painful controversy, but the earnest solicitude which he feels to place the relations of the two countries beyond the reach of those casualties by which, in the present state of things, they are so liable to be injured.

To this proposition the Undersigned has been directed respectfully to urge the early consideration of Her Majesty's Government.

The importance and urgency of bringing to a speedy close the pending negotiation, and the existing embarrassments in which the two countries are now placed will, the Undersigned persuades himself, sufficiently explain the earnestness with which he has pressed the subject upon the consideration of Lord Palmerston; and in closing this note he can but indulge the confident hope, that the final determination of Her Majesty's Government will not only correspond with the just expectations which are entertained by his own Government, but that it will be the means of leading to such an adjustment of the whole controversy as

may be compatible with the just rights and honour of the two countries, and those peaceful and friendly relations, upon the preservation of which so essentially depend the prosperity and happiness of both.

The Undersigned seizes the occasion, &c.,

(Signed)

A. STEVENSON.

Inclosure 2 in No. 7.

Viscount Palmerston to Mr. Stevenson.

Foreign Office, April 3, 1839.

THE Undersigned, &c., has the honour to acknowledge the receipt of the note of Mr. Stevenson, &c., dated the 30th instant, inviting the immediate attention of Her Majesty's Government to the subject of the pending controversy with respect to the north-eastern boundary of the United States; and to the painful occurrences which have lately taken place between the authorities of Maine and of New Brunswick.

The Undersigned begs leave to state, in reply to Mr. Stevenson's note, that Her Majesty's Government fully share the opinions expressed by the Government of the United States as to the importance of a final settlement of the Boundary Question; and they partake the anxiety felt by that Government that such settlement should be arrived at with as little delay as the nature of things will admit; and Her Majesty's Government flatter themselves that they have given indisputable proofs of their sincerity on this matter; first, by accepting without hesitation, the award of the King of the Netherlands, however disadvantageous to Great Britain; and by adhering to that award until the United States had irrevocably determined to reject it; and secondly, by afterwards proposing to solve the question by dividing equally between the two parties the territory which is in dispute. If, then, the difference between the two countries has not been long since settled, it is not for want of proposals on the part of Great Britain, which, as it appears to Her Majesty's Government, were in their nature honourable for both parties.

With respect to the events that have recently occurred between Maine and New Brunswick, Her Majesty's Government deeply deplore that any circumstances should have arisen tending to threaten an interruption of the friendly relations between the two countries; but Her Majesty's Government cannot refrain from observing, that if any collision shall unfortunately have taken place between the people of Maine and the authorities of New Brunswick, that collision will have been brought on by hostile proceedings on the part of Maine, planned and decided upon in secret; executed suddenly and without previous notice; and so conducted, that if it had been the intention of the Government of Maine to provoke a conflict, better means could not well have been devised to attain that end. Her Majesty's Government, however, feel great pleasure in doing the fullest justice to the wise and enlightened course pursued upon this occasion by the President of the United States; and they beg Mr. Stevenson to assure the President, that the British Government is equally animated by the same spirit of peace which has guided the councils of the President in this conjuncture of affairs.

Her Majesty's Government consider the communication which Mr. Stevenson has been instructed to make to the Undersigned upon the subject of the proposed mission of a special Envoy to England, as a fresh proof of the friendly disposition of the President, and of the frankness which, it is hoped, will always characterize the intercourse between the two Governments; and Her Majesty's Government hasten to reply to that communication in the same spirit, and with the same frankness. The President is desirous of knowing whether such a mission would be agreeable to Her Majesty's Government, and whether it would, in their opinion, be the means of hastening or facilitating the final adjustment of the controversy? That it would always be agreeable to Her Majesty's Government to receive any person enjoying the confidence of the President, and sent hither to treat of matters affecting the interests of both countries, the Undersigned is persuaded that the Government of the United States cannot possibly doubt, but Her Majesty's Government do not see that in the present state of the negotiation, such a mission could be likely to hasten or facilitate the adjustment of the controversy.

It was the wish of the British Government in 1831, when the award of the King of the Netherlands was given, that any further negotiation which might be necessary upon this subject should be carried on in London. But the Government of the United States expressed a strong desire, that the seat of negotiation should be Washington, and the British Government acquiesced in that arrangement.

The question at present to be considered is, whether any advantages would arise from transferring the negotiation to London? Now, undoubtedly, if the state of the negotiation were such that the two Governments were at liberty to arrive at a final and immediate settlement of the controversy, by a conventional division of the territory in dispute, Her Majesty's Government would be of opinion that advantage might arise from the mission proposed to be sent to this country by the Government of the United States. But Maine having refused to agree to a conventional line, and another reference to arbitration being, in the present state of the matter, out of the question; the only course left open for the two Governments, with a view to arrive at a solution of the controversy, is to cause a fresh survey of the territory to be made for the purpose of endeavouring to trace upon the ground itself the line of the Treaty of 1783; and the Undersigned is sending to Mr. Fox, for the consideration of the President, a draft of a Convention for the purpose of regulating the proceedings of the Commissioners to be appointed by the two Governments for this end; and Her Majesty's Government hope that the report of these Commissioners will either settle the questions at issue, or furnish to the two Governments such information as may lead directly to a settlement. But this being the present state of the matter, it appears to Her Majesty's Government that a Special Envoy now sent from America would not, upon his arrival in this country, find anything to discuss or to settle in connexion with this question, the discussion or settlement of which could be of importance commensurate with the expectations which such a mission would naturally excite on both sides of the Atlantic; and that if in consequence thereof, the Envoy so sent were to return to the United States before the two Governments had finally settled the whole question, a disappointment might thereby be created, which, however unfounded it would be, might nevertheless produce bad effects in both countries.

Her Majesty's Government having thus stated, without reserve, their impression upon this matter, leave the decision of it to the President; and the Undersigned has only further to assure Mr. Stevenson that Her Majesty's Government are very sensible to the spirit of friendly confidence which has dictated Mr. Stevenson's communication.

The Undersigned, &c.,

(Signed)

PALMERSTON.

Inclosure 3 in No. 7.

Mr. Stevenson to Viscount Palmerston.—(Received April 6, 1839.)

Portland Place, April 4, 1839.

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary from the United States, has the honour to acknowledge the receipt of the communication addressed to him by Lord Viscount Palmerston, Her Majesty's Principal Secretary of State for Foreign Affairs, under date of the 3rd instant, in answer to that of the Undersigned of the 30th of March, upon the subject of the disputed Boundary between the North Eastern portion of the United States, and Her Majesty's Colonial Possessions.

The Undersigned will take the earliest opportunity of transmitting this note to his Government, and he begs Lord Palmerston to believe, that it will afford him the highest gratification to accompany it with the assurance, which his Lordship has been pleased to give, that whilst Her Majesty's Government is disposed to do full justice to the wise and enlightened course which has been adopted by the President of the United States, in relation to the late occurrences on the frontier, it is equally animated by the same spirit of conciliation and peace, with that which has guided the Councils of the President in the present conjuncture of affairs.

Entertaining, as the President does, an anxious desire for the adjustment of

a controversy which has unhappily so long existed between the two Countries, the Undersigned seizes the occasion to assure Lord Palmerston that the President will not fail to receive with the liveliest sensibility the friendly sentiments which have been so kindly manifested in his Lordship's note, as well on the part of himself, as that of Her Majesty's Government.

The Undersigned begs leave also to state to Lord Palmerston, that he has not failed to notice with painful regret, that part of his Lordship's note in relation to the late proceedings of the State of Maine, in which his Lordship is pleased to express the opinion, that if any collision should unfortunately have taken place between the people of that State and Her Majesty's Colonial Authorities, it will have been brought on by hostile proceedings on the part of Maine, planned, and conducted, in a manner, which if it had been the wish of the Government to provoke a conflict, better means could not have been devised to attain such an end.

In dissenting, as the Undersigned does, from the opinion expressed by Lord Palmerston, he does not intend to be drawn into an examination or discussion of the causes out of which the late proceedings on the frontier have arisen, nor to decide on whom the responsibility would justly fall for any evils that might ensue from them.

Regarding the proceedings and conduct of Maine, however, in a light wholly different from that supposed by his Lordship, the Undersigned deems it proper to say, that he has seen nothing in the history of these proceedings, which would seem to justify the opinion expressed by his Lordship, in reference to the conduct of the authorities of Maine.

The Government of Maine have doubtless acted under the high obligations of duty. They felt the necessity of protecting themselves from the unjust operation of measures with which they had been threatened by the British Colonial Authorities, and with that view, took the steps that were finally adopted.

The proceeding was neither hostile nor minatory in its character, but one intended for purposes of precaution and defence.

In exercising then the rights of self-defence under a state of things, certainly, equally, and mutually, to be lamented by both Governments, it is not perceived how the responsibility of any collision which might have ensued, can rightfully attach to Maine. To regard these proceedings in any other light than defensive, would be doing injustice not only to the Government of Maine, but to the patience with which its people have endured, and the moderation with which they have sought, in the vindication of what they believed to be their just rights, to guard against collision or disagreements between the two Governments. These are the observations which in justice to the people and authorities of Maine, the Undersigned has felt it his duty to make.

The Undersigned cannot consent to close this correspondence, without availing himself of the opportunity of expressing to Lord Palmerston his high gratification at the conciliatory and friendly spirit which his Lordship has manifested throughout this negotiation; and the earnest desire which is mutually felt, that out of the unfortunate occurrences, which have recently transpired, an occasion may arise, which being improved (as it doubtless ought to be by the two Governments) may lead to a speedy adjustment of this protracted controversy, and to more solid and lasting friendship between the two countries.

The Undersigned renews to Lord Palmerston assurances of his distinguished consideration.

(Signed) A. STEVENSON.

No. 8.

Viscount Palmerston to Mr. Fox.

Sir,

Foreign Office, April 6, 1839.

I INCLOSE for your information and guidance, a copy of a private letter which I addressed to Mr. Stevenson on the 3rd instant, stating shortly the sub-

stance of what I had previously said to him in conversation, upon the question of jurisdiction in the disputed territory. Mr. Stevenson informed me that he had received no instruction from his Government upon this point.

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

Inclosure in No 8.

Viscount Palmerston to Mr. Stevenson

My dear Sir,

Stanhope Street, April 3, 1839.

I HAVE great pleasure in complying with your wish that I should state shortly in writing, the substance of what I have said to you in conversation upon the question of jurisdiction in the disputed territory.

What has lately passed upon that subject, in Congress, is a fresh proof of the close relationship of the two nations, and shows that our habit of not reading, or of soon forgetting Parliamentary Papers, prevails equally in Congress with regard to papers laid before that body. For if those who took part in the recent debates at Washington had borne in mind the papers communicated by the President to Congress in 1829, they would not have asserted, that our claim to jurisdiction is a new one; nor would they, I think, have construed it in the unqualified sense in which they appear to have understood it.

The grounds and nature of our claim on this point were explained by Sir Charles Vaughan, in a note to Mr. Clay, of the 16th September, 1827; and the very qualified and limited manner in which the claimed right has been exercised, was stated by Sir Howard Douglas in a despatch to Sir Charles Vaughan of the 4th October, 1827, which was communicated to Mr. Clay by Sir Charles Vaughan on the 26th of that month. The nature and grounds of the British claim were further explained by Sir Charles Vaughan in February, 1828; and by Lord Aberdeen in his note of 14th August, 1828.

From this correspondence, it will be seen that we have not pretended to exercise any new act of sovereignty over any part of the disputed territory, since the conclusion of the Treaty of Ghent; and that the jurisdiction we claim over the unsettled and unoccupied part of the district, is in reality only safe custody of the property, for the benefit of the future owner, and the prevention of the assemblage of lawless and disorderly persons therein, to the annoyance and injury of the neighbouring districts.

As a proof that we have not claimed that exercise of sovereignty which we are supposed in the United States to contend for, I would beg to remind you that two years ago, upon a representation from your Government, we put a stop to a plan for making a railway across the disputed territory, from Quebec to St. Andrews, because the making of a new road would have implied an acknowledged right of sovereignty on our part, while that right is the very question in dispute; and last year, as you will remember, we did not think ourselves at liberty to march troops across the territory from New Brunswick to Canada, without coming to a previous understanding with your Government upon that operation.

Of course, however, we are entitled to expect that such abstinence should be mutual, and that neither party should, while the general question is pending, make settlements, cut timber, open roads, or establish military occupation in the disputed territory.

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

No. 9.

Viscount Palmerston to Mr. Fox.

(Extract.)

Foreign Office, April 6, 1839.

I HEREWITH transmit to you the Draft of a Convention between Great Britain and the United States of America, which Her Majesty's Government have prepared, for the purpose of carrying into effect, with some modifications, the proposal which the American Government have made to Her Majesty's Government, for the appointment of a new Commission of Exploration and Survey, with a view to settle and determine the Boundary Line between the British Province of New Brunswick and the State of Maine.

In this project of Convention, no mention is made of an umpire, because, as the Draft is now framed, and according to the understanding between the two Governments upon which it is founded, there would be no proper functions for an umpire to perform; and, moreover, because, as neither the United States, the State of Maine, nor Her Majesty's Government are at present willing to submit the points at issue to another arbitration, there is no reason for appointing an umpire.

The stipulation that the Commissioners should begin their work from the head of the River St. Croix, the last ascertained point in the easternmost portion of the Boundary as acknowledged by both parties, is a natural arrangement, because, it is from that point that the connecting line, either due North, or to the westward of the North, is to be drawn to the Highlands that are to be sought for; and that connecting line should of course stop at the point where it first touches the Highlands in question. It seems also proper, that the Commissioners should begin by exploring the due North line, because, if the Highlands which are sought for could be found in that line, one of the conditions of the Treaty would be literally fulfilled; and because it would be necessary, at all events, that the Commissioners should have failed in finding the Highlands in that direction, before they should seek for them in another.

It seems also to be proper and natural, that, if the Commissioners should fail to find in the due North line the Highlands they are in search of, they should then proceed to the other extremity of the undetermined line, as the appropriate basis of their further operations; that is to say, that they should then go to the easternmost points of those Highlands, which lying near the sources of the Chaudière and the Penobscot, have already been ascertained by the British and American Commissioners under the Treaty of 1814, as fulfilling at that part of the Boundary, the conditions of the Treaty of 1783; and that the Commissioners should from thence pursue their survey over the different parts of the disputed territory, lying between the point aforesaid, and the due North line from the source of the River St. Croix.

In that part of the Preamble which quotes the proposal of the American Government, and which states, that when the Highlands shall be found, the Commissioners shall draw a line from the monument to the said Highlands, Her Majesty's Government have purposely omitted the words, "and to that point thereof which shall be nearest to a due North line from the monument;" because those words are susceptible of an ambiguous interpretation, and are not as precise and distinct as is desirable in a Convention of this kind; but words have been inserted in Article VII, which embody the sense of the omitted words in a clearer and more definite shape.

The object of the proposed exploration and survey, is to find the Highlands of the Treaty. If they can be found in the meridian of the St. Croix, the conditions of the Treaty would be fulfilled, and a line would be drawn to them from the St. Croix in a due northerly direction. But if such Highlands cannot be found in the meridian of the St. Croix, they are to be sought for elsewhere to the westward; and wherever they may be found, a line should be drawn to that spot from the head of the St. Croix, with this qualification in favour of the United States, that if such Highlands should be found to preserve for any extent of space the character required by the Treaty, the connecting line should be drawn to the

easternmost spot, within the disputed territory, at which they possess that character.

Nothing has been said in the proposed Convention about the north-west angle of Nova Scotia, because that angle will be at the point where the line drawn from the head of the St. Croix meets the Highlands of the Treaty of 1783.

If the north-west angle of Nova Scotia had been a point already marked out upon the ground, or if it were a point so accurately defined by verbal description, that the Commissioners could at once have marked it down upon the ground, Her Majesty's Government would have proposed, that the first duty of the Commissioners should have been to have proceeded in a due north line from the head of the St. Croix to the north-west angle of Nova Scotia. Her Majesty's Government would have proposed that such north-west angle should be deemed to be, as it obviously must be, the point at which such due north line should meet the line which divides New Brunswick from Lower Canada; and therefore, if the boundary between Lower Canada and New Brunswick were a known and ascertained line, nothing could be easier than to find the north-west angle of Nova Scotia. But although the line of boundary between Lower Canada and New Brunswick is laid down in some maps, and especially in the map of Canada published in 1831, by M. Bouchette, I have reason to believe that no such boundary has been actually traced out upon the ground, or is known to and acknowledged by, the two Provinces respectively. That boundary is believed hitherto to exist only in description, and not to have been marked out; and the description from which it would have to be marked out, being very nearly the same as the description which, by the Treaty of 1783, defines this part of the boundary between the British Possessions and the United States, the north-west angle of Nova Scotia, and the last mentioned portion of boundary are both of them equally unknown things, and neither can at present be used for the purpose of ascertaining the other.

Inclosure in No. 9.

Draft of Convention between Great Britain and the United States of America.

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 of 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 the Connecticut River; thence down along the middle of that river to the forty-fifth degree of north latitude; from thence by a line due west on said latitude until it strikes the River Iroquois or Cataraguy," has not yet been ascertained or determined. 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 entrusted, under the Vth Article of the Treaty signed at Ghent on the 24th of December, 1814, were referred to the arbitration of the King of the Netherlands. And whereas the decisions and opinions given by His Netherland 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 the Government of the United States of America, in an official note addressed to the Government of Her Britannic Majesty on the 30th of April, 1833, and in explanatory notes dated the 28th of May and 5th of June, 1833, proposed that "a new Commission should be appointed, consisting of an equal number of Commissioners" for each Party; and that the Commissioners so to be appointed should, "discarding the due north line, should that become necessary, seek for and find, in the first place, the Highlands which divide those rivers that empty themselves into the St. Lawrence from those which fall into the Atlantic Ocean;" and when these shall be found in any part of the disputed territory north or south of the St. John's River,

to draw a line from the monument, (meaning thereby the monument placed at the source of the River St. Croix by the Commissioners of the High Contracting Parties under the Treaty of 1794,) to the said Highlands; it being distinctly admitted by the Government of the United States of America, that they make no pretensions to any deviation eastward from the direct north line from the St. Croix." And whereas the Government of Her Britannic Majesty agreed, in an official note dated November 19, 1837, to the appointment of such a new Commission of Survey, to be constituted of "Commissioners named in equal numbers by each of the two Governments;" stating at the same time, that the "object of the Commission, as understood by Her Majesty's Government, would be to explore the disputed territory, in order to find within its limits dividing Highlands which may answer the description of the Treaty, the search being first made in the due north line from the monument at the head of the St. Croix; and if no such Highlands should be found in that meridian, the search to be then continued to the westward thereof;" and stating also their opinion, "that in order to avoid all fruitless disputes as to the character of such Highlands, the Commissioners should be instructed to look for Highlands which both Parties might acknowledge as fulfilling the conditions required by the Treaty." And whereas the Government of the United States, in an official note, dated April 27, 1838, expressed their "willingness to enter into an arrangement with Great Britain for the establishment of a joint Commission of Survey and Exploration, upon the basis of the original American proposition, and the modifications offered by Her Majesty's Government." Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States of America, have now deemed it expedient again to attempt a settlement of the differences aforesaid, in conformity with the spirit and meaning of the aforesaid Treaty of 1783, by the appointment of a new Commission of Exploration and Survey, upon the principles agreed upon between the two Governments; and Her said Majesty, and the President of the said United States, having resolved to conclude a Convention for regulating the operations of such Commission, they have 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, by and with the advice and consent of the Senate thereof, &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 [three] 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 [St. Andrews, on the River St. Croix], 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 [St. Andrews], 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 instance to an examination and survey of the territory in dispute between the High Contracting Parties, which 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. The object of such examination and survey shall be, to endeavour to find, at any point within the limits of the said disputed territory, Highlands answering to the description contained in the Treaty of 1783; that is to say, "Highlands which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean."

ARTICLE IV.

The line of Boundary having already been ascertained and agreed upon from the mouth of the St. Croix River as far as the monument aforesaid placed at its source; and it having been agreed that the first object of the Joint Commission to be appointed under the present Convention is to endeavour to discover Highlands answering to the description contained in the Treaty of 1783, as quoted in the preceding Article, upon a due north line from the said monument, it is agreed that the point of departure of the new Commission shall be the aforesaid monument.

ARTICLE V.

As any deviation eastward from the due north line is disclaimed by the United States of America, as recorded in the American proposition referred to in the preamble of this Convention, the Commissioners, if they should fail to discover Highlands on their direct northern course, shall next proceed to those Highlands at the sources of the Chaudière and of the Penobscot, which, as already ascertained by the British and American Commissioners respectively under the Treaty of 1814, to fulfil, at that part of the disputed territory, the conditions required by the Treaty of 1783; and the Commissioners taking as the basis of their further operations that extremity of the said Highlands at the sources of the Chaudière and of the Penobscot, which is nearest to the due north line, shall from that point commence anew their exploration of the disputed territory lying eastward between such point and the due north line.

ARTICLE VI.

When the Commissioners shall have found Highlands which they shall jointly and unanimously agree to consider as answering to the description contained in the IIIrd Article of the present 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 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.

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

ARTICLE VII.

As soon as the Commissioners shall have transmitted to their respective Governments the aforesaid report, the said Commissioners shall at once proceed to

draw a direct line from the monument at the source of the River St. Croix to the said Highlands at the easternmost point within the ceded territory, at which they shall be found in the manner stated in the preceding Article to fulfil the conditions of the Treaty of 1783: 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 British and American territories, as intended by the Treaty of Peace of 1783.

The Commissioners shall next proceed to mark out the said line, and to make a map thereof in duplicate. 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 latitude and longitude of any 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.

ARTICLE VIII

The said Commissioners shall next proceed in conformity with the provisions of the Treaty of 1783, to trace and lay down the Boundary Line along the said Highlands, in as straight a direction as the features of the country shall admit, from the point where the line, drawn in pursuance of the preceding Article, from the head of the St. Croix, shall meet the said Highlands, to the north-westernmost head of the Connecticut River, thence down along the middle of that river to the 45th degree of north latitude, and from thence by a line running due west on that latitude, until it strikes the River St. Lawrence, called in the said Treaty of 1783, the River Iroquois or Canady.

Whenever the said Commissioners shall have jointly agreed upon this portion of the Boundary, or upon any part thereof, they shall report their decision to their respective Governments, and shall then at once proceed to mark out and make a map of the said Boundary, or of any part thereof upon which they may have agreed, exactly in the same manner as is prescribed with respect to the other portion of the said Boundary. And the two High Contracting Parties hereby agree to consider such report and map as finally and conclusively fixing the said Boundary, or any part thereof, as intended, and as being binding upon both parties.

ARTICLE IX

In the event of the said Commissioners differing in opinion upon any point or points which may come within the scope of their duties, they shall draw up, either jointly or separately, a report or reports, in duplicate, in which they shall state in detail the points upon which they differ, and the grounds upon which their respective opinions have been formed. One original of every such report or reports, together with copies of all papers or maps annexed thereto, shall be transmitted by the British Commissioners to the Government of Her Britannic Majesty; and the other original, together with similar copies of the maps or papers annexed thereto, shall be transmitted by the American Commissioners to the Government of the United States.

ARTICLE X

It is further agreed, that the salaries of the said Commissioners 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 affirmations, and to perform the same duties, as his predecessor.

ARTICLE XI.

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 thirty-nine.

No. 10.

Mr. Fox to Viscount Palmerston.—(Received April 11, 1839.)

My Lord,

Washington, March 10, 1839.

THE inclosed, corrected report has been printed, of a speech delivered in the House of Representatives by Mr. Biddle, one of the members from the State of Pennsylvania, during the late discussion upon the Defence Bill.

A document of great importance, and which I had not before seen, is quoted by Mr. Biddle's speech: namely, a set of resolutions passed by the Legislature of the State of Massachusetts, in the year 1836; which resolutions distinctly admit the right to exclusive jurisdiction, or the fact, at least, of the uninterrupted and undisputed exercise thereof, by Great Britain, pending the negotiation for the settlement of the Boundary Question.

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

Inclosure in No. 10.

Remarks of Mr. Biddle on the subject of the North-Eastern Boundary, in the House of Representatives, March 1, 1839.

MR. BIDDLE said he fully concurred in the sentiment expressed by the gentlemen from Massachusetts, [Mr. Adams.] that it was of the utmost importance to guard carefully against any false movement. We occupied now a high vantage-ground, from which we ought not, if possible, to be allured or driven. The subject had come upon us rather unexpectedly in its new aspect. The matter of jurisdiction is a subordinate one. With little time for examination, we are summoned to make an assertion that involves personal veracity, and perhaps, the peace and dignity of the country. We are asked to take the burden of proving to Great Britain, and the world, that there is no trace in the diplomacy of the country, of ought to countenance the pretension set up by the Lieutenant-Governor of New Brunswick.

Of the great question of right there cannot be a doubt. Mr. B. said that, from an early and deliberate examination of the whole controversy, he had been satisfied that our title was perfect, to the territory in dispute, and that England had not a shadow of just claim. So decided and earnest were his convictions, that he had long ago startled many of his constituents, by adverting to the chances of a war on this subject.

England will hold on to the last moment. A glance at the map discloses the vast importance to her of the debatable ground. It lies between her possessions on the Atlantic sea-coast and the St. Lawrence; and over it is the only route by which troops can be speedily passed from Halifax and St. John's, to Quebec. During the late disturbances in Canada, the forces were marched across this territory without our permission, whereas, had it been within the undisputed limits of the United States, they must have either obtained our assent, or resorted to the tedious and dangerous passage by the mouth of the St. Lawrence

Owing to the delays attendant on the settlement of the principal question, there has been imparted to an incidental point, a degree of importance which it did not originally possess, or merit. I mean the condition of the disputed territory pending the efforts at adjustment.

During the earlier stages of the negotiation, there was preserved with great distinctness, an understanding that each party should continue to possess that portion which was in actual occupancy, but do nothing to extend or fortify its pretensions over what lay in a wild state. Great Britain, however, now alleges, that an understanding has grown up, in later times, by which the temporary guardianship over the whole region has been imparted to her exclusively. This point has recently assumed, as I before remarked, an unexpected importance.

The State of Maine alleges that trespasses are committed on the disputed territory, by the cutting of timber, &c., and that the British authorities are not sufficiently alert in restraining this waste. Her Legislature lately, in secret session, took up the subject, and ordered a party to be dispatched, to arrest the trespassers. The Governor of New Brunswick, Sir John Harvey, deems this an invasion of the exclusive jurisdiction alleged to have been transferred to the English authorities. Maine denies the existence of any such agreement; arrests have been made on the one side and the other, and there have ensued declarations of a purpose to enforce these conflicting claims by arms.

It cannot but be regretted—if war must come—that our clear advantage in the main and original controversy should be lost sight of, or obscured by the prominence suddenly given to a matter incidental, temporary, and of no ingrossing importance. The President justly remarks, in his message:—

“The parties more immediately interested cannot but perceive that an appeal to arms, under existing circumstances, will not only prove fatal to their present interests, but would postpone, if not defeat, the attainment of the main objects which they have in view.”

Nor is it to be forgotten that a war, with its burden of taxation, will not long be carried on with vigor and unanimity, except on the broadest and most intelligible grounds. The late war was declared for injuries of a flagrant character, affecting particularly the Eastern States; yet, owing to our miserable dissensions, we were glad to accept the Treaty of Ghent, which adjourned the question of impressment, which gave up every dollar of our demands against England for her long career of spoliation upon our commerce, and which brought upon us this very curse of the Boundary Question. In the present state of the world, too, a decent respect for its judgment must be maintained, as well as an eye to the opinion which any friendly mediator may form of the pretexts for hostilities. The first years of any war between this country and a great European Power will always be disastrous to us. We never can be fully prepared at the outset. It is desirable, therefore, that we do not enter upon it, except for such palpable wrongs as may warrant and insure our carrying it out, unflinchingly, to any extremity.

I deprecate, therefore, the getting up of this comparatively immaterial issue; more particularly as it is by no means certain that we have on it a clear and indisputable case. On the contrary, it may be feared that a review of the diplomatic correspondence will show that, owing to great looseness and remissness on our part, to say the least, there is colour for the pretension advanced by the agents of Great Britain.

How does the matter appear even on a hasty glance at the correspondence?

In a letter from Mr. Mc Lane, Secretary of State, to Sir Charles Vaughan, dated December 21, 1833, he says:—

“It is alleged that His Britannic Majesty’s officers of the Province of New Brunswick, by the seizure and sale of timber cut by trespassers on the Aroostook, and afterwards in the rightful custody of the Agent of the State of Massachusetts, have been the first to violate the existing understanding.”

Here, it will be seen, the very question now agitated was brought up more than five years ago. Mr. Mc Lane makes formal complaint that the British warden had taken out of the hands of the State authorities, timber seized by the

letter, as having been cut by trespassers on the Aroostook River. To this complaint the British Minister replied as follows:—

“ Washington, February 28, 1834.

“ The Undersigned, His Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, has the honour to communicate to the Secretary of State of the United States, the explanation which he has received from the Lieutenant-Governor of New Brunswick, of a transaction complained of by the Land Agent of Massachusetts, in a report communicated to the Undersigned in a note from Mr. Mc Lane, dated 21st December last.

“ The complaint arose out of the seizure of timber cut down without authority upon the disputed territory, and which, after having been seized in the first instance by the Land Agent of Massachusetts, was taken possession of and sold by the British Agent intrusted with the preservation of the disputed territory on the north-eastern frontier of the United States.

“ The explanation of this transaction is contained in an extract of a letter to the Undersigned from the Lieutenant-Governor of New Brunswick, and the report of Mr. Beckwith, the Surveyor-General of that Province, which the Undersigned has the honour to inclose in this note.

“ The seizure of the timber, in the first instance, by Mr. Coffin, the Land Agent of Maine [Massachusetts], was the exercise of authority within the conventional frontier of the Province of New Brunswick, which could not be admitted so long as the north-eastern boundary of the United States remains a subject of negotiation; and it appears that the proceeds of the sales of timber unlawfully cut down, are carried to account, and the possession of them will be appropriated to the party to which the territory may be adjudged by the settlement of the Boundary Question.

“ The Undersigned trusts that the explanation which he is now able to give of this transaction, will prove satisfactory to the Government of the United States.

“ The Undersigned has the honour to renew to Mr. Mc Lane, the assurances of his most distinguished consideration.

“ The Hon. Louis Mc Lane,
Sr. Sr. Sr.”

“ CHARLES R. VAUGHAN.”

The letter of the Lieutenant-Governor of New Brunswick, Sir Archibald Campbell, (the predecessor of Sir John Harvey,) this inclosed by Sir Charles Vaughan to Mr Mc. Lane, is dated Fredericton, January 29, 1834, and contains the following explanation:—

“ Mr. Mc Laughlin was appointed to the wardenship of the country with the knowledge and concurrence of the President; and it is not conceived, therefore, that any fair ground of objection can be taken to his faithful performance of the duties of this office. But this Government never has admitted, and never can admit, the right of any agent from Maine or Massachusetts to exercise authority within the conventional frontier of the Province, while its proper limits remain a subject of negotiation.”

Mr. Mc Lane's reply to Sir Charles Vaughan is as follows:—

“ DEPARTMENT OF STATE.

“ Sir,

“ Washington, March 4, 1834.

“ I HAVE the honour to acknowledge the receipt of your note of the 28th ultimo, furnishing the explanation of the Lieutenant-Governor of New Brunswick, of a transaction referred to by the Land Agent of Massachusetts, in a letter addressed to his Excellency the Governor of that Commonwealth, and subsequently communicated to you by this Department, in a note dated the 21st of December last; and to inform you that copies of your communication, together with the documents which accompanied it, will, by direction of the President, be transmitted without unnecessary delay, to the Executive of the State of Massachusetts.

“ I pray you to accept the assurances of my distinguished consideration.

“ Right Hon. Sir Charles R. Vaughan, G.C.H.,
Envoy Extraordinary.”

“ LOUIS Mc LANE.”

Is not this prodigiously strong? Here is a letter written five years ago by the predecessor of Sir John Harvey, appealing to a matter within the personal knowledge of the President of the United States, and broadly repelling any attempt at concurrent jurisdiction against trespassers on the Aroostook by the American authorities. The President orders the letter containing these averments to be transmitted without comment, it would appear, to the local authorities, for their guidance. It is remarkable, that, whilst the Governor of Massachusetts, in November, 1833, is found complaining about the pretensions of this Warden, there appears no remonstrance subsequent to the date of Mr. Mc Lane's letter, transmitting the "explanation" of Sir Archibald Campbell. Thus we are on the edge of a war, in which our manifesto is to state, as a justification to the world, that Mr. Harvey has ventured to repeat what his predecessor not only announced, but acted upon, with circumstances of indignity to the State agents! This unheard-of pretension is found not only in the letter book of his predecessor, but in the archives of Maine and Massachusetts, as placed there by order of General Jackson!

Let us turn, now, to the memorial of the Commonwealth of Massachusetts, in 1836, found amongst the records of this House, and see how it discloses, in every line, a distinct recognition of the agreement, as communicated to her Chief Magistrate by Mr. Mc Lane.

(Document No. 199.)

"Resolutions of the Legislature of the State of Massachusetts upon the subject of the North-Eastern Territory of the United States, the title to which is still claimed by Great Britain.

"COMMONWEALTH OF MASSACHUSETTS.

"Sir,

" Council Chamber, Boston, March 18, 1836.

"IN compliance with the request of the Legislature of the Commonwealth, I have the honour to transmit to you a copy of a Preamble and Resolutions lately adopted by the Senate and House of Representatives, on the subject of the unadjusted controversy between this country and Great Britain, relative to the north-eastern boundary of the United States. I am well aware that the great importance of this question, in connection with the rights and interests of the people of Massachusetts, will give it the strongest claim to the attention of their Representatives in either House of Congress. In performing the duty devolved upon me by the request of the Legislature, I beg leave to subscribe myself,

" With high respect, your obedient servant,

" EDWARD EVERETT."

COMMONWEALTH OF MASSACHUSETTS, A.D. 1836.

Resolves concerning the North-Eastern Territory of the United States claimed by Great Britain.

"Whereas a large tract of the north-eastern territory of the United States, belonging in common to the States of Maine and Massachusetts, and lying within the limits of the former State, has for many years past, in consequence of a claim from Great Britain, been *surrendered* to the *exclusive custody* of the British Government; and whereas, it appears from the report of the Committee appointed by the last Legislature of this Commonwealth, to make personal examination into the state of our public lands, that great inconveniences and gross abuses have resulted from *so valuable a portion of our domain being left in the keeping of Agents over whom we have no controul*: Therefore,

Resolved by the Senate and House of Representatives in General Court assembled, That in the opinion of this Legislature, it is due to the rights and interests of Maine and Massachusetts, that measures should be taken by the Executive of the United States to secure a speedy settlement of this long protracted controversy, so that these States may be reinstated in the enjoyment of that property which was so long in their undisputed possession, and which is so indisputably theirs.

"Resolved, That in case there be a prospect of further unavoidable delay in the settlement of this controversy, it is essential to the ends of justice that measures should be taken by the Executive of the United States to obtain a representation of the interests and rights of Maine and Massachusetts in the agency and guardianship of the territory in question.

"Resolved, That his Excellency the Governor is hereby requested to transmit a copy of these Resolutions to the Executive of the United States, to our Senators and Representatives in Congress, and to the Governor of the State of Maine.

"In Senate, March 1, 1836: Passed, sent down for concurrence.

HORACE MANN, *President.*

"House of Representatives, March 12, 1836; Passed in concurrence.

JULIUS ROCKWELL, *Speaker.*

"Council Chamber, March 14, 1846: Approved.

EDWARD EVERETT.

"Attest:

JOHN P. BIGELOW,

Secretary of the Commonwealth."

It will be seen that this great Commonwealth here anxiously entreats the Executive of the United States.

1st. To bring the Boundary Question to a speedy settlement; and

2d. If the settlement appeared remote, at least to annul the arrangement by which two sovereign States had been stripped of the "agency and guardianship" over their own concerns.

Each of these prayers has been disregarded. The latter seems never to have gained a passing notice. It is true that in the course of a rambling and diffuse correspondence, high language is occasionally found in the mouth of this or that Secretary or Minister; but the stern practical exercise of authority by the Lieutenant-Governor of New Brunswick has gone on. He has been willing to release persons seized; on their quitting the scene of assumed agency; but not one dollar has ever been received in atonement for their seizure, nor the slightest disclaimer of authority obtained from Great Britain. The present hot urgency to obtain the "unanimous" certificate of members of Congress, that, in their opinion, there is no trace of any such agreement as Massachusetts here refers to, looks very like an expedient to avert the odium due to long, gross, unpardonable, supineness and imbecility, even at the hazard of placing the quarrel of the country upon untenable points.

The conduct of Maine, too, discloses a perfect knowledge that her hands had been tied. Thus, on the question whether she could cause a survey to be made, the claim is put on this modest ground, in a letter from the Governor to the President of the United States, in April, 1838:—

"It is the unquestionable right of litigants in a court of justice to make explorations of land in dispute, and, if either party declines a joint survey, it may be made *ex parte*; and surely the United States have never *so far yielded* the actual possession to Great Britain, as to preclude the right, on our part, to ascertain for ourselves the absolute facts, and to mark out the limits of our claim, and our alleged rights."

The Governor communicated his purpose to Sir John Harvey, who replied:

"Of the courtesy of your Excellency's communication I beg you to believe that I am perfectly sensible; and when, in reply thereto, I inform your Excellency that I shall not deem it necessary to interfere with a mission whose operation shall be confined to the purposes stated in your Excellency's letter, namely, that of merely obtaining topographical information, it is incumbent upon me to add, that it will be my imperative duty not to suffer any infringement of the possession and jurisdiction which Great Britain holds in the territory in dispute, until the question of right is decided."

The Governor, in making this known to the President of the United States, says:

"The answer of Sir John Harvey, although couched in courteous language,

according with the well-known high and honourable character of that officer, will yet doubtless command your attention and deliberate consideration, as expressing, in frank and decided language, the character and extent of his instructions relative to maintaining the jurisdiction of the disputed territory."

Here, then, was an appeal that might well come in aid of the same object, when urged upon the Executive of the United States, in the second resolution of the State of Massachusetts in 1836. Yet not the slightest notice appears to have been taken of it; and the President now comes here, in a flurry, affecting to treat the pretension as a portentous novelty that had just dropped from the clouds; and we are asked suddenly to make it an affair of immediate bloodshed.

But it is said that Mr. Fox has not consented to spread out the reasons on which his Government rest the pretension. And do you expect a subtle and accomplished diplomatist, in a case where delay is itself a positive gain, to answer *impromptu*, and thus dispose of a collateral issue that may, by dexterous management, last for many years? He is under no obligation to point out what stares you in the face in your own records, if you will take the trouble to read them. He will be glad to shift the points of negotiation. The arrangement signed by him may enable the British Government to take high ground, if our special Minister shall discover at Downing-street, for the first time, that we have been rather hasty in denouncing Sir John Harvey, and driving that functionary from his stand, under rather mortifying circumstances, in the face of the disaffected population under his charge. Sir, do not believe that we advance our case by refusing to view the subject in all its bearings. Now is the time for examination. When once engaged in war, I will not consent to look back. I shall go for the country. Such was my feeling in the last war and will be in the next. But let us not take our ground rashly, and where the enemy might wish to place us. It is the last degree of folly to suppose that there is any advantage in our blindly agreeing to unite in a misstatement of the evidence which can be so instantly exposed. A candid and intelligent people will lose all faith in us when our blunders are pointed out by strangers, after we have involved them in a war on false or frivolous pretexts.

What then is our course? To run into a new game of diplomacy about "exclusive jurisdiction?" To shed American blood in an obscure and senseless contest on the Aroostook? Does honour require that we shall compel the President to seek out, during the vacation, any Sir John or Sir Andrew who may enter this disputed territory with notions of duty which we have assisted to put into his head, and before we have endeavoured to obtain, in the proper quarter, a modification of the arrangement, such as Massachusetts, in 1836, entreated the President to effect? I cannot think so. We shall be wrong on any such issue. We are right on the great one. Let the President bring it to a close. If he cannot, let him so report, and we shall then be ready for the final appeal on broad principles which all can understand.

Mr. B. said, that in the course taken on this occasion he had braved what was most formidable to any man in public life—the peril of misrepresentation. He was well aware how much easier and cheaper it would have been to run a race of professions about patriotism, &c., than to take a course which threw the explanation of his conduct on an appeal to reason. He felt strong enough in the confidence of his constituents, to take the line which conscience dictated. They were a grave and quiet people, not given to flourishes; but there was a stern determination—a deep-seated and vital principle of patriotism—on which they could rely with more confidence. It should not be through his agency that they got entangled in a rash and foolish war. He would not commit them on pretexts which their own good sense and intelligence would find out, after a while, to be hollow and deceptive. But when the crisis came, he knew that the sound to battle would not fall on cold or timid ears; he knew that stout arms and brave hearts would rally from every workshop and harvest field; that all would be ready to follow, to whatever distant fields, the proud banner of their country.

No. 11.

Mr. Fox to Viscount Palmerston.—(Received April 15, 1839.)

(Extract.)

Washington, March 17, 1839.

I HAD yesterday the satisfaction to receive letters from the Lieutenant-Governor of New Brunswick, wherein his Excellency communicates to me his readiness to accept the provisional terms of accommodation, recommended in the Memorandum which was signed by the United States Secretary of State and myself on the 27th of February. Sir John Harvey had lost no time in conveying friendly overtures to the Governor of Maine, for the purpose of concerting with him the best means of carrying the provisional arrangement, recommended in the Memorandum, into effect.

Major-General Scott, the bearer of the President's communication to the Governor of Maine, arrived at Augusta, the seat of the Government of that State, on the 8th of this month. The final resolution of the authorities of Maine, with reference to the recommendation conveyed to them from the President, to accede to the terms of accommodation agreed upon at Washington, is not yet known; as the matter had been submitted by the Governor to the Legislature of the State, which was still in Session.

Both the Governor and the Legislature of Maine were understood to be entirely displeasèd and dissatisfied with the moderate intentions of the Federal Government, as evinced in the President's Message to Congress, and in the joint agreement signed by Mr. Forsyth and myself. I do not apprehend, however, that under all the circumstances now existing, the people of Maine will venture upon any further act likely to cause an immediate collision of arms. Even if the State authorities should hesitate at first to disband the Militia force, in compliance with the injunction of the President, I have no doubt but that in a very short time the Militia will disperse of their own accord, when it is found that the support of the Federal Government is refused.

I am, in the mean time, informed by Lieutenant-General Sir John Colborne, that he has ordered Her Majesty's 11th Regiment to march from Lower Canada into the Madawaska Settlement, which Settlement is a part of the disputed territory. This movement was decided upon, before Sir John Colborne had become acquainted with the provisional agreement entered into at Washington. It is in no respect, however, inconsistent with that agreement, which does not stipulate the exclusion of Her Majesty's troops from the disputed territory. Nevertheless, looking to the spirit and intention of the agreement, I shall not hesitate to tender my advice to Sir John Colborne, that if the armed force of Maine be promptly withdrawn from the Restook district, he should in that case abstain from holding military occupation of any other part of the disputed territory; excepting so far as shall be strictly necessary for keeping open and protecting the line of communication between the provinces of Canada and New Brunswick.

I shall have the honour to forward to your Lordship, by the sailing packet of the 25th instant, copies of my correspondence with Sir John Colborne, and with Sir John Harvey. I also hope, that before that time some definite account will have been received at Washington of the intentions of the State Government of Maine.

I am happy to say, that no disposition has yet appeared amongst the America population on the Canadian frontier, to renew their outrages and acts of violence, in consequence, as might have been apprehended, of the present disturbance between New Brunswick and Maine. Both the President and the Secretary of War have assured me, that no part of the United States regular troops shall be removed from the useful service upon which they are now employed on the frontier of Canada.

No. 12.

Mr. Fox to Viscount Palmerston.—(Received April 17, 1839.)

(Extract.)

Washington, March 23, 1839.

I HAVE the honour herewith to inclose copy of an official letter, which I have received from the Lieutenant-Governor of New Brunswick, in reply to a despatch which I have addressed to his Excellency (forwarded in my despatch to your Lordship of the 7th instant), communicating to him the provisional agreement entered into by Mr. Forsyth and myself on the 27th of February. Annexed to these despatches is the copy also of a letter addressed by Sir John Harvey to the Governor of the State of Maine.

On the 12th of this month, the Governor of Maine transmitted a special message to the Legislature of the State, upon the subject of the provisional arrangement recommended from Washington. A Committee of the Legislature reported a resolution thereon on the 15th instant. I herewith inclose a printed copy of the Resolution. I entertain little doubt but that the Resolution of the Committee will be adopted by the State Legislature, and that the Government of Maine will thereupon proceed to withdraw the militia of the State from the disputed territory, in accordance with the arrangement recommended by the United States Secretary of State and myself.

Inclosure 1 in No. 12.

*Major-General Sir John Harvey to Mr. Fox.**Government House, Fredericton,
New Brunswick, March 6, 1839.*

Sir,

YOUR Excellency's letter of the 27th ultimo, with its inclosures, was this day delivered to me by Mr. Scott, a special messenger.

Yielding to circumstances which I admit, with your Excellency, to constitute a sufficient justification for a departure from the strict letter of the Instructions from Her Majesty's Government under which it is made my duty to act, in reference to the territory in dispute between Great Britain and the United States, on the south-west frontier of this province; and I will add, to the anxious desire which I have always felt that matters of obviously secondary and minor import connected with that great question, should not be allowed to involve this province in border collision with the State of Maine, which might lead to a national war, I do not shrink from the responsibility imposed upon me by those instructions, of deferring all offensive measures, as relates to the occupation by the Militia of the State of Maine, of a certain portion of the disputed territory, for a period which may be sufficient to enable me, or your Excellency to receive the decision of Her Majesty's Government upon the subject. My measures shall accordingly be confined to the protection of the communication between this province and Lower Canada through the valley of the St. John and of Her Majesty's subjects of the Madawaska Settlement.

I cannot conclude this despatch, without tendering to your Excellency my best thanks for the frank and manly offer which you have made of sharing with me the responsibility of a deviation on my part from the strict letter of my instructions. That offer is in strict accordance with the whole tenor of the correspondence which I have had the honour and the pleasure of holding with your Excellency upon this subject during the short period of my administration of the Government of this province; and I beg you to believe, and I know that your Excellency will not doubt, that I sincerely participate in the sentiments embodied in the paragraph immediately succeeding that conveying this tender.

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

Inclosure 2 in No. 12.

Major-General Sir John Harvey to the Governor of Maine.

*Government House, Fredericton,
New Brunswick, March 7, 1839.*

MAJOR-GENERAL Sir John Harvey presents his compliments to Governor Fairfield, and, with reference to a communication which he has just received from Her Majesty's Minister at Washington, transmitting a Memorandum under the joint signatures of Mr. Forsyth, the Secretary of State, and Mr. Fox, containing terms of accommodation recommended by the Secretary of State and Her Majesty's Minister Plenipotentiary to Governor Fairfield, and himself, respectively, begs to say, that he will be happy to enter into such amicable communication with Governor Fairfield upon the subject, as may conduce to the attainment of the very desirable and important object thereby proposed to be effected.

Sir John Harvey has answered Mr. Fox's communication, by expressing his entire readiness to give effect to the proposed agreement, so far as may be dependant upon him.

(Signed) JOHN HARVEY.

Inclosure 3 in No. 12.

Resolution of a Committee of the Legislature of the State of Maine; reported on the 15th of March, 1839.

RESOLVED—That, whenever the Governor of this State shall be fully satisfied, either by the declaration of the Lieutenant-Governor of the Province of New Brunswick, or otherwise, that he has abandoned all idea of occupying the disputed territory with a military force, or of attempting an expulsion of the civil force sent there under our Land Agent, that then the Governor of this State be authorized to withdraw our military force, leaving the Land Agent, with a sufficient *posse*, armed or unarmed, as the case may require, to drive out or arrest the trespassers, and to preserve and protect the timber from their depredations.

No. 13.

Mr. Fox to Viscount Palmerston.—(Received April 30, 1839.)

My Lord,

Washington, March 31, 1839.

THE inclosed important documents, containing the terms of a friendly arrangement provisionally agreed upon between the Governments of New Brunswick and Maine, have been published in a New York newspaper of the 29th instant, into which they were copied from a Boston newspaper of the 28th.

These documents have not yet been officially received at Washington; but, judging from the information which I already possess, I entertain no doubt whatever of their authenticity.

The arrangement appears to me to be in every respect satisfactory.

An official report from the Lieutenant-Governor of New Brunswick may probably reach Her Majesty's Government by the same packet which conveys the present despatch.

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

No. 14.

Viscount Palmerston to Mr. Fox.

Sir,

Foreign Office, May 1, 1839.

HER Majesty's Consul at Portland has transmitted to me a printed copy of a Report of the Land Agent of the State of Maine, dated the 1st of January last, which has been laid before the Legislature of that State, accompanied by a correspondence between the Warden of the disputed territory in New Brunswick and the Surveyor-General of Maine, and by other documents.

I have to instruct you to call the serious attention of the President of the United States to this Report, and to entreat him to consider the consequences which must ensue, if the people of Maine should proceed to act upon the recommendations contained in this Report, and should attempt to settle upon, and to take military possession of, the disputed territory.

Such a course of proceeding would be a direct violation of the engagement made by Mr. Livingston, as recorded in page 17 of this very Report,—an engagement which was accepted by the British Government as mutually binding between the two Governments, and which has been strictly adhered to by Great Britain; for the authorities of New Brunswick have not permitted any new settlements to be made, have not allowed any new roads to be opened, and have endeavoured to prevent any impairment of the value of the territory by the cutting of timber. But if the citizens of Maine shall cease to respect this agreement, Her Majesty's Government will, of course, no longer be bound by it either; and it is unnecessary to point out to the attention of the President, that if the question of Boundary between the two countries is thus to be decided, not by a regular and formal transaction between the two Governments, but by a scramble between the adjoining populations and local authorities of the two parties, conflicts must inevitably ensue, which would place the two nations in a state of open hostility towards each other.

The two Governments have hitherto been successful in their anxious efforts to prevent this particular question from disturbing the friendly relations between the two Powers; and Her Majesty's Government, confiding in the pacific disposition of the President, are convinced, that he will effectually exert his authority on this occasion to prevent the evils which these contemplated proceedings of Maine threaten to entail upon both countries.

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

P.S.—I transmit you the printed Report of the Land Agent of the State of Maine referred to in this despatch; but, as this is the only copy in the possession of Her Majesty's Government, I have to request you will procure one for your archives, and that you will return to this office the one now sent.

No. 15.

Mr. Fox to Viscount Palmerston.—(Received May 8, 1839.)

(Extract.)

Washington, April 20, 1839.

THE steam-packet "Great Western," arrived at New York on the 15th instant, after a longer voyage than usual, having departed from England on the 23d of the last month.

The intelligence obtained by this conveyance, showing the moderate temper displayed in England upon receipt of the first alarming news of the boundary difficulties, although neither so comprehensive, nor of so late a date as had been expected, has nevertheless, as far as it goes, given sincere pleasure and satisfaction to the lovers of peace in the United States. Much uneasiness and alarm,

however, will continue to prevail, until news shall have been received of the effect produced upon the public mind in Great Britain by the violent Bill passed by Congress in the first week of March.

More than a month has now passed since the publication of that Bill, and of the inflammatory war speeches which attended its discussion. The people at large have, in a very remarkable degree, failed to respond to the war spirit of the leading speakers in Congress. The general feeling, as far as I can at present judge, is one of regret, at the proceedings of the last few days of the session of Congress.

Probably it is as yet too early to form a sure judgment upon the above important topic; but all the signs that have yet appeared, lead me to the same opinion, and inspire me with better hopes than I had for some time before entertained, of an eventual friendly settlement of the various questions now gathering into trouble between England and America.

I can also add, that my recent intercourse with the President since the beginning of the present Boundary alarm, has convinced me, beyond a doubt, of his sincere personal wish in favour of peace.

The provisional arrangement concluded in the last week of March, upon the north-eastern frontier, by Sir John Harvey, Major-General Scott of the United States army, and Governor Fairfield of Maine, which was noticed in my despatch to your Lordship, of the 31st ultimo, will since have been officially reported to Her Majesty's Government from the Province of New Brunswick. I inclose some further correspondence upon the subject, between General Scott and the United States Government, which has been published officially at Washington. The arrangement appears to me to be completely satisfactory; not only as a means of averting honourably the risk of immediate collision on the frontier, but further, as calculated to establish a certain practical line of demarcation within the disputed territory, which may serve as a basis for a conventional line of frontier, to be adopted hereafter permanently by the two Governments. I have every reason to be satisfied with the frank, honourable, and conciliatory conduct pursued upon this occasion by General Scott.

Inclosure 1 in No. 15.

Major-General Scott to Major-General Sir John Harvey.

*Head-Quarters, Eastern Division,
United States Army, Augusta, Maine, March 21, 1839.*

THE Undersigned, a Major-General in the army of the United States, being specially charged with maintaining the peace and safety of their entire northern and eastern frontiers having cause to apprehend a collision of arms between the proximate forces of New Brunswick and the State of Maine, on the disputed territory, which is claimed by both, has the honour, in the sincere desire of the United States, to preserve the relations of peace and amity with Great Britain—relations which might be much endangered by such untoward collision—to invite from his Excellency Major-General Sir John Harvey, Lieutenant-Governor, &c. &c., a general declaration to this effect.

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 therefrom the armed civil *posse*, or the troops of Maine.

Should the Undersigned have the honour to be favoured with such declaration or assurance, to be by him communicated to his Excellency the Governor of the State of Maine, the Undersigned does not in the least doubt that he would be immediately and fully authorized by the Governor of Maine, to communicate with his Excellency the Governor of New Brunswick, a corresponding pacific declaration to this effect:—

That in the hope of a speedy and satisfactory settlement, by negotiation between the Governments of the United States and Great Britain, of the principal or Boundary Question between the State of Maine and the province of New Brunswick, it is not the intention of the Governor of Maine, without renewed

instructions from the Legislature of the State, to attempt to disturb by arms the said province, in the possession of the Madawaska Settlements, or to attempt to interrupt the usual communications between that Province and Her Majesty's upper Provinces; and that he is willing in the mean time, to leave the question of possession and jurisdiction as they at present stand; that is, Great Britain holding in fact possession of a part of said territory, and the Government of Maine denying her right to such possession; and the State of Maine holding, in fact, possession of another portion of the same territory, to which her right is denied by Great Britain.

With this understanding, the Governor of Maine will, without unnecessary delay, withdraw the military force of the State from the said disputed territory; leaving only, under a land agent, a small civil posse, armed or unarmed, to protect the timber recently cut, and to prevent future depredations.

Reciprocal assurances of the foregoing friendly character having been, through the Undersigned, interchanged, all danger of collision between the immediate parties to the controversy will be at once removed, and time allowed the United States and Great Britain to settle amicably the great question of limits.

(Signed) WINFIELD SCOTT.

*Government House, Fredericton,
New Brunswick, March 23, 1839.*

The Undersigned, Major-General Sir John Harvey, Lieutenant-Governor of Her Britannic Majesty's Province of New Brunswick, having received a proposition from Major-General Winfield Scott, of the United States Army, of which the foregoing is a copy, hereby, on his part, signifies his concurrence and acquiescence therein.

(Signed) JOHN HARVEY.

*Executive Department,
Augusta, March 25, 1839.*

The Undersigned, Governor of Maine, in consideration of the foregoing, the exigency for calling out the troops of Maine having ceased, has no hesitation in signifying his entire acquiescence in the proposition of Major-General Scott.

(Signed) JOHN FAIRFIELD.

Inclosure 2 in No. 15.

Major-General Scott to the Hon. J. R. Poinsett.

*Head-Quarters, Eastern Division,
Augusta, Maine, March 26, 1839.*

Sir,

I HAVE the happiness to inclose herewith, two copies of the arrangement entered into through my agency, between the Governor of Maine and the Lieutenant-Governor of the Province of New Brunswick.

The copy of my official note to Sir John Harvey, with his acceptance of the arrangement, is in the hands of the Governor of Maine, and another copy of the same official note, followed by the acceptance of the Lieutenant-Governor and the Governor, was yesterday transmitted by me to Sir John Harvey. At the same time, I sent him copies of two orders which were yesterday issued by the Governor of Maine—the first, disbanding the thousand detached militia which has been held in reserve at this place; and the second, recalling the military force of the State from the disputed territory, and directing the organization of the civil posse that is to be held by the State in that territory. The papers so transmitted, and which bore the signature of the Governor of Maine, or that of his Adjutant-General, were officially certified by me.

I trust that the arrangement between the Governor and Lieutenant-Governor,

together with my humble agency, in bringing it about, will be satisfactory to the President and the Department. The arrangement, I have no doubt, will be executed by the parties to it, in good faith and in cheerfulness.

In haste, &c.,

(Signed) WINFIELD SCOTT.

Inclosure 3 in No. 15.

Major-General Sir John Harvey to Major-General Scott.

My dear General Scott,

*Government House,
Fredericton, March 23, 1839.*

UPON my return from closing the session of the Provincial Legislature this day, I was gratified by the receipt of your very satisfactory communications of the 21st instant. My reliance upon you, my dear General, has led me to give my willing assent to the propositions which you have made yourself the acceptable medium of conveying to me, and I trust that as far as the Province and State are concerned, an end will have been put, by it, to all border disputes, and a way opened to an amicable adjustment of the national question involved. I shall hope to receive the confirmation of this arrangement on the part of the State of Maine at as early a period as may be practicable; and as it is my intention to proceed to Woodstock early in the ensuing week, I request you to have the goodness to address it to me at that place.

I shall certainly use my best endeavours to protect the timber on the valley of the St. John, within the disputed territory, from depredators, and shall probably place, for this purpose, a small civil force at the disposal of the Warden.

I grieve to learn that there is so little chance of my seeing you upon the present occasion, but I wish you to give me some ground for hoping that I may have that high gratification at as early a period as may be compatible with your many important and arduous duties.

*Believe me, &c.,
(Signed) JOHN HARVEY.*

P.S.—I readily consent to all my letters to you being considered as semi-official, and thank you for the suggestion.

(Signed) J. H.

No. 16.

Mr. Fox to Viscount Palmerston.—(Received June 3, 1839.)

My Lord,

Washington, May 16, 1839.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 22nd March last, conveying the full power which Her Majesty has been graciously pleased to grant to me, under the Great Seal, authorizing and empowering me to negotiate and conclude with the Minister or Ministers vested with similar power and authority on the part of the United States of America, any Treaty or Agreement for the arrangement of any matters now in discussion between Her Majesty and the said United States.

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

No. 17.

Mr. Fox to Viscount Palmerston.—(Received June 3, 1839.)

My Lord,

Washington, May 16, 1839.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 6th of April, conveying to me the Draft of a Convention between Great Britain and the United States of America, for the appointment of a new Commis-

sion of Exploration and Survey, with a view to settle and determine the Boundary line between the Province of New Brunswick and the State of Maine.

On the 10th instant, I addressed the enclosed official letter to Mr. Forsyth, transmitting to him the draft of the Convention. I received from Mr. Forsyth yesterday the enclosed official letter in reply.

Your Lordship will perceive that the President is not willing to accept the Convention in the terms desired by Great Britain; but that he proposes to offer for the consideration of Her Majesty's Government a counter project of Convention, in which the wishes and views of the United States will be intelligibly explained.

The official letter addressed to me by Mr. Forsyth has, purposely, been drawn up in very general terms; because the President apparently does not desire to commit himself to any definite resolution until he shall have had occasion to consult with the State Government of Maine.

Considering the time that may be consumed in conducting a correspondence between Washington and the State of Maine, I do not expect that the counter project, which is now announced, will be delivered to me until the month of July. It is probable, however, that before that time I may be able to convey to your Lordship some knowledge of the principal points in which it will be at variance with the draft transmitted by your Lordship.

If it shall be found possible eventually to reconcile the points of difference, the mere fact of this additional delay will be of no material importance. Any Convention that may be acceded to by the President, may, before ratification, receive the consent and approbation of the Senate. This of course cannot be done until after the meeting of Congress in December next; and consequently, not until then could the Convention, even if now immediately agreed to by the President, be finally transmitted to England to receive the ratification of Her Majesty.

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

Inclosure 1 in No. 17.

Mr. Fox to Mr. Forsyth.

Sir,

Washington, May 13, 1839.

I HAVE the honour herewith to convey to you the Draft of a Convention between Great Britain and the United States, which has been transmitted to me by Her Majesty's Secretary of State for Foreign Affairs, having been prepared for the purpose of carrying into effect, with certain modifications, the proposal made by the United States Government to that of Her Majesty, for the appointment of a new Commission of Exploration and Survey, with a view to settle and determine the Boundary line between the Province of New Brunswick and the State of Maine.

It is confidently hoped that this project of Convention will be accepted by the President, as being framed substantially upon the basis of the original American proposition, modified according to the wishes of Her Majesty's Government. I have the honour to inform you that I am in that case provided with the necessary full powers for signing the said Convention on the part of Great Britain.

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

Inclosure 2 in No. 17.

Mr. Forsyth to Mr. Fox.

Sir,

Department of State,
Washington, May 15, 1839.

I HAVE the honour to acknowledge the receipt of your letter of the 10th instant, transmitting the project of a Convention between the United States and Great Britain, which Her Majesty's Government had prepared for the purpose

of carrying into effect, with various modifications, the proposition made by the American Government for the appointment of a Commission of Exploration and Survey, with a view to settle and determine the Boundary between the State of Maine and the British Province of New Brunswick.

These papers I have hastened to submit to the President, who has perused them with the respectful attention due to the importance of the question to which they relate, no less than to the high source from which they emanate; and I am now directed to convey to you the expression of his sincere regret that he is unable at once to accede to a Convention as proposed by Her Majesty's Government.

In preparing the Draft which accompanied your note, it has been assumed, that the Government of the United States are willing to recognize as binding upon them, all the proposals previously offered on their part in regard to the appointment of a Commission of Exploration and Survey. This assumption is entirely erroneous. By the original proposal of the President for the erection of a Commission, a positive and definitive determination of the north-eastern Boundary was intended to be effected immediately by the Commissioners, and the United States were prepared to make some concessions to accomplish that object;—an object which cannot be anticipated confidently from the Board now proposed to be constituted. The President is well satisfied, that in agreeing to make an experimental (not definitive) examination and survey, the British Government will not expect that of the United States to consent to any limitation or restriction which is not applicable to both Parties. It is not apprehended by the President that, in other respects, any variance of views with regard to some points of the projected Convention, are incapable of reconciliation: on the contrary, the belief is entertained, that a full and frank discussion of them cannot but lead to a mutually satisfactory result; more especially when both Governments, as in the present instance, are animated by the most friendly dispositions towards each other.

As directly tending to such a result, I will without unnecessary delay, prepare and communicate to you for consideration, a Counter-project, exhibiting in the most explicit form the wishes of this Government in relation to the objects of the proposed Convention; and in the mean time, I beg you to accept the assurance of my distinguished consideration.

(Signed)

JOHN FORSYTH.

No. 18.

Lieutenant Palmerston to Mr. Fox.

Sir,

Foreign Office, July 9, 1839.

AS it appears by dispatches lately received from you, that the negotiation now pending between Her Majesty's Government and the Government of the United States for the appointment of a Joint Commission of Exploration and Survey, with a view to settle and determine the Boundary Line between the British Provinces of New Brunswick and Canada and the State of Maine, is not likely to be brought to a termination till the latter part of the present year; Her Majesty's Government have thought that advantage ought to be taken of the present summer, in order to obtain as accurate a knowledge as possible, of the nature and configuration of the territory in dispute;—and Her Majesty's Government have accordingly determined to send out immediately competent persons to examine and survey that District, and to make a report thereupon for the information of Her Majesty's Government.

Lieutenant Colonel Mudge, of the Royal Engineers, and Mr. Featherstonhaugh, have been appointed for this service, and will be accompanied by five or six persons to assist them in their operations.

I inclose for your information, a copy of the general instructions which I have given to these gentlemen for their guidance; and I have to direct you to make known to the Government of the United States, the nature of the service upon which they are about to be employed.

I am, &c.,

(Signed)

PALMERSTON.

Inclosure in No. 18.

Viscount Palmerston to Colonel Mudge and Mr. Featherstonhaugh.

Gentlemen,

Foreign Office, July 9, 1839.

A NEGOTIATION is now going on between Her Majesty's Government and the Government of the United States of America, for the appointment of a joint Commission of Exploration and Survey, with a view to settle and determine the Boundary line between the British Provinces in North America and the State of Maine.

Recent communications from the United States, however, have shown that it will be impossible that this joint Commission can commence its operations before next year. But Her Majesty's Government are of opinion, that advantage ought to be taken of the present Summer to obtain as accurate a knowledge as possible of the nature and configuration of the territory in dispute; and Her Majesty's Government have therefore determined to send out immediately competent persons to examine and survey that district, to make a report thereupon, and to prepare a map thereof.

I have to inform you that I have selected you for this employment, and I now proceed to give you some general instructions for your guidance. You will proceed in the first instance to Fredericton, and from thence you will take such course as may appear to you best calculated to enable you to make the most of the present season. Her Majesty's Government do not expect you to make any extensive and detailed topographical survey of the country in question, because there is not time in the present season for such a survey; but they wish you to ascertain, by the best means within your power, whether a continuity of Highlands can be satisfactorily traced along a line extending from the sources of the Chaudière to the western end of the Bay of Chaleurs. Her Majesty's Government also wish to have a report upon the character and elevation of the country in that part of the due north line from the source of the St. Croix; which lies between the point where the British Commissioners under the Vth Article of the Treaty of Ghent stopped, and the extreme point to which the American Commissioners proceeded. You will also 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.

Second. 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.

You will also report in what degree the country bounded by the due north line and the lines claimed by Great Britain and the United States respectively, can be designated as Highlands in the ordinary sense of the term, assuming that term to mean, as stated in the dictionaries, "an elevated or mountainous region," and not a single ridge of hills.

You will also collect whatever traditional or other information you may be able to obtain, as to the former boundary between the old French colonies and the British colonies, before the year 1783, and as to the present Boundary between New Brunswick and Lower Canada. When you shall have completed your survey, or when the season shall no longer permit you to continue your operations, you will return to England, in order to give such verbal information and explanations as Her Majesty Government may wish to receive from you upon the objects of your mission, in addition to what may be contained in your official report.

I have to add, in conclusion, that you will be accompanied by a sufficient number of intelligent persons to assist you in this service.

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

No. 19.

Mr. Fox to Viscount Palmerston.—(Received July 21, 1839.)

My Lord,

Washington, July 4, 1839.

THE President of the United States left Washington for New York on the 20th of last month. He will remain, I believe, in the State of New York, or in some other of the northern States, during the summer and autumn; and will not return to the seat of Government until the month of November.

The Secretary of State, Mr. Forsyth, has also been absent from Washington for some weeks past. He is at present at Augusta in Maine, the seat of the Government of that State, holding conferences with the Governor and Executive Council, and other leading citizens of Maine, upon the subject of the present situation of the boundary negotiation, and of the proposed Convention for the establishment of a new Commission of Survey and Exploration. I understand, that when the conferences with the authorities of Maine are terminated, Mr. Forsyth will proceed to consult personally with the President, and that he will then return to Washington. I presume that at an early period after this consultation, Mr. Forsyth will be prepared to communicate to me the counter project of a Convention on the part of the United States, which was announced in his official note of the 15th of last May.

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

No. 20.

Mr. Fox to Viscount Palmerston.—(Received August 15, 1839.)

(Extract.)

Washington, July 30, 1839.

I HAVE had the honour to receive this day your Lordship's despatch of the 9th of the present month, informing me of the Commission entrusted to Lieutenant-Colonel Mudge and Mr. Featherstonhaugh, to make, during the present summer, a topographical survey of the territory in dispute between Great Britain and the United States on the north-eastern frontier of the Republic; and instructing me to make known to the Government of the United States, the nature of the service upon which Colonel Mudge and Mr. Featherstonhaugh are about to be employed.

I have, accordingly, addressed the inclosed letter to the Acting Secretary of State of the United States, transmitting to him an extract from your Lordship's despatch.

Inclosure 1 in No. 20.

Mr. Fox to Aaron Vail, Esq.

Sir,

Washington, July 30, 1839.

I HAVE the honour to acquaint you, for the information of the Government of the United States, that Her Majesty's Government has appointed Lieutenant-Colonel Mudge, of the Royal Engineers, and Mr. Featherstonhaugh, accompanied by several assistants, to proceed to the territory in dispute between Great Britain and the United States, on the north-east frontier of the Republic, for the purpose of making, during the present summer, and before the negotiation which is pending for the establishment of a new joint Commission of Exploration can, as that negotiation now stands, be terminated, a topographical survey of various parts of the said disputed territory, for the use and information of Her Majesty's Government. Colonel Mudge and Mr. Featherstonhaugh arrived at New York on the 28th instant, and will proceed forthwith to the performance of the duty assigned to them.

I have the honour to inclose to you the extract of a despatch from Her Majesty's Secretary of State for Foreign Affairs, directing me to make the present communication to the Government of the United States.

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

Inclosure 2 in No. 20.

Viscount Palmerston to Mr. Fox.

(Extract.)

Foreign Office, July 9, 1839.

AS it appears from despatches lately received from you, that the negotiation now pending between Her Majesty's Government and the Government of the United States, for the appointment of a joint Commission of Exploration and Survey, with a view to settle and determine the boundary line between the British Provinces of New Brunswick and Canada, and the State of Maine, is not likely to be brought to a termination before the latter part of the present year, Her Majesty's Government have thought that advantage ought to be taken of the present summer, in order to obtain as accurate a knowledge as possible of the nature and configuration of the territory in dispute; and Her Majesty's Government have accordingly determined to send out immediately competent persons to examine and survey that district, and to make a report thereupon, for the information of Her Majesty's Government. Lieutenant-Colonel Mudge, of the Royal Engineers, and Mr. Featherstonhaugh, have been appointed for this service, and will be accompanied by five or six persons to assist them in their operations. I have to instruct you to make known to the Government of the United States the nature of the service upon which these gentlemen are about to be employed.

No. 21.

Mr. Fox to Viscount Palmerston.—(Received August 29, 1839.)

(Extract.)

Washington, August 4, 1839.

THE United States Secretary of State has addressed to me the two inclosed official letters from Albany in the State of New York, where he is now staying with the President.

The first of these letters conveys the American counter-project of Convention for the establishment of a new joint Commission to explore and survey the disputed north-eastern boundary, which had already been announced as being in contemplation.

The second letter refers to that other unsettled part of the northern boundary along the water communications between the Lakes Huron and Superior, and the Lake of the Woods, which separates what is now the American territory or district of "Wisconsin," from the western part of the Province of Upper Canada; and invites Her Majesty's Government to proceed to the negotiation of a Convention for referring the disputed points of said boundary to the arbitration of a friendly Sovereign or State, in conformity with the VIIth Article of the Treaty of Ghent.

I have only received these papers in time to forward them to your Lordship, without comment, by the sailing-packet from New York of the 7th instant.

Inclosure I in No. 21.

Mr. Forsyth to Mr. Fox.

Sir,

Albany, July 29, 1839.

WITH reference to the note addressed by you to the Department of State on the 10th of May last, conveying the draft of a Convention between the United States and Great Britain, prepared by Her Majesty's Government, fo-

the purpose of carrying into effect, with modifications, the proposition of this Government for the appointment of a Commission of Exploration and Survey, with a view to determine the boundary between the State of Maine and the Province of New Brunswick, and in fulfilment of the intimation contained in my letter to you, bearing date the 15th of the same month, I have now the honour to transmit to you the counter-project of a Convention, which I am directed by the President to offer for the consideration and acceptance of Her Majesty's Government. This counter-project will be found to vary considerably in some parts from the draft communicated by you, yet it is not deemed necessary to comment upon the alterations made in it, since it is believed that the text will be found sufficiently perspicuous. It is, however, proper to remark, in relation to the new contingent provisions proposed for adoption in the closing articles of the paper herewith sent, that in recent events on our northern border, the danger of actual military collision between the citizens and subjects of the two Governments has been so imminent, that the President is again admonished of the necessity of the most anxious and strenuous exertion to arrange the difficulties existing between them in regard to boundary. He is convinced, in view of what has lately happened, that a mere Commission of Survey and Exploration would be inadequate to the exigencies of the occasion, and fall behind the just expectations of the people of both countries. All will agree in the importance of having the measure next adopted bear upon its face stipulations which must result in a final settlement, under some form, and within a reasonable time. The additional Articles just referred to are of this character, and intended to carry out these objects. Accept the assurances of the distinguished consideration with which I have, &c.,

(Signed)

JOHN FORSYTH.

 Inclosure 2 in No. 21.
Mr. Forsyth to Mr. Fox.

Sir,

Albany, July 29, 1839.

THE Seventh Article of the Treaty of Peace and Amity between the United States of America and His Britannic Majesty, signed at Ghent on the 24th of December, 1814, is as follows:—

“It is further agreed, that the said two last-mentioned Commissioners, after they shall have executed the duties assigned to them in the preceding Article, shall be, and they are hereby authorized, upon their oaths, impartially to fix and determine, according to the true intent of the said Treaty of Peace of 1783, that part of the boundary between the dominions of the two Powers, which extends from the water communication between Lake Huron and Lake Superior, to the most north-western point of the Lake of the Woods; to decide to which of the two parties the several islands lying in the lakes, water-communications, and rivers, forming the said boundary do respectively belong, in conformity with the true intent of the Treaty of Peace of 1783, and to cause such parts of said boundary as require it, to be surveyed and marked. The said Commissioners shall, by a report or declaration under their hands and seals, designate the boundary aforesaid, state their decision on the points thus referred to them, and particularize the latitude and longitude of the most north-western point of the Lake of the Woods, and of such other parts of said boundary as they may deem proper. And both parties agree to consider such designation and decision as final and conclusive. And in the event of the said two Commissioners differing, or both, or either of them, refusing, declining, or wilfully omitting to act, such reports, declarations, or statements, shall be made by them, or either of them, and such reference to a friendly Sovereign or State shall be made, in all respects as in the latter part of the IVth Article is contained, and in as full a manner as if the same was herein repeated.”

You are probably aware, that the Commissioners appointed by the two Governments to carry these stipulations into effect, having differed in regard to certain portions of the boundary embraced in the above-recited Article, and also as to the appropriation of a certain island lying in the water-communication between Lake Huron and Lake Superior,—presented to both Governments, in accordance with the provisions of the Treaty above referred to, separate reports,

bearing date in October and in December, 1827, stating the points on which they differed, and the grounds upon which their respective opinions were formed. The contingency has thus arisen, which renders it necessary to refer these points of difference to some friendly Sovereign or State for final decision, in pursuance of the stipulations of the above-recited Article. Impressed with a conviction of the expediency of proceeding to a settlement of this question of boundary, whilst its adjustment is still free from many of the painful embarrassments which have attended the efforts of the parties to fix other portions of the line between their conterminous dominions on this Continent, the President has directed me to invite your immediate attention to the subject, with a view to the regulation of this reference by a formal conventional arrangement, and to inform you, as I have now the honour to do, that if you are possessed of, or shall hereafter be furnished with, the necessary full powers to enter upon such negotiation, I will be prepared to meet you without unnecessary delay. If, however, Her Britannic Majesty's Government prefer that the conventional arrangement proposed should be concluded at London, rather than at Washington, no objection would be felt by the President, to transferring the negotiation thither; and proper instructions on the subject will be transmitted to Mr. Stevenson, upon receiving an intimation of the existence of such a wish.

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

Inclosure 3 in No. 21.

North-Eastern Boundary.—Counter-Project of Convention.

PREAMBLE.

WHEREAS neither that point 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 3d 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 the Connecticut River; thence down along the middle of that river to the forty-fifth degree of north latitude; from thence by a line due west on the said latitude, until it strikes the River 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 and 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 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 said the 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. &c., and Her Majesty the Queen of the United Kingdom of

Great Britain and Ireland, &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 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 the St. Croix River to the Highlands which divide those rivers which empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean. 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.

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 between the United States and the British dominions in America, which is referred to in the IIIrd Article of this Convention, they shall draw up a report to that effect, in duplicate, to which 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 and conclusive 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.

2nd. 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 points in question; and to this 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 3rd. That in case of a final disagreement amongst the Commissioners, in respect of 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. 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.

ARTICLE VI.

As soon as the Commissioners shall have transmitted to their respective Governments the report prescribed by the IVth 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 High 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.

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."

ARTICLE VIII.

As Article IX of the British Project.

ARTICLE IX.

As 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.

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 forty-fifth degree of north latitude, thence by a line due west, in the said latitude, until it strikes the River Iroquois, or Cataraguay, as described in the Vth 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 matter 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 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.

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.

ARTICLE XIII.

And in case the last-mentioned Commissioners 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 expence of the Contracting Parties, and be held as conclusive by them.

ARTICLE XIV.

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

ARTICLE XV.

As Article XI of the British Project.

No. 22.

Viscount Palmerston to Mr. Fox.

Sir,

Foreign Office, October 14, 1839.

WITH reference to my despatch of the 17th ultimo, respecting encroachments on the disputed territory by the people of Maine, I have to acquaint you, that a communication has been received by the Secretary of State for the Colonies, from the Lieutenant-Governor of New Brunswick, inclosing a copy of a despatch of the 12th of August last, which Sir John Harvey had addressed to you, reporting further and more extensive encroachments made by the people of Maine on the disputed territory.

You will, I doubt not, have already addressed a representation upon the subject of these encroachments to the Government of the United States; but if you should not have done so, I have to instruct you, upon the receipt of this despatch, to lose no time in stating in writing to Mr. Forsyth, that the erection of barracks, the construction of roads, and other works of a permanent character, in which the authorities of Maine are now engaged within the disputed territory, as reported by Sir John Harvey, are contrary to the agreement entered into by Sir John Harvey and General Scott; and if persisted in, must lead to serious consequences.

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

No. 23.

Viscount Palmerston to Mr. Fox.

(Extract.)

Foreign Office, November 2, 1839.

WITH reference to my despatch of the 14th ultimo, I herewith transmit to you, a Memorandum of Instructions from Sir John Harvey to the Warden of the disputed territory; and I have to instruct you to present a note to the Government of the United States, requesting them to take the necessary steps for withdrawing the *posse* of Maine to the positions which were to be occupied by that *posse*, in conformity with the provisional agreement entered into between the Governor of the State of Maine and the Lieutenant-Governor of New Brunswick.

Inclosure in No. 23.

*Memorandum for the Warden of the Disputed Territory.**Fredericton, August 30, 1839.*

THE spirit of the agreement entered into between the Governor of the State of Maine and myself, through the mediation of Major-General Scott, was, that both parties should abstain from offensive operations against each other, with a view on one side to obtain, and on the other side to retain, the exclusive possession of the disputed territory; both parties agreeing to withdraw their armed forces, with certain limitations, and to leave matters exactly as they then stood, during the discussion of the question of ultimate right by the respective General Governments. My understanding of this agreement, that of the people of this Province, and I will venture unhesitatingly to say, that of General Scott, was, that there should be a complete pause in the movements on either side, and that things should remain as they then stood, viz.: the armed civil posse of Maine retaining possession of the Valley of the Aroostook, we denying their right to that portion of the territory, and we retaining possession of the Valley of the Upper St. John, Maine denying our right to hold it. That such was the true spirit of the agreement, there would be no difficulty on my part in establishing to the entire satisfaction and conviction of every impartial person.

In fulfilment of my part of the agreement, and for the purpose of setting

an example of prompt good faith, I instantly sent back to Canada Her Majesty's 11th Regiment, which was stationed in the Madawaska Settlement, having a strong detachment with guns on the south bank of the St. John, opposite to the mouth of the Little Madawaska River, and of which, by its strength and position, not the Madawaska Settlement alone, but the whole of the Valley of the Upper St. John was virtually in complete military occupation. Contrary to my expectations, however, and as I assented to the true spirit, intent and meaning of the agreement, a party of the Maine armed posse was, soon after the withdrawal of the British detachment, pushed across from the Valley of the Restook to the mouth of the Fish River, where it proceeded to establish itself, commenced making roads, building barracks, blockhouses, &c., and even taking possession of an island in the St. John's River, situated opposite to the mouth of the Fish River, and where it has ever since remained, to the great alarm and annoyance of Her Majesty's peaceable and loyal subjects of the Madawaska Settlement.

Against this proceeding I rested satisfied with making strong representations and protests to the General Government of the United States, through Her Majesty's Minister at Washington, by which the agreement was ratified; to that of Maine through General Scott, by whom it had been negotiated and guaranteed; and finally, to the Land Agent of that State, the conduct of whose subordinate officers was the immediate cause of complaint. By the protest to the General Government the national right is saved; from General Scott I have received the most satisfactory assurance of prompt interference, and from Mr. Mc Intyre, a disavowal of the conduct of his subordinate officer, accompanied by an assurance that the party should be withdrawn, and prohibited from any interference with the inhabitants. Upon this point, therefore, I have not deemed it necessary for the present to adopt any further proceedings; but as from some expressions made use of by Mr. Mc Intyre in his conference with Mr. Baillie, as well as from various rumours which have reached me from other quarters, it would appear to be the intention of the authorities of Maine to take their stand upon the terms of the agreement, and to deny the British definition of the Madawaska Settlements (for you will always bear in mind that the term used in the agreement, of which the copy bearing Governor Fairfield's signature and affirmation is in my possession, is settlement in the plural), I deem it proper to possess you of my view and construction of the extent of the settlements, in order that you may be prepared promptly to apprise me of, and to protest in a firm but moderate tone to Mr. Mc Intyre, against any interference with Her Majesty's possession and jurisdiction within these limits.

The Madawaska Settlements, as can be proved by a possession never surrendered, and by repeated acts, and indeed the continued undisputed exercise of legal jurisdiction, are regarded, known, and understood in this province to extend from the first houses above the Great Falls, on either bank of the St. John River, to the River St. Francis on the north, and the mouth of the Fish River on the south bank of the St. John; and all persons residing within these limits are subjects of Her Majesty, who have a right to claim in return for their allegiance, and shall receive the protection of the Government of this province; any overt act, therefore, implying jurisdiction exercised within these limits by others than the subjects of the Queen, you will call upon the civil authorities to resist; and if they should require assistance beyond what they can command, it shall be promptly afforded; but in the face of the express terms of a solemn agreement publicly entered into by the Governors of the State and Province respectively, and formally ratified by the two General Governments, I do not allow myself to believe that any such glaring infraction both of its spirit and of its letter, can be contemplated, or would be sanctioned by any of the State authorities. You will, however, seek an early opportunity of communicating fully and frankly upon the subject of this memorandum with Mr. Mc Intyre, from whom I do not doubt you will at once receive a prompt disavowal of any such design as that to which I have adverted.

(Signed) J. HARVEY.

No. 24.

Viscount Palmerston to Mr. Fox.

(Extract.)

Foreign Office, November 2, 1839.

I HEREWITH transmit to you an extract of a despatch which I have received from Colonel Mudge and Mr. Featherstonhaugh, dated the 4th of September, relative to a communication made to those gentlemen, from which it would appear, that it is the intention of the Legislature of the State of Maine, on its being convened in January next, to pass a resolution directing the occupation of the whole of the disputed territory.

I have consequently to direct you, in addition to the instructions with which you are already furnished by my despatches of the 17th of September and 14th ultimo, to make such further representation to the Government of the United States as you may judge best calculated to prevent any such intentions of the Legislature of Maine from being carried into effect.

You will of course point out to the Government of the United States that the contemplated proceedings of Maine might lead to very serious embarrassments between the two countries.

 Inclosure in No. 24.
Colonel Mudge and Mr. Featherstonhaugh to Viscount Palmerston.

(Extract.)

*Great Falls of the St. John's,
New Brunswick, September 4, 1839.*

WE have heard, that it is intended upon the convening of the Legislature of Maine, to pass a resolution directing the whole of the disputed territory to be taken possession of by the State of Maine.

 No. 25.
Mr. Fox to Viscount Palmerston.—(Received October 16, 1839.)

(Extract.)

Washington, September 25, 1839.

IN my despatch of the 30th of July, I had the honour to inclose the copy of an official letter which I had addressed to the Acting Secretary of State of the United States, acquainting him, for the information of the Federal Government, with the nature and objects of the Commission of Topographical Survey within the disputed territory, entrusted by Her Majesty's Government to Lieutenant-Colonel Mudge and Mr. Featherstonhaugh.

I herewith inclose a copy of the official reply to the above communication, which, after reference to the President, was addressed to me by the Acting Secretary of State, on the 19th of August.

 Inclosure in No. 25.
Mr. Fox to Mr. Fox.

Sir,

*Department of State,
Washington, August 19, 1839.*

I HAVE the honour to acknowledge the receipt of your note of the 30th ultimo, with an inclosure, stating that Her Britannic Majesty's Government had appointed Colonel Mudge, of the Royal Engineers, and Mr. Featherstonhaugh, to proceed, accompanied by several assistants, to the territory in dispute between Great Britain and the United States on the north-eastern frontier, for the purpose of making, during the present summer, and before the negotiation now pending for the establishment of a new joint Commission of Exploration, can, as that

negotiation now stands, be terminated, a topographical survey of various parts of the said disputed territory, for the use and information of Her Majesty's Government; and adding, that Colonel Mudge and Mr. Featherstonhaugh had arrived at New York, and would forthwith proceed to the performance of the duty assigned to them.

I have lost no time in laying your communication before the President, and have the honour to inform you that its purport has, by his direction, been communicated to the Governor of the State of Maine.

I am, &c.,
(Signed) A. VAIL,
Acting Secretary of State.

No. 26.

Colonel Mudge and Mr. Featherstonhaugh to Viscount Palmerston.—(Received November 18, 1839.)

(Extract.)

Quebec, October 22, 1839.

WE addressed a despatch to your Lordship, dated September the 4th, from the Great Falls of the River St. John; and now have the honour to announce our arrival at this city yesterday evening, having traversed and examined much in detail the whole breadth of the disputed territory, intervening between the Great Falls of the River St. John and its sources, near to those of the River Chaudière.

Since our arrival, we have had interviews with his Excellency the Governor-General, and with Major-General Sir John Colborne; and learning that the "Pique" frigate proceeds on her voyage to-morrow with Sir John on his return to England, we avail ourselves of the opportunity to acquaint your Lordship with the principal facts resulting from the investigations we have hitherto made. Our final report will require great leisure and preparation. In it we propose to embody a map, which shall show, with some detail, the physical geography of the disputed territory, where it is connected with the question at issue with the Government of the United States. At present, we are compelled to limit ourselves to a brief statement, which we hope may prove satisfactory and useful.

We have found and examined a real line of Highlands trending north-east and south-west, between the Great Falls and the sources of the Chaudière, perfectly in accordance with the line laid down on the map accompanying the memoir drawn up for the Foreign Office by Mr. Featherstonhaugh in April last.

In our investigation, we ascertained the fact beyond all controversy, that all the waters which empty themselves into the Atlantic Ocean south of this line, are heads of the Penobscot River, occupying the entire breadth of the disputed territory, and taking their rise on the southern portion of its axis.

In like manner, the Kennebec and Androscoggin, which flow into the Atlantic Ocean, take their rise on the south-east side of the southern continuation of our line of Highlands, which extends from the sources of the Chaudière to the heads of the Connecticut River.

On the north-west side of this continuation, the River Chaudière takes its rise in about north-lat. $45^{\circ} 30'$. We therefore report to your Lordship the existence of an uninterrupted line of Highlands, and a true axis of elevation, holding its course irregularly at some points, from south-west to north-east, from the heads of the Connecticut River to the Great Falls of the River St. John, and which divides the waters flowing into the Atlantic Ocean from the waters flowing into the St. Lawrence.

We also have the honour of stating to your Lordship our conviction, that this axis or line we have traced, is altogether sufficient to expound the language of the Third Article of the Treaty of 1783.

We have also partially examined the line claimed by the United States as the Highlands intended by the Treaty, and are about to recommence, without delay, its further examination. If the season permits, which we hope it will do, we intend examining the country at the source of the Metis, which will be found laid down in the map already spoken of, as accompanying Mr. Featherstonhaugh's memoir, about north latitude 48° , and west longitude 68° .

The results obtained there, together with those yet to be received from the

party detached by us to examine the country north-easterly from the Great Falls of the St. John to the western termination of the Bay of Chaleurs, will form a part of our next despatch.

We have no doubt, from information already in our possession, that the investigations just spoken of, and which are in a course of being made, will be found equally satisfactory with those already completed.

No. 27.

Mr. Fox to Viscount Palmerston.—(Received December 11, 1839.)

(Extract)

Washington, November 13, 1839.

I HAD the honour to receive your Lordship's despatch of the 17th of September, conveying to me the opinion of Her Majesty's Government with respect to the injurious consequences likely to ensue from the continued acts of encroachment committed by the people of the State of Maine within that part of the disputed territory which lies on the southern or right bank of the River St. John.

I have further had the honour to receive by the Steam-packet, "Great Western," your Lordship's despatch of the 14th of October, relating to the same important subject, and directing me to address to the Government of the United States, a written remonstrance against the aggressions of the people of Maine.

I had already, a short time previously to the receipt of the last-mentioned despatch, presented to the United States' Secretary of State, the inclosed official note, the language of which will I hope be considered in accordance with the spirit of your Lordship's instructions. Intelligence which I received from New Brunswick, of a more recent period than that which had reached Her Majesty's Government at the date of your Lordship's despatches, enabled me to denounce to the United States Government, in a detailed and particular manner, the serious acts of encroachment and aggression, which, in violation of the most solemn agreements, are now being committed by the citizens of Maine.

I have as yet only received in reply, the inclosed letter from the Acting Secretary of State, Mr. Vail, in which he acknowledges the receipt of my note, and informs me, by direction of the President, that the matter to which it relates will engage the immediate attention of the Government of the United States. The Secretary of State, Mr. Forsyth, has again quitted Washington for the State of Georgia, from whence he will probably not return until the period of the meeting of Congress.

Inclosure 1 in No. 27.

Mr. Fox to Mr. Forsyth.

Washington, November 2, 1839.

INFORMATION which has been reported to Her Majesty's Government in England, and more recent intelligence which has been conveyed to the Undersigned by the British authorities in the Province of New Brunswick, make it the duty of the Undersigned, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, to call the immediate and serious attention of the Government of the United States, to the extensive and unscrupulous, although it is hoped and believed, the unauthorized acts of encroachment, which continue to be carried on by the people of the State of Maine within the line of the disputed territory.

It is unnecessary here to recapitulate the terms of the several agreements which were entered into in the months of February and March last, first between the Secretary of State of the United States and the Undersigned at Washington, and afterwards between the Lieutenant-Governor of New Brunswick, the Governor of Maine, and Major-General Scott of the United States Army, for the purpose of averting the danger of local collision upon the frontier,

pending the final settlement of the Boundary Question between the Governments of Great Britain and the United States. The terms of those agreements, and their true intent and meaning, are sufficiently well known.

Her Majesty's authorities have on their part not only scrupulously adhered to the letter and spirit of the engagements referred to, but they have been desirous upon every occasion, of interpreting, in the most frank and liberal manner, any point upon which a doubt or cavil could arise.

The Undersigned, however, regrets to say, that the same correct and scrupulous observance has not marked the conduct of the people of Maine, or that of the subordinate officers employed by the Government of the State.

The armed posse from the State of Maine, which it was agreed upon should be allowed to remain in the disputed territory, within certain limits, for the purpose of guarding the timber upon the disputed lands from waste and spoliation, has already advanced, it appears, far beyond those limits; extending its operations, and its armed occupation of the country, along the whole way from the Valley of the Restook to the mouth of the Fish River, into the Valley of the Upper St. Johns, and thus into a portion of the Madawaska Settlements. All this is clearly at variance with the terms and spirit of the engagement signed by the Governor of Maine, under the sanction and guarantee of General Scott.

The establishments also which have been formed by the persons composing the armed parties on the banks both of the Restook and of the Fish River, have assumed an aspect and character more decidedly military, and more resembling a permanent national possession of the country, than can be either required or justified in the civil posse of a land agent, holding, for the sole purpose of preventing trespasses, the temporary occupation of a district which is claimed by two parties, and the title to which is not yet settled between them. These establishments, or stations, are fortified with entrenchments and with cannon, and the number of armed men composing their garrisons, is far greater than the occasion can warrant. A permanent State Road is also being constructed, from the frontier of Maine into the Valley of the Restook, and from thence on the south side of the St. John's, to the Fish River, the object of which road is to connect those portions of the disputed territory with the towns of Augusta and Bangor, and other acknowledged parts of the State of Maine.

It moreover appears, that land surveyors, acting under the authority of the State of Maine, are employed in marking out lots and townships, within the aforesaid portion of the disputed territory; and that sales of lands are being made, with deeds regularly drawn under the authority of the State; as if those lands, lying within a region which Her Majesty's Government confidently claim to be a rightful possession of the British Crown, formed on the contrary a recognized part of the public domain of the State of Maine.

It is true, that the present course of encroachment, and the wrongful occupation of the land by the citizens of Maine, whether acting as unauthorized individuals, or with the sanction of the authorities of the State, cannot in any way place in jeopardy the eventual rights of Great Britain. For, whatever shall be the line of boundary between Her Majesty's possessions and the Republic of the United States definitively 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, in conjunction with the Government of Her Majesty, to assert and carry out the decision, whatever may be the views and pretensions of the inhabitants of the State of Maine, notwithstanding.

But it is evident, that the establishment, in the mean time, of new interests, and the growing up, as it were, of new proprietary claims upon the lands which are yet in dispute, may end by embarrassing the action of both Governments; of the Government to whom the district shall be finally allotted, and of the Government which will be called upon definitively to relinquish it.

The same argument has been held, and the same principle has been contended for, by the Government of the United States no less than by the Government of Great Britain. It will be in the immediate recollection of the Government of the United States, that when, in the year 1837, an alleged act, or design rather, of encroachment, of a far less direct or objectionable character than the operations referred to in the present note—namely, the survey of a projected line of railroad from Quebec to St. Andrews, passing through a part of the disputed

territory, was complained of and remonstrated against by the President, Her Majesty's Government immediately consented to order that survey to be relinquished. The Undersigned cannot doubt but that the Government of the United States will now, on their part, be guided by a similar and reciprocal disposition.

The Undersigned, therefore, while protesting, in the first place, formally in the name of his Government, against the acts of encroachment of the people of Maine above enumerated and complained of, urgently also, and in the spirit of peace and good will, appeals to the Government of the United States to cause those acts of encroachment to be desisted from, in order that whenever a practical adjustment of the line of boundary shall be obtained, no minor or incidental occasions of dispute may remain, to obstruct that final and friendly settlement of the controversy, which the Undersigned feels persuaded it is the equally earnest desire of both Governments to accomplish.

The Undersigned avails himself, &c.,

(Signed) H. S. FOX.

Inclosure 2 in No. 27.

Mr. Vail to Mr. Fox.

*Department of State,
Washington, November 5, 1839.*

THE Undersigned, Acting Secretary of State of the United States, has the honour to acknowledge the reception of a note, dated the 2nd instant, from Mr. Fox, Envoy Extraordinary and Minister Plenipotentiary of Great Britain, and to state, that having laid it before the President, he has been instructed to apprise Mr. Fox, that it would receive the immediate consideration of the United States Government.

The Undersigned avails himself, &c.,

(Signed) A. VAIL.

No. 28.

Mr. Fox to Viscount Palmerston.—(Received February 8, 1840.)

(Extract)

Washington, January 11, 1840.

IN my despatch of the 24th of December, I had the honour to inclose a copy of the annual Message of the President of the United States, which was on that day transmitted to the two Houses of Congress. I have the honour herewith to forward duplicate copies of the same.

That part of the President's Message which relates to the question of the north-eastern boundary, will, I think, be considered as satisfactory by Her Majesty's Government, both as regards the matter thereof, and also as regards the tone and manner of expression.

It might have been hoped that such authoritative expression of the temperate views of the President would be sufficient to silence and controul the violent pretensions of the State Government of Maine; but such, I am sorry to say, has not proved to be the case. I have this day received a copy of the annual Message of the Governor of Maine, transmitted to the Legislature of the State at the opening of the Session on the 3d of the present month. I lose no time in forwarding this document to your Lordship.

It will be seen that the language of the Governor of Maine upon the present occasion, in asserting the wrongful claims of the State, is in the highest degree hostile towards Great Britain; and that the Message contains, with reference to certain contingencies which the Governor presumes will arise out of the conduct of Her Majesty's Government, indirect and direct threats of violence, which must render it extremely doubtful whether the next six months will pass over without the necessity of armed interference on the part of Her Majesty's authorities.

The Governor of Maine, it will be further observed, in referring in his

message to the public works, and to the State roads, which, in defiance of the rights of Great Britain, in violation of every agreement between the two Governments, and in the face of formal and repeated protests on the part of the British authorities, are being constructed by the agents of Mainē within the disputed territory, reports to the Legislature the progress of those works, in a tone of satisfaction and approbation, as if the same were being carried on lawfully and without objection within the acknowledged limits of the State. At the same time, the defensive movement of a small party of British troops from Canada, to reinforce the station at Lake Temiscouata, is denounced as an invasion of the American territory; although that movement is strictly within the meaning of the agreements entered into at the beginning of last year; and although further, the entire military occupation by Great Britain of the Madawaska Settlements, and of all that portion of the territory which, according to the agreements of last year, was to remain in the undisturbed possession of the British authorities, would be amply and obviously justified, as a precautionary measure, even if on no other account, by the very language now used, and the distinct threats of new acts of aggression now put forth in the Message of the Governor of Maine to the Legislature.

I had the honour, in my despatch of the 13th of November, to forward the copy of an official note which on the 2d of that month I had addressed to the United States Government, protesting against the continued aggressions of the State of Maine within the disputed territory. The inclosed official reply, dated the 24th of December, has been addressed to me by the United States Secretary of State.

Your Lordship will perceive that Mr. Forsyth's note, although temperately and courteously worded, is unsatisfactory as regards the matters of complaint and protest against the conduct of Maine. It would appear, in fact, that a reference of those matters of complaint by the General Government to the authorities of Maine, had produced no other reply from the authorities of Maine than a reiteration of their intention to persist in the conduct complained of, whether sanctioned and approved by the General Government or not.

I had intended, for the present, to do no more than forward Mr. Forsyth's note to your Lordship, and to wait your Lordship's instructions with respect to the further reply which it might be expedient to address to the United States' Government. With regard, at the same time, to the latter part of the note, and to the observations therein made upon the reported movement of British troops, I have verbally stated to Mr. Forsyth, both for the information of the President's Government, and for the information, if he should think proper, of the Government of Maine, that the movement of troops referred to has been a strictly defensive and precautionary measure, rendered necessary in justice to Her Majesty's subjects, by the prevailing and confident reports which have reached both the British Colonial authorities and myself, that some new and extensive act of aggression upon the disputed territory would be committed by authority of the Legislature of Maine during the present session. I have assured Mr. Forsyth that the British authorities have, on their part, no thought or intention of infringing upon the strict meaning of the agreements entered into at the beginning of the last year; and that the reinforcement of troops, whatever its amount may be, will probably be again withdrawn in the spring, if the ensuing session of the Maine Legislature shall pass over without the new hostile resolutions or acts of aggression which we have seen cause to apprehend.

But now, since the publication of the inclosed Message of the Governor of Maine, with the announcement therein contained, that a formal complaint against the movement of the British troops has been made by Maine to the General Government, I apprehend it will be better that I should immediately address to Mr. Forsyth a written note upon the subject. I shall have the honour duly to report my proceedings to your Lordship by the ensuing packet.

I have the honour herewith to forward an extract of a letter, with its accompanying inclosures, which has been recently addressed to me by Major-General Sir John Harvey.

I have only this day received the inclosed Message of Governor Fairfield; and am, therefore, obliged to close the present despatch (in order that it may be forwarded by the packet from New York of the 13th instant) without having had an opportunity of communicating with Mr. Forsyth upon the matter in question.

I feel no doubt that the President will regret and disapprove the language used in the Governor of Maine's Message.

I shall probably have the honour again to address your Lordship by the sailing packet from New York, of the 19th instant, and also by the steam-packet "British Queen," which is announced to depart from New York on the 1st of February.

Inclosure 1 in No. 28.

Extract from the Message of the President of the United States to both Houses of Congress.—December 2, 1839.

WITH foreign countries our relations exhibit the same favourable aspect which was presented in my last annual Message, and afford continued proof of the wisdom of the pacific, just, and forbearing policy adopted by the first Administration of the Federal Government, and pursued by its successors. The extraordinary powers vested in me by an Act of Congress, for the defence of the country in an emergency, considered so far probable as to require that the Executive should possess ample means to meet it, have not been exerted. They have, therefore, been attended with no other result than to increase, by the confidence thus reposed in me, my obligations to maintain, with religious exactness, the cardinal principles that govern our intercourse with other nations. Happily, in our pending questions with Great Britain, out of which this unusual grant of authority arose, nothing has occurred to require its exertion; and as it is about to return to the Legislature, I trust that no future necessity may call for its exercise by them, or its delegation to another department of the Government.

For the settlement of our north-eastern Boundary, the proposition promised by Great Britain for a Commission of Exploration and Survey, has been received; and a counter-project, including also a provision for the certain and final adjustment of the limits in dispute, is now before the British Government for its consideration. A just regard to the delicate state of this question, and a proper respect for the natural impatience of the State of Maine, not less than a conviction, that the negotiation has already been protracted longer than is prudent on the part of either Government, have led me to believe that the present favorable moment should on no account be suffered to pass without putting the question for ever at rest. I feel confident that the Government of Her Britannic Majesty will take the same view of this subject, as I am persuaded that it is governed by desires equally strong and sincere, for the amicable termination of the controversy.

To the intrinsic difficulties of questions of boundary lines, especially those described in regions unoccupied, and but partially known, is to be added in our country, the embarrassment necessarily arising out of our Constitution, by which the General Government is made the organ of negotiating, and deciding upon the particular interests of the States on whose frontiers these lines are to be traced. To avoid another controversy in which a State Government might rightfully claim to have her wishes consulted, previously to the conclusion of conventional arrangements concerning her rights of jurisdiction or territory, I have thought it necessary to call the attention of the Government of Great Britain to another portion of our conterminous dominion, of which the division still remains to be adjusted. I refer to the line from the entrance of Lake Superior to the most north-western point of the Lake of the Woods, stipulations for the settlement of which are to be found in the VIIth Article of the Treaty of Ghent. The Commissioners appointed under that Article by the two Governments, having differed in their opinions, made separate reports, according to its stipulations, upon the points of disagreement, and these differences are now to be submitted to the arbitration of some friendly Sovereign or State. The disputed points should be settled, and the line designated, before the Territorial Government, of which it is one of the boundaries, takes its place in the Union as a State; and I rely upon the cordial co-operation of the British Government to effect that object.

Inclosure 2 in No. 28.

Extract from the Message of Governor Fairfield to both branches of the Legislature of the State of Maine.—January, 1840.

THE long pending question in relation to our north-eastern boundary, is still open and unadjusted, though we have reason, perhaps, for believing, that it has made some advances during the past year. We have had a renewed expression of opinion on the part of the General Government that the territory in dispute is a part of the State of Maine, an indication of a determination to discharge, in good faith, the duty of that Government to this State, of maintaining the integrity of its territory, and a national sanction of the military demonstrations made by this State in February and March last. It is also well understood now by all parties, that however patient and forbearing Maine will be, while honest and earnest attempts are being made to run the line and definitively settle the question, she will not submit longer to be deprived of her territory by such a system of vexatious and unjustifiable procrastination as has heretofore been practised; and that the question must be settled speedily, in some way or other, if hostilities would be avoided. This is gaining something. When parties are fully aware of the precise position they occupy, the next step taken by them will be taken understandingly, whatever else may be said of it. Again, the occurrences of last winter served to awaken the attention of the country to the momentous importance of the question, and to induce such an examination of it as to result in a strong and universal conviction, that the pretence of claim set up by Great Britain to the disputed territory, is palpably unfounded and unjust, and can be persevered in, only through an utter disregard of the plain and unambiguous terms of the Treaty of 1783.

Soon after the termination of your Session in March last, a proposition was made by the British Government to the Government at Washington, for establishing a Commission for the purpose of exploration and survey, but it was connected with such limitations and conditions, as, it is understood, caused an immediate rejection of it by the President. After which, and believed to be as early as July last, a counter project was submitted to the British Government, to which, as we learn by the late Message of the President, no reply has yet been received.

Pending this negotiation, it seems the British Government has deemed it expedient to make an exploration of the disputed territory by Commissioners sent out for that purpose, the alleged object being, to obtain topographical information, &c., as a means of promoting an early and just determination of the question in dispute. These Commissioners have completed the exploration, and returned to England to report to their Government. What that report is to be, or what is to be the effect of it remains to be seen. The courtesy due from one Government to another requires us, perhaps, to believe, that the real and avowed design are the same, and that this survey has been undertaken really for the acquisition of information, and not for mere purposes of delay. At all events, a short time will determine. As the Commissioners may be expected to have reached England about the 1st of January, there will be ample time before the termination of your present Session, supposing it to be of the usual length, for the British Government to avail itself of its additional information, and to communicate with the Government of the United States, in reply to the counter proposition submitted many months ago. If such communication should not be made within the time anticipated, I think you may fairly regard the British Government as having returned to its old practice of procrastination, and will be justified in adopting more vigorous and determined measures than have ever heretofore been adopted, to secure to this State both her property and jurisdiction in her lawful territory; unless the necessity for such a course should be obviated by the action of the General Government. What those measures should be, may properly be left to future consideration. I need not say, that in all your efforts to secure to Maine her just rights, you may depend upon my hearty co-operation.

In giving you information of the doings of this Government, in relation to the disputed territory, since the adjournment of the Legislature in March last, permit me to refer to certain Resolves passed the twenty-third of that month.

In one of them it is resolved as follows, to wit:—"That, when he (the Governor) shall be satisfied either by the declarations of the Lieutenant-Governor of New Brunswick or otherwise, that the latter has abandoned all intention of occupying the territory with a military force, and of attempting the expulsion of our party; that then, the exigency which called forth the militia, having ceased, the Governor be, and he hereby is authorized to withdraw the same, leaving the Land Agent with a sufficient *posse*, armed or unarmed, as the case may require, to carry said Resolve into effect."

Soon after the adoption of this resolution I 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."

It appearing to me that the precise contingency contemplated by the Legislature had occurred, I could not hesitate to recall the troops. Any other course, it seemed to me, would be not only incurring needless expense, but disregarding the express directions of the Legislature. Nor was the step taken with any reluctance, as one, in the slightest degree, derogatory to the honour of the State. We had never attempted or professed to take military possession of the territory. A recurrence to the Resolves of the 24th of January and the 20th of February will show, that the object was to arrest trespassers and protect our property from devastation; and of the last, particularly, to resist a threat of expulsion from the territory by the Lieutenant-Governor of the Province of New Brunswick. The withdrawing the troops, therefore, was, in no sense, an abandonment of any position taken by this State. The troops maintained their ground while the exigency which called them out remained—when that ceased they retired. For a more detailed account of military operations, I refer you to the accompanying Report of the Adjutant-General. I cannot, however, permit this opportunity to pass without saying, that the Militia called into service, both officers and privates, with but few exceptions, conducted in a manner, in the highest degree creditable to themselves and to the State.

In further compliance with the Resolve of the 23d of March, the Land Agent, with a sufficient armed *posse*, remained in the territory after the withdrawal of the troops. For a particular account of his proceedings I must refer you to his Report herewith transmitted. It seems that during most of the time he has had in the service about 200 men. That they have not been idle will appear, I think, by looking at what they have accomplished. In addition to the labour expended in furnishing tolerably substantial fortifications erected upon the Aroostook, with two large block houses and similar buildings at the mouth of Fish River, they have made over one hundred miles of road through the heart of the wilderness—all of it being suitable for travelling with carriages and for the transportation of heavy loads. Booms have also been extended across the Aroostook and Fish Rivers, of the most substantial character, and much valuable timber thereby saved. On the whole, though the expenses have been necessarily great, it is believed that the true interests of the State have been promoted by the course pursued by the Land Agent and those who have been associated with him.

Early in the fall, complaint was made to me that the Land Agent of Massachusetts was granting permits to persons residing in the Province of New Brunswick, and others, to cut timber upon lands contiguous to, and lying upon both sides of the Aroostook River. And it was represented, that if such practice was to be persevered in, it would be impossible to execute the laws and resolves of the State in relation to the prevention of trespasses upon the public lands. The evils before experienced from this cause, and those apprehended, were represented as numerous; and, among others, that these permits were used by many as a mere cover for depredations upon the lands of this State. Under these circumstances, I felt constrained to address the Land Agent of this State, advising that the utmost rightful power should be exerted on his part to counteract the designs of these persons; and that he notify them, that if they persevered in their attempts, the Legislature would probably adopt some regulations in regard to the use of our

public streams, which would render the lumbering operations of but little avail to those engaged in them. The Land Agent conformed to this advice, and I am happy to state my belief that no more permits were subsequently granted, and that most of the persons who had previously obtained permits abandoned the design of operating under them. A few, however, did not, and whether any measures should be adopted in relation to them, carrying out the suggestion before made, it is for you to judge.

The views which I have presented in this communication, upon the subject of the Boundary, were those entertained independently of what is now an ascertained fact, to wit, that our territory is actually invaded, and of course are to be modified by that circumstance. Official information of that fact was received by me a few days since, while on my way to this place, in a reply of the Lieutenant-Governor of the Province of New Brunswick to a letter of inquiry addressed to him by myself in relation to this subject. It is admitted that one or two companies of British troops have been stationed at Temiscouata Lake, but it is alleged by the Lieutenant-Governor to have been done, not by his own orders, but by the authorities of Lower Canada. This movement I cannot but regard, under whatever branch of British authority, or on whatever pretence it may have been made, not only as a violation of the spirit of the arrangement agreed upon in March last, but as clearly an invasion of our territory. Under these circumstances, I deemed it to be my duty immediately to communicate the facts to the President of the United States, with other, though less official information received, of the building of barracks by the British Government on both sides of the St. John's, near the mouth of Madawaska River, which I did, calling officially for that action on the part of the General Government which the case required and the Constitution and laws of the United States clearly enjoined. A copy of this communication to the President, and of the correspondence between the Lieutenant-Governor of New Brunswick and myself are herewith laid before you.

Inclosure 3 in No. 28.

Mr. Forsyth to Mr. Fox.

*Department of State,
Washington, December, 24, 1839.*

THE Undersigned, Secretary of State of the United States, having, in pursuance of directions from the President, requested the Governor of Maine to communicate to him such information as might be in his possession, in relation to a complaint preferred by Mr. Fox, Envoy Extraordinary and Minister Plenipotentiary of Great Britain, in a note dated the 2nd ultimo, of alleged encroachments on the part of the State of Maine, upon the territory in dispute, upon the north-eastern frontier of the United States, is enabled by a recent communication from the Governor of the State, to lay before Mr. Fox, for the information of his Government, the following statement and observations.

With reference to the first ground of complaint, the Undersigned is informed, that early last spring, the Land Agent of Maine dispatched a small force, consisting of about twenty-five men, to Fish River, for the purpose of dispersing a band of trespassers understood to have been operating at that place, in consequence of which, the trespassers' camps were broken up, some of them driven off, and a few with their teams, brought to the settlement on the Aroostook, but subsequently released; that the Land Agent, in further pursuance of what he deemed his duty, again sent a party of about the same number of men, to the mouth of Fish River, to extend a boom across it, in order to prevent the timber, which had been cut by the trespassers, from being driven out into the St. John's, and to hinder further depredations by cutting. The object of the expedition has been accomplished, and the party remained on the ground at the date of the Governor's communication.

So far the Undersigned is unable to perceive that anything has been done by the people of Maine, in any way contravening the spirit of the agreement entered into with Mr. Fox, or that of the arrangement proposed by General Scott, and subscribed by the authorities of Maine and New Brunswick. In the first place, the territory contiguous to the mouth of Fish River, on either side of the

St. John's, can in no proper sense be considered as included in the Madawaska Settlement. It is distant some twenty-five miles above it, and the two points are not connected by any continuous occupation or settlement of the country. But even if the point referred to formed part of the Madawaska Settlement, the agreement of the 27th of February, stipulated that, in the event of future necessity for dispersing notorious trespassers, or protecting public property from depredation, by armed force, the operation would be conducted jointly or separately, according to agreement between the Governments of Maine and New Brunswick. Under such an agreement, negotiated through the agency of General Scott, the Governor of Maine was to maintain within the disputed territory, under a Land Agent, a small civil *posse*, armed or unarmed, to protect the timber recently cut, and to prevent further depredations, without any limitation as to the sphere of its operation within the bounds of the disputed territory. To the attainment of those ends, the action of the parties detached by the Maine Land Agent, appears, so far as the Undersigned is informed, to have been strictly confined.

As to the military aspect or character alleged by Mr. Fox to have been assumed by the parties at the Restook and Fish Rivers, it appears that those dispatched to the last-mentioned points, composed, as stated, each of about twenty-five men, neither militia nor soldiers, but hired labourers, were, it is true, armed with muskets, and had extended a boom across the river, and erected a block-house for its protection and their own, against the numerous bands of lawless men, grown desperate by being deprived of their accustomed plunder, and over whom Her Majesty's authorities appear to have exercised but little controul. Such measures of precaution cannot but be regarded as dictated by prudential motives, if not by the necessity of the case; and the fitness and extent of the preparation appear to the Undersigned, questions which could not understandingly be discussed away from the scene of action, and which of necessity can only be properly decided by those persons whose safety was to be secured.

Upon the Aroostook, which has been the pivot of operations of the Land Agent's *posse*, a larger number of men has been employed. They also have extended a boom across the river, and erected near it a fortification of hewn timber, and a few other more temporary buildings. The twenty-five or thirty men stationed there, are likewise armed with muskets, and it is believed, have also two small pieces of artillery. The remainder, about 125, have for the most part been engaged in opening roads for summer as well as for winter communications, and in preparing facilities for supplying the *posse*. Any preparations short of these, would, it is stated, have been insufficient to protect the public property, and the authorities of Maine cannot repress a sentiment of surprise, that these should now be made a subject of complaint, when but a short time since, the establishment was, in the dead of night, assaulted by a party of some fifty men, suitably equipped, commanded by a captain of Militia, and bearing the Queen's arms, in the repulsion of which the occupants displayed a spirit of forbearance and moderation, sufficiently in harmony with the avowed and sole object of their occupation of the territory; and that surprise is in no way diminished by the fact, that the Agents of the British Governments have just completed extensive permanent barracks on the same territory, north of the St. John's River, and are in the habit of transporting troops and munitions of war over it at their convenience.

The construction of the road leading into the Valley of the Aroostook, would not, it is apprehended, have been deemed at this time a just cause of complaint, had Mr. Fox adverted to the fact that the work was commenced as long ago as 1826, under an appropriation by the Legislature of the State of Maine, and that from that time it has steadily advanced, so that another year will probably see it completed, from near the Mattawamkeag Point in the County of Penobscot, to the Aroostook River, and thence to the mouth of Fish River, on the St. John's. It is therefore no new project conflicting with any existing arrangement, nor with any understanding to which the State of Maine has become a party, but the exercise of a lawful right over a portion of the territory in dispute, of and over which it ever has had possession and jurisdiction. To say nothing of other advantages anticipated from the completion of the road, it will afford great facilities for preventing trespasses upon the public lands; and, indeed, it is considered that trespassing upon the streams emptying high up upon the St. John's, cannot be prevented without such a road. The Governor of

Maine considers that in carrying on the work referred to, the State has done no more that is inconsistent with the respective rights of parties than have the authorities of Her Majesty's Province, in constructing, and recently, as it is understood, in thoroughly repairing a permanent mail road over a large portion of the territory north of the St. John's.

The last allegation in Mr. Fox's note forming a cause of complaint against the State of Maine, relates to her management of the lands upon the Aroostook. In this particular the Undersigned is enabled to observe, that the proceedings complained of, differ in no way from those which Maine, since her separation from Massachusetts, and the last named State previously to it, have ever pursued in regard to public lands. For the last thirty years, the State has been occasionally surveying and lotting those lands, granting them for literary, charitable, and religious purposes, and selling them in small lots to actual settlers. Of this right, so long exercised, Maine alleges that she has done nothing to divest herself, and that the discussions and negotiations upon the main question of Boundary, could not have had the effect of weakening her title to rights she had so long been in the habit of enjoying.

It is with no little surprise that, in the face of the complaints which form the subject of Mr. Fox's note, the President has received intelligence of Her Majesty's Colonial authorities having recently stationed a regiment of regular troops, part at the north, and part at the south, end of Lake Temiscouata; and of Her Majesty's forces having commenced building barracks on both sides of the St. John's, at its confluence with the Madawaska.

Such proceedings on the part of the Agents of the British Government, would, if true, constitute such a flagrant contravention of the existing understanding between the parties, that the President cannot but hope that the report which has reached him of the occupation referred to, is founded upon incorrect information.

The Undersigned requests that Mr. Fox will communicate to him such information, if any, as he may have in his possession, in relation to the subject, and that he will by such representations as the circumstance, if founded in fact, will obviously suggest, impress Her Majesty's Colonial authorities with a sense of the inexpediency and imprudence of such proceedings, and of the unhappy consequences likely to attend their persistence therein.

The Undersigned avails himself, &c.,

(Signed)

JOHN FORSYTH.

Inclosure 4 in No. 28.

Major-General Sir John Harvey to Mr. Fox.

(Extract.)

*Government House, Fredericton,
New Brunswick, December 19, 1839.*

I HAVE to invite your attention to the inclosed copies of a correspondence which has this day taken place between the Governor of Maine and myself, and to express my hope that the answer which I have returned to Mr. Fairfield's letter may meet with your Excellency's approbation.

Inclosure 5 in No. 28.

The Governor of Maine to Major-General Sir John Harvey.

Sir,

*Executive Department,
Saco, December 12, 1839.*

HAVING seen in the public prints, extracts from some of the provincial papers, stating that two regiments of British troops had been stationed at Temiscouata Lake, in the disputed territory, I have been induced to inquire of your Excellency whether there be any foundation for these reports? A movement so clearly in violation of the arrangement entered into through the mediation of General Scott, I shall not permit myself to believe your Excellency would make without stronger evidence than a newspaper paragraph.

The extreme sensitiveness of the public mind upon this subject, I trust your Excellency will perceive affords additional reason for an early explanation.

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

Inclosure 6 in No. 28.

Major-General Sir John Harvey to the Governor of Maine.

Sir,

*Government House, Fredericton,
New Brunswick, December 19, 1839.*

I HAVE the honour to acknowledge the receipt this day of your Excellency's letter of the 12th instant.

Whatever movements of troops may have taken place on the side of Lower Canada have been made by authority superior to mine; but I apprehend they have consisted, not of two regiments, but of one or two companies, as small a detachment as can well be made to so great a distance, consistently with the maintenance of a due degree of discipline, for the protection of certain buildings which have been constructed for the better accommodation of Her Majesty's troops on their march between the Upper and Lower Provinces, and of the provisions, stores, and other public property therein deposited.

A copy of your Excellency's letter shall be transmitted by me to the authorities in Canada, who, I can assure your Excellency, are as anxious as I am, that the spirit, as well as the letter of the agreement entered into between your Excellency and myself, under the mediation of General Scott, in March last, should be scrupulously observed on our part.

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

No. 29.

Viscount Palmerston to Mr. Fox.

Sir,

Foreign Office, February 19, 1840.

I HAVE received and laid before the Queen, your despatch dated the 11th ultimo, relative to the question of the disputed territory, and to the recent Message of the Governor of Maine to the Legislature of that State.

With reference thereto, I herewith transmit, for your information, copies of a letter with its inclosure which I have received from the Colonial Department, and which clearly disproves the allegation contained in the message of the Governor of Maine, that the agreement entered into between the Lieutenant-Governor of New Brunswick and General Scott, had been violated on the part of Her Majesty's Government.

I have consequently to instruct you to protest formally against the encroachments now making by the armed posse, and by the people of Maine, upon the disputed territory, as openly avowed by Governor Fairfield in his Message. You will state to Mr. Forsyth, that Her Majesty's Government claim and expect from the good faith of the Government of the United States, that the people of Maine shall replace themselves in the situation in which they stood before the agreement was signed, and that they should therefore retire from the Valley of the St. John, and confine themselves to the Valley of the Aroostook, and that they should occupy that valley in a temporary manner only, and for the purpose of preventing depredations, and that they should not construct fortifications nor make roads or settlements. Until this be done by the people of Maine, and as long as those people shall persist in their present system of encroachment, Her Majesty's Government will feel it their duty to make such military arrangements as may be necessary for the protection of Her Majesty's rights; and force will necessarily be repelled by force. And Her Majesty's Government deem it right to declare, that if the result of the unjustifiable and aggressive

proceedings of the people of Maine should be collision between Her Majesty's troops and the people of Maine, the responsibility of all the consequences, be they what they may, which may flow therefrom, will rest with the people and Government of the United States.

You will add, that Her Majesty's Government are only waiting for the detailed report which Colonel Mudge and Mr. Featherstonhaugh are now preparing, and which it is hoped will be completed in the course of a month, in order to send to the United States an answer to their last communication about the Boundary Question.

I am, &c.,
(Signed) PALMERSTON

Inclosure 1 in No. 29.

J. Stephen, Esq., to J. Backhouse, Esq.

Sir,

Downing Street, February 15, 1840.

I AM directed by Lord John Russell to transmit to you herewith, a copy of a despatch from the Lieutenant-General commanding the forces in British North America, inclosing an extract of so much of the Message of the Governor of Maine to the Legislature of that State, as relates to the disputed territory, and explaining the real facts of the case to which allusion has been therein made.

This despatch clearly establishes the incorrectness of the statement made by the Governor of Maine, that measures have been taken by the British authorities in the erection of military buildings, and the movement of troops, which are in violation of the existing agreement between the two countries. In some points, the assertion thus made is the direct contrary to the fact; in others, it is such a construction of the fact as the circumstances did not warrant, and such as certainly could not justify the charge of breach of faith which Governor Fairfield has, upon such loose information, so directly and so confidently advanced against the British authorities. It is not on such slight grounds that Lieutenant-General Sir Richard Jackson has founded the charge which Her Majesty's Government have advanced against the State of Maine of having violated the agreement. If any doubt before existed that such is the case, the present despatch distinctly explains the nature and locality of the works which have been undertaken by the citizens of Maine, in violation of the express understanding between the two countries. Lord John Russell is desirous, therefore, of putting Viscount Palmerston in possession of the explanation which has been afforded by Sir R. Jackson; and he would recommend to his Lordship's consideration the necessity of a remonstrance founded upon it being addressed to the United States Government.

I have, &c.,
(Signed) JAMES STEPHEN.

Inclosure 2 in No. 29.

Lieutenant-General Sir R. Jackson to Lord John Russell.

My Lord,

*Government House,
Montreal, January 16, 1840.*

YOUR Lordship has been apprised by my despatch (and inclosures) of the 27th ult., of the actual circumstances connected with the question of the disputed territory with the State of Maine, so far as I am acquainted with them.

Having read the Message of the Governor of that State to the Legislature, of which I herewith transmit an extract, I beg to call your Lordship's attention to the following observations upon it:—

1st. It is not true that the British authorities have built barracks on both sides of the St. John's River, near the Mouth of the Madawaska River.

No new barracks have been built anywhere.

2nd. The barracks at the Temiscouata Lake have been always occupied by a detachment of Her Majesty's regular troops; and the only movement in that

direction that has lately occurred, has been the relief of a detachment of the 24th Regiment (the head-quarters of which is at Montreal) by a detachment of the 11th Regiment stationed at Quebec.

This exchange took place for obvious purposes of discipline; and a detachment at that post must not be left without stores and ammunition.

The barracks at the Temiscouata Lake have not therefore been lately built or occupied; neither has the small detachment stationed there, or the still smaller of five men at the Dégelée post, to which Governor Fairfield may be supposed to allude, been placed on the line of communication between Quebec and Fredericton for other objects than to secure the buildings and stores necessary for the accommodation of Her Majesty's troops, if required to march that way.

3rd. But the armed bands, calling themselves citizens of the State of Maine, have built and have occupied a log fortalice, of a strong description, at the mouth of the Fish River, at its junction with the St. John's.

They are now erecting a second block-house similar to the above, and within 250 yards of it, with cooking house and stables, the whole being surrounded with strong abattis.

Roads of communication and support have been cut in various directions from this military advanced post, of which I possess a plan that can be shown to Governor Fairfield, if he be ignorant of this armed occupation of an important part of the disputed territory.

A copy of this letter will be sent to Her Majesty's Minister at Washington.

I have, &c.,
(Signed) R. D. JACKSON.

Inclosure 3 in No. 29.

Extract from the Message of the Governor of the State of Maine; January 3, 1840.

THESE Commissioners have completed the exploration, and returned to England to report to their Government. What that report is to be, or what is to be the effect of it remains to be seen. The courtesy due from one Government to another requires us, perhaps, to believe that the real and avowed design are the same; and that this Survey has been undertaken really for the acquisition of information, and not for mere purposes of delay. At all events a short time will determine. As the Commissioners may be expected to have reached England about the 1st of January, there will be ample time before the termination of your present Session, supposing it to be of the usual length, for the British Government to avail itself of its additional information, and to communicate with the Government of the United States, in reply to the counter proposition submitted many months ago. If such communication should not be made within the time anticipated, I think you may fairly regard the British Government as having returned to its old practice of procrastination, and will be justified in adopting more vigorous and determined measures than have ever heretofore been adopted to secure to this State, both her property and jurisdiction in her lawful territory; unless the necessity for such a course should be obviated by the action of the General Government. What those measures should be, may properly be left to future consideration. I need not say that in all your efforts to secure to Maine her just rights, you may depend upon my hearty co-operation.

It is admitted that one or two Companies of British troops have been stationed at Temiscouata Lake, but it is alleged by the Lieutenant-Governor to have been done, not by his own orders, but by the authorities of Lower Canada. This movement I cannot but regard, under whatever branch of British Authority, or on whatever pretence it may have been made, not only as a violation of the spirit of the arrangement agreed upon in March last, but as clearly an invasion of our territory. Under these circumstances, I deemed it to be my duty immediately to communicate the facts to the President of the United States with other, though less official, information received, of the building of barracks by the British Government, on both sides of the St. John, near the mouth of the Madawaska River, which I did, calling officially for that action on the part of the General Government, which the case required, and the Constitution and Laws of the United States clearly enjoined.

(Signed) JOHN FAIRFIELD.

No. 30.

Mr. Fox to Viscount Palmerston.—(Received April 4, 1840.)

(Extract.)

Washington, March 17, 1840.

THE last despatch which I had the honour to address to your Lordship upon the subject of the boundary negotiation, and the affairs of the disputed territory, was dated on the 11th of January.

The unexpected failure of the voyages of both the steam packets, the "Liverpool" and the "British Queen," which continued, however, to be expected at New York from day to day during the greater part of January and February, has occasioned the subsequent interruption of my official correspondence.

The delay enables me now to lay before your Lordship in a more connected form, a statement of the proceedings which have been had at Washington, with reference to the boundary dispute. I have the satisfaction to think, that although much excitement has been raised, yet upon the whole, the controversy is placed upon a more favourable footing than it appeared likely to be at the date of my last despatch; that is to say, there is a better prospect of the negotiation being left from henceforward in the hands of the two national Governments, and less hazard of the same being interrupted by partial acts of violence proceeding from the Government of the State of Maine.

I have the honour to inclose in the present despatch, first, a series of correspondence between the United States Secretary of State and myself, of dates subsequent to that of the American official note of the 24th of December, of which a copy was transmitted in my despatch of the 11th of January. The latest document in the series now inclosed is a note dated the 13th of the present month, which I addressed to Mr. Forsyth in conformity with the instructions contained in your Lordship's despatch of the 19th of February.

Secondly, I inclose printed copies of recent messages transmitted by the President to Congress, in which he communicates the letters that have passed between Mr. Forsyth and myself, together with correspondence between the Federal Government and the Government of Maine, and various other papers of earlier date connected with the same question of the north-eastern boundary.

With reference to my official correspondence with the American Government, it is a great satisfaction to me to find that the language which I had judged it my duty to hold, accords substantially with the tenor of the instructions since received from your Lordship.

I had only laid somewhat greater stress upon the threats used by the people of Maine of attempting still more extensive acts of aggression over the disputed territory than those already committed, in consequence of such threats being most significantly uttered in public documents, proceeding from the authorities of Maine, the knowledge of which had not reached Her Majesty's Government at the date of your Lordship's despatches.

In the public message transmitted by the Governor of Maine to the Legislature of the State on the 3rd of January, already in the possession of Her Majesty's Government, it will have been seen that the Governor of the State recommends to the Legislature, that if the final answer from Great Britain should not be received (as he must have very well known it could not be) before the period of their adjournment, they should proceed to more vigorous measures than have yet been adopted, for securing the claim of Maine to the disputed territory. Now such "more vigorous measures," when all that has already been done is taken into consideration, cannot possibly be supposed to mean anything else, as it appears to me, than an attempt to gain possession of the disputed territory by violence, and to keep it.

But it will be seen that the same threat of interrupting the negotiation by force and violence, is uttered in a more direct and significant manner in a

public letter from Governor Fairfield to the President of the United States dated the 21st of November, which will be found amongst the printed papers herewith inclosed, that were communicated by the President to Congress on the 23rd of January. In the concluding paragraph of that letter the Governor of Maine declares, that although Maine has not yet taken military possession of the disputed territory, a continued disposition on the part of Great Britain to delay a settlement of the question (and upon this point the people of Maine intend apparently to arrogate to themselves the privilege of judging and deciding), will not fail to induce such a step, whatever may be the consequences.

It is most clear that the above passages, taken into account with the acts of encroachment and aggression already committed by the armed bands of Maine in the valleys of the Aroostook, Fish River, and St. John (which so far from being disapproved, discontinued, or satisfactorily explained, are on the contrary ostentatiously persisted in, and formally avowed), constitute altogether an ample justification of whatever military arrangements Her Majesty's Authorities may deem it prudent to adopt in defence of Her Majesty's rights.

Notwithstanding, however, the above menaces on the part of the people of Maine, I have now come to the opinion, observing what has passed since I last addressed your Lordship, that no attempt will in fact be made during the present year, by the Executive or Legislature of Maine, to carry their evil designs into execution. My belief now is, that the Government and people of Maine will content themselves for the present year with complaining and protesting against the acts of Great Britain, and with appealing to the General Government of the United States.

I have stated this opinion, with more explanation and detail, in letters addressed to the Governor-General and to Sir John Harvey. I am, since, further confirmed in the same opinion, by a communication that has been made to me of the substance of a set of resolutions introduced in the House of Representatives of Maine on the 4th of this month, by Mr. Paine an administration member of the Maine Legislature. I herewith inclose a copy of these resolutions. Your Lordship will perceive that although the language they contain with reference to the American claim to the disputed territory is unjustifiable in the highest degree, yet, that if carried, they will have, practically, the beneficial effect of diminishing the hazard of partial collision on the border for the ensuing year, and of tending for so long to leave the boundary dispute to be conducted, whether to peace or war, in an open and intelligible manner by the two national Governments. The resolutions have been referred to a committee, and will probably not be voted upon until towards the close of the session of the Maine Legislature in the month of April; but as they are introduced by a leading administration member of the Maine House of Representatives, where the administration party have a majority, I entertain no doubt of their being carried.

Your Lordship will perceive, upon referring to the latter part of my official correspondence with Mr. Forsyth, that I fell into an error upon a point of fact, (a trivial one, I think, as it did not affect the essential parts of the argument,) in stating to the United States Government in my note of the 26th of January, that the British force occupying the barracks at Lake Temiscouata, amounted to one company, only. I had been under the impression, that as the movement of Her Majesty's troops, in force, into the disputed territory, as at first intended, had been countermanded, the detachment stationed at Temiscouata, amounted to no more than what I stated. I admitted the mistake, such as it was, in my subsequent note to Mr. Forsyth, of the 7th of March. For the rest of the statement contained in my note of the 26th of January, both as regards the amount of the British military preparations, and the motives, I was guided by the official despatch from Lieutenant-General Sir Richard Jackson to Lord John Russell, of the 11th of January, of which Sir Richard Jackson, communicated to me a copy, and by a letter of the 11th of January, from Sir John Harvey to myself, of which a copy will be found amongst the inclosed papers. It will be seen that the whole statement, both as to the amount of the preparations, and the motives for them, is now contested by the authorities of Maine, and upon the faith of their assertions, by the General Government also. I shall not, as at present advised, suffer

myself to be drawn into any further controversy with the American Government, upon this part of the subject; as I could not do so without indirectly admitting, what cannot be admitted,—that under the circumstances of the attitude assumed by the State of Maine, the United States Government have any right to call for an explanation of the British military arrangements within that portion of the disputed territory referred to.

The papers communicated by the President to Congress, of which printed copies are herewith forwarded, have been referred to the Committee of Foreign Affairs of the Senate. They have not yet come before the House of Representatives. The last part of the correspondence between Mr. Forsyth and myself, and the communications from Maine, contesting my information as to the state of the British military preparations have also been transmitted to the Senate, but have not yet been printed for the use of Congress; imperfect copies only having been published by the reporters for the newspapers.

The Committee of Foreign Affairs of the Senate have not yet made their report.

Inclosure 1 in No. 30.

Mr. Fox to Mr. Forsyth.

Washington, January 12, 1840.

THE Undersigned, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, has the honour to acknowledge the receipt of the official note addressed to him by the Secretary of State of the United States, on the 24th of December, in reply to a previous note which the Undersigned had addressed to the Secretary of State on the 2nd of November, in relation to the various and continued acts of encroachment committed by the authorities, and by the inhabitants of the State of Maine, within that tract of territory on the north-eastern frontier of the United States, the true title to the possession of which, according to the terms of the Treaty of 1783, is at present in dispute between the Governments of Great Britain and America.

The Undersigned has lost no time in transmitting to Her Majesty's Government the official note of the Secretary of State. He has, in the mean time, to express his extreme regret, that the explanations furnished by the authorities of Maine, and communicated to the Undersigned by the Secretary of State, in relation to the acts of encroachment complained of, both as regards the construction of roads and public works, and the sale and alienation of lands, are of a character which must render them altogether unsatisfactory to the Government of Great Britain. It would appear, in fact, as if a reference by the General Government to the Authorities of Maine, of the complaints preferred by Her Majesty's Government, had produced no other reply or explanation from the Authorities of Maine, than a reiteration of their intention to persist in the commission of the acts complained of, whether in accordance with the obligations of international justice or not.

The Undersigned does not permit himself to relinquish the hope, that through the wisdom and integrity of the General Government of the United States in unison with the sincere endeavours of Her Majesty's Government, it will still be found possible to bring the pending controversy of the disputed boundary to a satisfactory and amicable conclusion: but it is certain that the public acts and public declarations of the Authorities of the State of Maine are continually calculated, as far as in them lies, to render such amicable conclusion more difficult and more distant.

With reference to the latter part of the official note of the Secretary of State of the United States, and to the observations therein contained respecting certain reported movements of British troops in the neighbourhood of Lake Temiscouata, and at other points within that portion of the disputed territory where, according to the provisional engagements entered into at the beginning of last year, no interference was to be attempted with the exercise of British authority, pending the negotiation of the Boundary Question,—the Undersigned can distinctly assure the Secretary of State that there exists no

intention on the part of Her Majesty's authorities to cancel or infringe the terms of those provisional engagements, so long as the same shall be observed with fidelity by the other party.

The particular motives, and the amount of the movement of troops at present referred to, have been explained in a frank and satisfactory manner, to the Governor of Maine by the Lieutenant-Governor of New Brunswick, in a correspondence which has been made public, and which, it appears, has been officially communicated by the Government of Maine to the President of the United States.

With regard, however, generally, to the reinforcement of military posts, and other defensive and precautionary measures, whether along the confines of the disputed territory, or within that part of it where, according to the provisional engagements before cited, the authority of Great Britain was not to be interfered with, the Undersigned has to observe, that the adoption of such measures by Her Majesty's Authorities, cannot be with reason objected to, or complained of by the Government of the United States, when regard is had to the reports which for some time past have been circulated, (and of the prevalence and consistency of those reports the United States Government are themselves fully aware,) respecting the probable intention of the Legislature of the State of Maine, to revoke during the present Session, the provisional agreements now in force, and to authorize some new and extensive act of aggression over the disputed territory. And the Undersigned has regretted to observe, that the language of the Governor of Maine, in his recent message to the Legislature at the opening of the Session, is calculated to encourage rather than to restrain such rash and obnoxious designs.

The Undersigned has the honour, &c.,

(Signed) H. S. FOX.

Inclosure 2 in No. 30.

Mr. Forsyth to Mr. Fox.

*Department of State,
Washington, January 16, 1840.*

IN a note which Mr. Fox, Envoy Extraordinary and Minister Plenipotentiary of Great Britain, addressed on the 12th instant to the Undersigned, Secretary of State of the United States, Mr. Fox, alluding to a complaint made by the Undersigned, of certain reported movements of British troops in portions of the territory in dispute between the two countries, disclaims all intention on the part of the British authorities, to cancel or infringe the terms of the provisional agreement entered into at the beginning of last year; and this disclaimer is connected with an assumption of the right of Great Britain to strengthen posts, and take measures of [military] precaution, not along the line only, but within portions of the disputed territory; as by the terms of the agreements referred to, no interference was to be attempted, pending the negotiation of the Boundary Question, with the exercise of British authority in the neighbourhood of Lake Temiscouata, and at other points within a portion of the territory supposed to be embraced in the terms of the arrangements. Mr. Fox having stated that he has referred to his Government the representations of the United States against the military movements alluded to, the Undersigned, under a confident expectation that the matter will present itself to the minds of Her Majesty's Ministers in a light different from that in which it is understood by Mr. Fox, would have refrained from any further remarks on the subject; but in order to obviate the risk of any misapprehension as to the views of the President concerning it, and inasmuch as the ground assumed by Mr. Fox with respect to the import of the existing arrangements, would, if admitted by the United States, give to those arrangements a scope not authorized, either by the language in which they are expressed, nor by what is believed to be the intention of the parties, it is proper that the Undersigned should call Mr. Fox's immediate attention to the express provisions of the agreement signed by him and the Undersigned, and of that which was subscribed to, under

the agency of General Scott, by the Governor of Maine and the Lieutenant-Governor of New Brunswick.

The main object of those agreements, obviously, was the restoration and future maintenance of tranquillity in the disputed territory; and, as the means of most surely attaining that object, the entire exclusion from its limits of all military force, to whichever side belonging, and the delegation to the civil authority, exclusively, of the exercise of all power and jurisdiction. With that view, under the first mentioned of those agreements, it was only in case of necessity for dispersing notorious trespassers, or protecting public property from depredations, that armed force was to be employed on either side, and then the operation was to be conducted by concert, jointly or separately, according to agreement between the Governments of Maine and New Brunswick. The other was the result of the contemplated concert between the Governments of Maine and New Brunswick; was intended to carry out the object of the first; confided to the State of Maine the duty of protecting the timber recently cut, and of preventing further depredations, and prescribed that these objects were to be accomplished through the agency of a civil posse: accordingly, the Governor of Maine engaged to withdraw, without unnecessary delay, the military force of the State. Without regard, therefore, to the limits within which either party had before exercised jurisdiction, resort to military force, for any purpose whatever, was interdicted to both parties. With reference to the extent of territory within which each party was to continue to exercise jurisdiction, the first agreement left the question of right where it had stood before, and only expressed the conflicting understanding of that question by the Governments of the United States and Great Britain respectively. The agreement between Governor Fairfield and Sir John Harvey, provided, likewise, that the question of possession and jurisdiction should remain as it then stood; but stated where it stood, by providing that Great Britain was to continue holding, in fact, possession of a part of the territory, meaning that part embraced in the Madawaska settlements, in the occupancy of which, as well as in the enjoyment of the usual communications between New Brunswick and Her Majesty's Upper Provinces, the Governor of Maine disclaimed all intentions of disturbing the British Authorities. Beyond the Madawaska settlements, therefore, circumscribed by the limits in which they stood at the date of the agreement, the United States cannot, under the terms of that agreement, recognize in the British Authorities the right of extending jurisdiction, much less that of forming any military establishments, beyond or within them; and those, consequently, which formed the subject of the representations in the note of the Undersigned of the 24th of December, pushed, as they are alleged to have been, into tracts of country far beyond any acknowledged limits of those settlements, and wholly unconnected with them, cannot be viewed in any other light than a bold infraction of existing arrangements. That such is a just view of the agreements cannot be disputed by Great Britain, as Her Majesty's Government has adopted and acted upon it. In the note of Mr. Fox, complaining of the encroachments on the part of Maine, and an armed occupation of part of the disputed territory by that State, both were treated as inconsistent with the existing arrangements; and it is presumed, Her Majesty's Government will not attempt to apply one rule of construction to defend the military movements of its colonial authorities, and another to sustain complaints against the State Government, for acts which are not founded upon any apprehended necessity of the use of a regular military force for offensive or defensive purposes. Nor can it be imagined that it will be contended that those arrangements are not perfectly reciprocal, or that there is any difference in the character and the extent of the jurisdiction to be exercised by Great Britain in one portion, and that by the State of Maine or the United States, in the other portion of the disputed territory comprehended within the temporary arrangements made to preserve tranquillity in both, and guard against any hostile collision between the State and Colonial Governments.

The Undersigned, having laid Mr. Fox's note before the President, is instructed to state to him, that no occasion is perceived for doubting the disposition of the Governor of Maine, scrupulously to adhere to the spirit of the existing arrangements, and to avoid all acts tending to render more diffi-

cult and distant the final adjustment of the main question of boundary between the two countries; but in repeating assurances of the readiness of the United States Government, to contribute by all means in its power to an amicable termination of the difference, the Undersigned is bound to declare, that a persistence in, or a repetition of, such acts, on the part of Her Majesty's Agents, as those now complained of, would, if avowed by Great Britain, be considered as but little in accordance with those assurances.

The Undersigned avails himself of this occasion, &c.,

(Signed)

JOHN FORSYTH.

Inclosure 3 in No. 30.

Mr. Fox to Mr. Forsyth.

Washington, January 26, 1840.

THE Undersigned, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, has the honour to acquaint Mr. Forsyth, Secretary of State of the United States, that since the date of his last official Note of the 12th instant, he has been furnished by Her Majesty's Authorities in North America with more correct information than he then possessed, respecting certain reported movements of British troops within the disputed territory, which formed the subject of a part of that official Note, as well as of the two official Notes addressed by the Secretary of State to the Undersigned, on the 24th of December, and on the 16th of the present month. The same reported movements of troops were referred to in a recent message from the Governor of Maine to the Legislature of the State, and also in a published official letter addressed by the Governor of Maine to the President of the United States on the 23rd of December.

It appears from accurate information now in the possession of the Undersigned, that the Governor of Maine, and through him, the President and General Government of the United States, have been misinformed as to the facts. In the first place, no reinforcement has been marched to the British post at the Lake Temiscouata: the only change occurring there has been the relief of a detachment of Her Majesty's 24th Regiment, by a detachment of the same force of the 11th Regiment, this force of one company being now stationed at the Temiscouata post, as it always has 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. In the second place, it is not true that the British Authorities either have built, or are building barracks on both sides of the St. John's River, or at the mouth of the Madawaska River: no new barracks have in fact been built anywhere. In the third place, Her Majesty's Authorities are not concentrating a military force at the Grand Falls: the same trifling force of sixteen men, is now stationed at the post of the Grand Falls, which has been stationed there for the last twelve months. It was perhaps, however, needless for the Undersigned to advert to this last matter at all, as the post of the Grand Falls is beyond the bounds of the disputed territory, and within the acknowledged limits of New Brunswick.

The Undersigned, while conveying the above information, upon a matter of fact, to the Secretary of State of the United States, takes occasion to repeat distinctly his former declaration, that there exists no intention on the part of Her Majesty's Authorities, to infringe the terms of those provisional agreements which were entered into at the beginning of last year, so long as there is reason to trust that the same will be faithfully adhered to by the opposite party. But it is the duty of the Undersigned at the same time clearly to state, that Her Majesty's Authorities in North America, taking into view the attitude now assumed by the State of Maine, with reference to the Boundary Question, will, as at present advised, be governed entirely by circumstances, in adopting such measures of defence and precaution, (whether along the confines of the disputed territory, or within that portion of it, where, it has been before explained, the authority of Great Britain, according to the existing agreements, was not to be interfered with,) as may seem to them necessary, for guarding against, or for promptly repelling, the further acts of hostile aggression over the whole of the disputed

territory, which it appears to be the avowed design of the State of Maine, sooner or later to attempt.

For the Undersigned has to observe, that not only is the extensive system of encroachment, which was denounced and remonstrated against by the Undersigned in his official Note of the 2nd of last November, still carried on and persisted in by the armed bands employed by the Authorities of Maine in the districts about the Aroostook and Fish Rivers; but that acts, as above stated, of a character yet more violent, and obnoxious to the rights of Great Britain, and more dangerous to the preservation of the general peace, are with certainty meditated by the inhabitants of that State. The existence of such designs has for months past been a matter of notoriety by public report: those designs were plainly indicated in the recent message of the Governor of Maine to the Legislature of the State: and they are avowed in more explicit terms, in the letter addressed to the President of the United States by the Governor of Maine on the 21st of November, which letter has within the last few days been communicated to Congress, and published.

The Undersigned, it is true, has been assured by the Secretary of State in his Note of the 16th of this month, that the General Government see no reason to doubt the disposition of the Governor of Maine to adhere to the existing arrangements, and to avoid all acts tending to render more difficult and distant the final adjustment of the Boundary Question. But in face of the above clear indications of the intentions of Maine, as given out by the parties themselves, the Secretary of State has not given to the Undersigned any adequate assurance, that Maine will be constrained to desist from carrying those intentions into effect, if, contrary to the expectations of the General Government, the Legislature or the Executive of the State should think fit to make the attempt.

The Undersigned not only preserves the hope, but he entertains the firm belief, that if the duty of negotiating the Boundary Question be left in the hands of the two National Governments, to whom alone it of right belongs, the difficulty of conducting the negotiation to an amicable issue will not be found so great as has been by many persons apprehended. But the case will become wholly altered, if the people of the State of Maine, who, though interested in the result, are not charged with the negotiation, shall attempt to interrupt it by violence.

Her Majesty's Authorities in North America have, on their part, no desire or intention to interfere with the course of the pending negotiation by an exertion of military force: but they will, as at present advised, consult their own discretion in adopting the measures of defence that may be rendered necessary, by the threats of a violent interruption of the negotiation which have been used by all parties in Maine, and which the Undersigned regrets to find confirmed by the language, (as above referred to,) employed by the highest official Authority in that State.

The Undersigned avails himself, &c.,

(Signed) H. S. FOX.

Inclosure 4 in No. 30.

Mr. Forsyth to Mr. Fox.

*Department of State,
Washington, January 28, 1840.*

THE Undersigned, Secretary of State of the United States, has the honor to reply, by direction of the President, to the note addressed to him on the 26th instant by Mr. Fox, Envoy Extraordinary and Minister Plenipotentiary of Great Britain.

The President derives great satisfaction from the information conveyed by Mr. Fox's note, that with reference to the reported movements of British troops within the territory in dispute, no actual change has taken place in the attitude of Her Majesty's Authorities in the territory since the arrangements entered into by the two Governments at the commencement of last year for the preservation of tranquillity within its limits; and from his assurances that there exists no intention on the part of Her Majesty's Authorities to infringe

the terms of those arrangements, so long as they are faithfully observed on the side of the United States. The President, however, cannot repress a feeling of regret that the British Colonial Authorities, without graver motives than the possibility of a departure from the arrangements referred to, by the State of Maine, should take upon themselves the discretion, and along with it the fearful responsibility of probable consequences, of being guided by circumstances, liable as these are to be misapprehended and misjudged, in the adoption within the disputed territory of measures of defence and precaution, in manifest violation of the understanding between the two countries whenever they may imagine that acts of hostile aggression over the disputed territory are meditated or threatened on the part of the State of Maine. The President cannot but hope that, when Her Majesty's Government shall be apprized of the position assumed in this regard by its agents, proper steps will be taken to place the performance of express and solemn agreements upon a more secure basis than Colonial discretion to be exercised on apprehended disregard of such agreements on the part of the State of Maine.

It is gratifying to the President to perceive that Mr. Fox entertains the firm belief that the difficulty of conducting to an amicable issue the pending negotiation for the adjustment of the question of Boundary is not so great as has, by many persons, been apprehended. As, under a corresponding conviction, the United States have, with a view to the final settlement of that exciting question, submitted a proposition for the consideration of Her Majesty's Government, the President hopes that the sentiments expressed by Mr. Fox have their foundation in an expectation of his having it in his power at an early day to communicate to this Government, a result of the deliberations had by that of Her Britannic Majesty, upon the proposition alluded to, which will present the prospect of a prompt and satisfactory settlement, and which when known by the State of Maine, will put an end to all grounds of apprehension of intentions or disposition on her part to adopt any measures calculated to embarrass the negotiation, or to involve a departure from the provisional arrangements. In the existence of those arrangements the United States behold an earnest of the mutual desire of the two Governments to divest a question abounding in causes of deep and growing excitement of as much as possible of the asperity and hostile feeling it is calculated to engender, but unless attended with the most scrupulous observance of the spirit and letter of their provisions, it would prove but one more cause, added to the many already prevailing, of enmity and discord. Mr. Fox has already been made the channel of conveyance to his Government, of the desire and determination of the President that the obligations of the country shall be faithfully discharged: that desire is prompted by a sense of expediency as well as of justice, and by an anxious wish to preserve the amicable relations now, so manifestly for the advantage of both, subsisting between the United States and Great Britain.

The Undersigned avails himself, &c.

(Signed)

JOHN FORSYTH.

Inclosure 5 in No. 30.

Mr. Forsyth to Mr. Fox.

Dear Sir,

*Department of State,
Washington, February 26, 1840.*

I COMMUNICATE to you, informally, in accordance with the promise verbally made in the conversation I had with you a few days since, copies of three depositions recently received in a letter from the Governor of Maine, in relation to alleged movements of British troops within the disputed territory, intending to address you officially on this subject as soon as a communication expected from Governor Fairfield shall have been received.

I avail myself, &c.,

(Signed)

JOHN FORSYTH.

Inclosure 6 in No. 30.

Deposition of Mr. Varnum, in relation to the movements of British troops within the disputed territory.

HAVING just returned from Temiscouata Lake, where I have been on private business, and being requested by the Governor to communicate such facts as have fallen under my observation while there, I depose and say, That the Provincial Authorities have the past season erected extensive military works at the head of the lake, and others near the foot of the lake, beside the Madawaska River, that are just completed. The erections at this last station consist of barracks sufficient for some 400 men and a store-house, in charge of eight men. At the head of the lake there are some eight or ten buildings, two of which are large, two stories high, and furnishing quarters for some 200 to 600 men. A stockade of timbers, to inclose these works, has been commenced, two or three hundred feet of which as I should judge has been completed. A road connecting these parts has been constructed the past season, a distance of about sixteen miles. I was at the stations above referred to in May last. At the post at the foot of the lake there were then no barracks and no men. At the other there were some French labourers, just commencing the post, but no soldiers had then arrived, but now about 200 soldiers, as I was informed when there, and I should judge there was that number from the appearance of the camp, are stationed at this place under the command of a Major Chambry.

Augusta, February 11, 1840.

(Signed) P. VARNUM.

Kennebec ss. February 11, 1840.

THEN the abovenamed Phiness Varnum made oath that this deposition by him subscribed is true.

Before me

(Signed)

ALPHEUS LYON,
Justice of the Peace

STATE OF MAINE.

Secretary's Office, Augusta, February 12, 1840.

I HEREBY certify that the foregoing is a true copy of the original deposited in this office.

Attest:

(Signed)

PHILIP C. JOHNSON,
Secretary of State.

Inclosure 7 in No. 30.

Deposition of Mr. Mark Little.

I, MARK LITTLE, of Bangor, in the State of Maine, depose and say, That, in October last, I was at the Temiscouata Lake in what is called the disputed territory, having been sent there upon public business by Charles Jarvis, Esq., Provisional Land Agent for the State of Maine. At the head of the lake, upon the westerly side, there was then stationed a part of one company of British troops, say not exceeding twenty-five in number. They had been at that place, as I was then and there informed, since the month of June preceding; they had apparently a year's supply of provisions for two hundred men. I learned from them that they were the first that had ever been stationed there, and that their force was to be increased to two hundred men. They had among other officers, a surgeon, commissary, and barrack-master. They had then erected two buildings of timber for barracks, each eighty feet long by thirty feet wide, and two stories high; one building for officers' quarters, and one for the commissary department, besides a number of smaller ones. They had also built four gun-boats for the navigation of the lake, each capable of holding from twenty to thirty men.

At the lower end of the lake and head of Madawaska River, the Provincial Authorities have erected two buildings of timber, for barracks, capable of holding from 300 to 400 men, and one building for a store-house. There was a quantity of supplies, and one man only in charge at that time.

The Provincial Authorities have also made a tow-path the whole length of the Madawaska, for the better navigation of that river. They have also made a road leading from the barracks at the head of the river to the barracks at the head of the lake, distance about twenty miles; to be continued next year, as I was there informed, to the St. John's, distance about thirty miles. They have also made extensive repairs in the road leading from the barracks at the head of the lake to their military post at the River Des Loups, distance about thirty-six miles, one-half of it in the State of Maine; all this has been done within the last year.

Their buildings are of a permanent character. The position at the head of the lake is a commanding [one]; and I was informed while there, that it was in contemplation to surround their works with a stockade, and make it a strong military post.

At Madawaska Settlement they have engaged a couple of houses for the reception of troops, and two men there in charge.

(Signed) MARK LITTLE.

Bangor, February 13, 1840.

Penobscot, ss. Bangor, February, 13, 1840.

THEN personally appeared Mark Little, and made oath to the truth of the above statement by him signed before me.

(Signed)

GUSTAVUS CUSHMAN,
Judge of the Police Court of the City
of Bangor.

STATE OF MAINE.

Secretary's Office, Augusta, February 15, 1840.

I HEREBY certify that the foregoing is a true copy of the original, on file in this office.

Attest:

(Signed)

PHILIP C. JOHNSON,
Secretary of State.

Inclosure 8 in No. 30.

Deposition of Mr. Thomas Bartlett.

I, THOMAS BARTLETT of Orono, do depose and say, That in August, A.D. 1839, being in the employ of the State of Maine, by direction of Colonel Jarvis, went from Fort Fairfield to Quebec, by the way of the Lake Temiscouata, upon the British Mail Route, to purchase supplies for the force at Fish River. At the foot of Lake Temiscouata there were in progress of erection, and nearly completed, two buildings, designed, as I was informed by the contractor, for quartering a British military force. The officers' quarters was a building thirty feet by twenty, according to my recollection; it might have been larger; that for soldiers, I was informed by the contractor, was seventy feet by about thirty. At the head of the said lake there were four buildings, some of which had been then very recently finished, and the others in progress of erection. These buildings were as follows, viz., quarters for officers, about forty feet by thirty feet; quarters for soldiers, in two buildings, each seventy feet by about thirty feet; and a commissary-house. At that same time they were preparing the foundation of a boat-house, of large dimensions, by excavating the bank of the lake. There were also upon the lake three Government transport boats, each capable of carrying fifty men. I was informed by a gentleman holding both a military and a civil commission under the British Government, that the foregoing establishments were erected by the British Authorities during the then present season.

There was stationed at the head of the lake a small detachment of eight

or twelve men, from the 24th British Regiment, under the command of a corporal or serjeant; a surgeon and commissary were attached to the post, on duty. The quarters at the foot of the lake were built of round timber, hewn upon the inside in a substantial but coarse manner.

Those at the head of the lake were neatly constructed of hewn timber, with a shingle roof, and painted. I think when I went to Quebec they were at work upon all the buildings, both at the foot and head of the lake; but when I returned, which was in September, some of the buildings were about completed. A road was at that time being made from the post at the head of Lake Temiscouata to the falls near the mouth of the Madawaska River, by contract with the British Government, or rather with Mr. McLaughlan, the late Warden of the disputed territory. I passed over a portion of said road, which had then been recently made. It was a well made permanent road. My information in relation to this road was acquired from the contractors who were at work upon it with their several crews of men.

(Signed)

THOMAS BARTLETT.

Penobscot, ss. February 10, 1840.

Sworn to before me,
(Signed)

SAMUEL CONEY,
Justice of the Peace.

Inclosure 9 in No. 30.

*Mr. Forsyth to Mr Fox.**Department of State, Washington, March 6, 1840.*

BY the directions of the President, the Undersigned, Secretary of State of the United States, communicates to Mr. Fox, Envoy Extraordinary and Minister Plenipotentiary of Great Britain, the inclosed copy of a Report made to the Governor of the State of Maine, by the Agent commissioned on the part of the authorities of that State to ascertain the precise character and extent of the occupation of parts of the disputed territory by troops of Her Britannic Majesty, and of the buildings and other public works constructed for their use and accommodation.

By the Report and the three depositions which the Undersigned informally communicated to Mr. Fox a few days since, he will perceive there must be some extraordinary misapprehension on his part, of the facts in relation to the occupation by British troops of portions of the disputed territory. The statements contained in these documents, and that given by Mr. Fox in his note of the 20th of January last, exhibit a striking discrepancy as to the number of troops now in the territory, as compared with those who were in it when the arrangement between Governor Fairfield and Lieutenant-Governor Harvey was agreed upon; and also as to the present and former state of the buildings there. The extensive accommodations prepared and preparing at an old and at new stations, the works finished and in the course of construction on the land and on the water, are not in harmony with the assurance that the only object is the preservation of a few unimportant buildings and storehouses for the temporary protection of the number of troops Her Majesty's ordinary service can require to pass on the road from New Brunswick to Canada.

The Undersigned will abstain from any remarks upon these contradictory statements until Mr. Fox shall have had an opportunity to obtain the means of fully explaining them. How essential it is that this should be promptly done, and that the steps necessary to a faithful observance on the part of Her Majesty's Colonial Authorities of the existing agreements between the two Governments should be immediately taken, Mr. Fox cannot fail fully to understand.

The Undersigned avails himself, &c.,

(Signed)

JOHN FORSYTH.

Inclosure 10 in No. 30.

Report to his Excellency the Honourable John Fairfield, Governor of Maine.

Augusta, Maine, February 27, 1840.

THE Undersigned has the honour to report, that in accordance with your commission of the 6th instant, he proceeded immediately to the St. John's River, Temiscouata Lake, &c., and ascertained by actual observation the following facts.

That twenty-two miles below the mouth of Fish River, on the south side of the St. John's, and nearly opposite the Madawaska River, a house has been fitted up for *barracks*, and is rented by the English Government for that purpose, though no troops are there at present. It is built of hewn timber, two stories high, about sixty feet long and thirty wide; it has bunks prepared for over 100 men. It is now in charge of one man only. From thence he followed up the Madawaska River, observing the tow-path on its east bank, which has been made and repaired by the English Government, under contracts given out by James A. McLaughlan, Esq., of New Brunswick, the gentleman who has heretofore assumed to act as Warden of the disputed territory. This work was accomplished the last season; the length corresponds with that of the east side of the Madawaska River, which is about twenty-six miles long.

Two miles and a half below the foot of the Temiscouata Lake, on the west bank of the Madawaska River, the English erected early last summer a barrack about eighty feet long and thirty wide, and two small out-buildings. At this post there are now stationed one serjeant, one corporal, and five private soldiers of Company No. 3, 11th Regiment in the English service, where they have been since about the 1st of January last.

Near this point commences a road connecting it with the English works next described, built the past season, under contracts given out by said McLaughlan, for the distance of sixteen miles, ten of which are fully completed, and the remaining six nearly. That fifteen miles from the foot of the Temiscouata Lake on its west side, the English have erected eight buildings as barracks for soldiers, officers' quarters, a hospital, a magazine, a storehouse, and a commissary's house, all of which are surrounded by ditches, breastworks, and stockades on three sides; the fourth is not fully completed: an accurate plan of all these works accompanies this report, and is here particularly referred to.

From Major Chambri, the Commander at this Fort, who was first informed of the object and cause of the enquiries, and from his officers, the following facts were ascertained: That he was there stationed by the Government of the Canadas having under his command one company of grenadier soldiers, numbering about eighty-five men of the 11th Regiment, and one light company, the 3rd of the same regiment numbering about ninety men, in all 175, not including officers commissioned or servants. The names of the officers are Major Chambri, Captain Wallington, Lieutenants Bloss and Gould, and Ensign Tobun. That the barracks were commenced last spring, and some of the buildings are still unfinished; that the first soldiers were stationed here in June last, comprising a serjeant and corporal, and ten men of the 24th Regiment, and in November following said company of grenadiers were ordered to take their place, and that about the 1st of January last, they were reinforced by the said 3rd company. That the road from these barracks to the River des Loups has been made and repaired the past season, distance about thirty-six miles.

In addition, the Undersigned ascertained that the English have built at Lake Temiscouata a number of large flat-bottom boats, and also keel boats, each of which will serve to carry fifty men, and the flat-bottom boats would transport safely heavy ordnance. Outside the defences, the English have a boat and storehouse.

The works at this fort are calculated to be a sure defence against artillery and light arms, as will more fully appear from the plan annexed.

All of which is respectfully submitted.

(Signed)

BENJAMIN WIGGIN.

STATE OF MAINE.

Secretary's Office, Augusta, February 27, 1840.

I do hereby certify that the foregoing is a true copy of the original deposited at this office.

Attest:
(Signed) PHILIP C. JOHNSON,
Secretary of State.

Inclosure 11 in No. 30.

Mr. Fox to Mr. Forsyth.

Washington, March 7, 1840.

THE Undersigned, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, has the honour to acknowledge the receipt of the official note of yesterday's date, addressed to him by Mr. Forsyth, Secretary of State of the United States, to which is annexed the copy of a report from Mr. Benjamin Wiggin, an agent employed by the authorities of the State of Maine, to visit the British military post at Lake Temiscouata; and in which reference is made to other papers upon the same subject, which were informally communicated to the Undersigned by Mr. Forsyth, a few days before; and the attention of the Undersigned is called by Mr. Forsyth to different points upon which the information contained in the said papers is considered to be materially at variance with that which was conveyed to the United States Government by the Undersigned in his official note of the 26th of last January.

The Undersigned had already been made acquainted by the Lieutenant-Governor of New Brunswick, with the circumstance of Mr. Wiggin's visit to the military post at Lake Temiscouata, where the officer in command very properly furnished to Mr. Wiggin the requisite information upon all matters connected with the British station, which he appeared desirous to enquire about.

The alleged points of variance, after deducting what is fanciful and conjectural, in the reports now produced, and after comparing what is there stated, in contradiction to other reports before produced from the same quarters, do not appear to the Undersigned, to be by any means so material as they seem to have been considered by the Government of the United States. The British military detachment stationed at Lake Temiscouata, which the agents employed by the State of Maine had in the first instance, with singular exaggeration, represented as amounting to two regiments, is now discovered by the same parties to amount to one hundred and seventy-five men, which instead of two regiments is something less than two companies. It is indeed true, should such a point be considered worth discussing, that the Undersigned might have used a more technically correct expression in his note of the 26th of January, if he had stated the detachment in question to consist of from one to two companies, instead of stating it to consist of one company. But a detachment of Her Majesty's troops has been stationed at Lake Temiscouata, from time to time, ever since the winter of 1837 and 1838, when the necessity arose for marching reinforcements by that route, from New Brunswick to Canada; and it will be remembered that a temporary right of using that route for the same purpose was expressly reserved to Great Britain in the provisional agreement entered into at the beginning of last year. It is not therefore true that the stationing a military force at the Lake Temiscouata, is a new measure on the part of Her Majesty's authorities; neither is it true that that measure has been adopted for other purposes than to maintain the security of the customary line of communication, and to protect the buildings, stores, and accommodations provided for the use of Her Majesty's troops when on march by that route; and it was with a view to correct misapprehensions which appeared to exist upon those points, and thus to do away with one needless occasion of dispute, that the Undersigned conveyed to the United States Government, the information contained in his note of the 26th of January.

With regard again to the construction of barracks, and other buildings, and the preserving them in an efficient state of repair and defence, a similar degree

of error and misapprehension appears still to prevail in the minds of the American authorities.

The erection of those buildings within the portion of the disputed territory now referred to, for the shelter of Her Majesty's troops while on their march, and for the safe lodgement of the stores, is no new act on the part of Her Majesty's authorities. The buildings in question have been in the course of construction from a period antecedent to the provisional agreements of last year, and they are now maintained and occupied along the line of march, with a view to the same objects above specified, for which the small detachments of troops also referred to, are in like manner there stationed.

The Undersigned will not refrain from here remarking upon one point of comparison exhibited in the present controversy. It is admitted by the United States authorities, that the armed bands stationed by the Government of Maine in the neighbourhood of the Aroostook River, have fortified those stations with artillery; and it is now objected as matter of complaint against the British authorities with reference to the buildings at the Lake Temiscouata, not that those buildings are furnished with artillery, but only that they are defended by palisades capable of resisting artillery. It would be difficult to adduce stronger evidence of the acts on the one side being those of aggression, and on the other of defence.

The fact shortly is, and this is the essential point of the argument, that Her Majesty's authorities have not as yet altered their state of preparation, or strengthened their military means within the disputed territory, with a view to settling the question of the boundary, although the attitude assumed by the State of Maine, with reference to that question, would be a clear justification of such measures; and it is much to be apprehended that the adoption of such measures will sooner or later become indispensable, if the people of Maine be not compelled to desist from the extensive system of armed aggression which they are continuing to carry on in other parts of the same disputed territory.

The Undersigned avails himself, &c.,

(Signed)

H. S. FOX.

Inclosure 12 in No. 30.

Mr. Fox to Mr. Forsyth.

Washington, March 13, 1840.

THE Undersigned, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, has been instructed by his Government to make the following communication to the Secretary of State of the United States, in reference to the Boundary negotiation, and the affairs of the disputed territory.

Her Majesty's Government have had under their consideration the official note addressed to the Undersigned by the Secretary of State of the United States, on the 24th of last December, in reply to a note from the Undersigned, of the 2d of November preceding, in which the Undersigned protested, in the name of his Government, against the extensive system of aggression pursued by the people of the State of Maine within the disputed territory, to the prejudice of the rights of Great Britain, and in manifest violation of the provisional agreements entered into between the authorities of the two countries at the beginning of the last year.

Her Majesty's Government have also had their attention directed to the public message transmitted by the Governor of Maine to the Legislature of the State on the 3rd of January of the present year.

Upon a consideration of the statements contained in these two official documents, Her Majesty's Government regret to find that the principal acts of encroachment, which were denounced and complained of on the part of Great Britain, so far from being either disproved, or discontinued, or satisfactorily explained by the authorities of the State of Maine, are on the contrary, persisted in, and publicly avowed.

Her Majesty's Government have consequently instructed the Undersigned once more formally to protest against those acts of encroachment and aggression. Her Majesty's Government claim, and expect from the good faith of the Govern-

ment of the United States, that the people of Maine shall replace themselves in the situation in which they stood before the agreements of last year were signed; that they shall therefore retire from the valley of the St. John, and confine themselves to the Valley of the Aroostook; that they shall occupy that valley in a temporary manner only, for the purpose, as agreed upon, of preventing depredations; and that they shall not construct fortifications, nor make roads or permanent settlements.

Until this be done by the people of the State of Maine, and so long as that people shall persist in the present system of aggression, Her Majesty's Government will feel it their duty to make such military arrangements as may be required for the protection of Her Majesty's rights. And Her Majesty's Government deem it right to declare, that if the result of the unjustifiable proceedings of the State of Maine should be collision between Her Majesty's troops and the people of that State, the responsibility of all the consequences that may ensue therefrom, be they what they may, will rest with the people and Government of the United States.

The Undersigned has been instructed to add to this communication, that Her Majesty's Government are only waiting for the detailed report of the British Commissioners recently employed to survey the disputed territory, which report it was believed, would be completed and delivered to Her Majesty's Government by the end of the present month, in order to transmit to the Government of the United States, a reply to their last proposal upon the subject of the Boundary negotiation.

The Undersigned avails himself, &c.,

(Signed)

H. S. FOX.

Inclosure 13 in No. 30.

Message from the President of the United States, communicating, in compliance with a resolution of the Senate, copies of correspondence in relation to the North-Eastern Boundary and the jurisdiction of the Disputed Territory; and, also, in relation to the establishment of military posts in the State of Maine.

To the Senate of the United States,

Washington City,
January 22, 1840.

IN compliance with the resolutions of the Senate of the 17th instant, I communicate a report and documents from the Secretary of State, and a report from the Secretary of War.

(Signed)

M. VAN BUREN.

Inclosure 14 in No. 30.

Mr. Forsyth to the President of the United States.

Department of State, January 22, 1840.

THE Secretary of State, to whom has been referred so much of a resolution of the Senate of the 17th instant, as requests the President to communicate to the Senate "all the correspondence which has been had between this and the British Government upon the subject of the north-eastern boundary, and of the jurisdiction of the disputed territory, which has not been communicated heretofore, or so much of it as in his opinion, may be communicated without prejudice to the pending negotiation; with all the correspondence which has been had, since the last session of Congress, with the Governor of the State of Maine and with the Minister of Her Britannic Majesty at Washington, relative to the invasion of the State of Maine, and to the exercise of jurisdiction within the disputed territory by either party, or so much thereof as he may deem consistent with the public interest,"—has the honour to lay before the President all the papers in the Department of State not before communicated, except those relating; imme-

diately to the pending negotiation for the settlement of the north-eastern boundary, the state of which was communicated to Congress at the opening of the session.

(Signed)

JOHN FORSYTH.

Inclosure 15 in No. 30.

Mr. Stevenson to Mr. Forsyth.

(Extract.)

*Legation of the United States,
London, May 5, 1838.*

I HAVE the honour herewith to transmit to you a copy of the last note received from Lord Palmerston, upon the subject of the north-eastern boundary, with my answer thereto. You will see, from my note, that the correspondence on my part is closed.

Inclosure 16 in No. 30.

Viscount Palmerston to Mr. Stevenson.

Foreign Office, April 16, 1838.

[See Papers presented to Parliament in 1838, Class B, No. 10, p. 78.]

Inclosure 17 in No. 30.

Mr. Stevenson to Viscount Palmerston.

Portland Place, April 21, 1838.

[See Papers presented to Parliament in 1838, Class B, No. 11, p. 79.]

Inclosure 18 in No. 30.

Mr. Stevenson to Mr. Forsyth.

*Legation of the United States,
London, March 6, 1838.*

(Extract.)

I HAD flattered myself that I should have been able, before this, to have communicated to you the favourable decision of this Government upon Mr. Greely's case. In this hope I have been disappointed. Although I have taken every favourable opportunity to urge the consideration of the subject on the Government, and to apprise Lord Palmerston of the state of feeling in Maine, and the desire of our Government to have it speedily adjusted, I deemed it proper to address to him last week another note, a copy of which I have now the honour to transmit to you. To this no reply has been received. The delay to act on the case has doubtless arisen from the wish of the Government here to communicate with the authorities of New Brunswick before a decision is made.

Inclosure 19 in No. 30.

Mr. Stevenson to Viscount Palmerston.

Portland Place, February 26, 1838.

[See Papers presented to Parliament in 1838, Class B, No. 7, p. 74.]

Inclosure 20 in No. 30.

Mr. Stevenson to Mr. Forsyth.

*Legation of the United States,
London, March 26, 1838.*

(Extract.)

IN my despatch, No. 41, I informed you that I had written a third note to Lord Palmerston, urging the decision of the Government upon Mr. Greely's case. As I had hoped, it produced the desired effect, and I received last week his Lordship's answer, communicating the decision, a copy of which, with my reply, I have now the honour of transmitting to you. The character of Lord Palmerston's note, as you will see, is very decided, and manifests a settled determination on the part of this Government, to enforce its claim of jurisdiction over the disputed territory, pending the negotiation on the question of boundary, under the treaty. His Lordship's note reaffirms the grounds taken by Lord Aberdeen, in his communication to Mr. Lawrence of the 14th of August, 1828, in the case of Mr. Baker, which Lord Palmerston considers as entirely parallel with that of Mr. Greely. In my reply, I deemed it my duty to remonstrate against the whole proceeding, and to assert, respectfully, though with firmness, the just claims of the United States, and the determination of our Government to support them. I availed myself, moreover, of the opportunity to notice the doctrine asserted in Lord Aberdeen's note, that the recognition of the independence of the United States, by the Treaty of 1783, so far as our rights and territory were concerned, was to be regarded as a matter of "grant" and "cession." This, as you will see, I felt it my duty to expose and protest against, on the part of the United States. I have, however, little doubt, that while the Government here continue to assert the right of jurisdiction over the disputed territory, they will give orders (if they have not already done so) for the release of Mr. Greely.

Inclosure 21 in No. 30.

Viscount Palmerston to Mr. Stevenson.

Foreign Office, March 12, 1838.

[See Papers presented to Parliament in 1838, Class B, No. 8, p. 75.]

Inclosure 22 in No. 30.

Mr. Stevenson to Viscount Palmerston.

Portland Place, March 20, 1838.

[See Papers presented to Parliament in 1838, Class B, No. 9, p. 76.]

Inclosure 23 in No. 30.

Mr. Forsyth to Mr. Stevenson.

*Department of State,
Washington, March 6, 1839.*

Sir,

I HEREWITH transmit to you, for your information, several printed documents, embracing executive messages and other important papers relating to recent occurrences upon the northern frontier of the United States. A perusal of them will show you the urgency which now exists for the settlement of the boundary in that quarter, between the United States and the British provinces. The amicable relations subsisting between the two countries, are liable, daily and hourly, to disruption, from unfortunate collisions between citizens of the United States and Her Majesty's colonial subjects, and to occasional and most embarrassing difficulties between State and Provincial authorities.

rities. It is proper, therefore, that you should immediately place yourself in communication with Her Majesty's Principal Secretary of State for Foreign Affairs, and press the importance of early action in regard to the matter of the north-eastern boundary, by considerations and arguments drawn from the existing state of things on our frontier, and the immediate jeopardy to which the interests and well-being of the two nations are thus exposed. You will also say that the President sincerely laments the delay, whatever its cause may be, that has prevented the adoption of measures, on the part of Her Majesty's Government, to meet his just expectations, by advancing the negotiation for the adjustment of the whole controversy; yet he confidently hopes that the motives, derivable from a knowledge of recent events on our borders, are too cogent to be disregarded, and that Her Majesty's Ministers will hasten to take proper steps to avert the calamity which now impends over the two countries. What has delayed instructions to Mr. Fox from Her Majesty's Government, it is impossible to conjecture. That gentleman informed me, in one of our interviews on the occurrence of the recent disturbances, that Mr. Hudson, his Secretary of Legation, lately arrived here, had seen in the Foreign Office, before he left London, a *projet* of the Convention for exploration and survey, which was intended to be proposed to the United States. This circumstance was the groundwork of the confident expectation, you will see, that Mr. Fox expressed of an early settlement of the principal question—an expectation which the President has a right to presume will not be disappointed.

You will perceive from the newspapers, that Congress, at the close of their late session, passed a law providing for a special mission to Great Britain, and giving additional powers to the President, in certain contingencies, to place the country in a state of defence, should measures of that character ultimately prove to be necessary. The place of negotiation, you are aware, has been already agreed upon; yet the President, desiring to conform to the indicated wishes of Congress, is willing to change it to London, should it be agreeable to Her Majesty's Government, and if it would, in their opinion, hasten or facilitate the final adjustment of the controversy. As the subject presses, you will urge the earliest determination on this point, and communicate it as soon as it is made known to you, that the present excitement may be allayed.

Mr. Fox, in a recent conversation with me, expressed his apprehension that the passage of this bill might be viewed by Her Majesty's Government as a minatory act on the part of the United States; to which observation I replied, by suggesting, that it was scarcely possible that any misapprehension of that kind could arise, since the fact was obvious, that the enactment was only in answer to the threat of the British provincial authorities. In this light you will of course regard it, in your intercourse with Lord Palmerston, and will, it is not doubted, be able to prevent any sinister interpretation of a measure so very evidently one of precaution.

I am, &c.,
(Signed) — JOHN FORSYTH.

Inclosure 24 in No. 30.

Mr. Stevenson to Mr. Forsyth.

*Legation of the United States,
London, April 5, 1839.*

Sir,

I RECEIVED by the *Liverpool* steamer, which arrived last week, your despatch of the 6th of March, with the printed documents containing the President's messages to Congress, and other important papers relating to the recent occurrences upon our north-eastern frontier. By the same arrival, the Government here received official accounts from Mr. Fox and the Governor of New Brunswick. The *Scotland*, which preceded by a few hours the *Liverpool*, brought accounts to the 6th. Those by the *Liverpool* were to the 10th ultimo.

On Wednesday, the day your despatch was received, the motion which had been made by Sir C. Grey, for the production of papers in relation to the north-

eastern boundary, was to come up in the House of Commons. As the *Liverpool* had brought full accounts of the debates and proceedings of Congress, which produced, as might have been expected, a good deal of excitement for the moment, I thought it highly probable that another effort would be made to get up a debate upon the whole subject, with a view of drawing the ministry out upon the question of jurisdiction over the disputed territory, and the orders which had been given to Sir John Harvey, for the purpose of enforcing it.

Fearing that if this course was taken, serious injury might be done, by forestalling any satisfactory explanation between the two Governments on the question of exclusive jurisdiction, I became anxious to see and converse with Lord Palmerston on the subject, and ascertain, if I could, the course he intended to pursue. I accordingly had an interview with him at the Foreign Office. After a short conversation, I soon found that he viewed the subject as I did, and that he intended to decline all discussion of it at the present moment. On Wednesday night the House was counted out, and, of course, nothing done. On the next day, however, the subject came up, and you will see from the papers which I now forward, a report of the proceedings which took place. It ended in a prompt refusal by the Government, to furnish either papers or information at this stage of the negotiation. On that night Parliament adjourned for the Easter holidays, and will not reassemble until the 11th.

In pursuance of your instructions, I addressed a note to Lord Palmerston on the subject of the delay which had taken place in sending out to Mr. Fox the basis of the proposed Convention on the part of Great Britain, and the President's wishes in relation to the special mission authorized by the late Act of Congress. I have now the honour of transmitting a copy of my note, with Lord Palmerston's answer, and my reply.

You will see that I pressed the subject as one of great urgency, and did not fail to express, in the most emphatic manner, the President's surprise and regret at the delay which had taken place, in not forwarding sooner the necessary instructions to their Minister in Washington. I, of course, took care to do this in a manner which I thought best calculated to satisfy this Government, not only of the President's solicitude to hasten the negotiation, but of his sincere desire to preserve the best relations between the two Governments. The Convention, as you will see from Lord Palmerston's note, has been agreed to, and will be sent by the packet that takes out my despatches.

In relation to the special mission, that, as you will likewise see, has been promptly declined. In submitting this proposition I did it in the terms of your instructions. The day after my note was sent in, I was asked by Lord Palmerston whether the mission was intended to be separate, or united with this Legation. Having received no instructions on the subject, I could give no direct answer, but said, that I presumed from the manner in which it had been proposed in Congress, it was probably intended to be joint.

I omitted in my note to make any allusion to the character of the late proceedings connected with the defence of the country. As it was doubtful, from your despatch, in what manner you intended the subject to be treated, I determined to make no allusion to it in my note, but to hold myself in readiness if any explanation should be asked, to give the one I was authorized to do. As Lord Palmerston had said nothing on the subject, he doubtless regards it in its true light.

Having thus fulfilled the President's wishes as to the Convention for the survey, and obtained the decision of the Government as to the proposed mission, the only remaining subject of importance was that in relation to the British claim of exclusive jurisdiction over the disputed territory pending the controversy, and the nature of the instructions given to Sir John Harvey, and under which he justifies his late proceedings.

Upon this subject I had received no instructions, and, important as it was, I yet felt it to be one of some delicacy, and especially after the refusal of the Government to give any information when pressed to do so in Parliament. After the best reflection I could give the subject, I deemed it highly important to obtain, if practicable, the views of the Government and put the President in possession of them. For this purpose, I sought an interview with Lord Palmerston. I proceeded to state frankly my object, but said, at the same time, that I had received no instructions on the subject, and acted alone upon my own responsibility. I expressed the opinion that I thought it highly important

that there should be an immediate understanding between the two Governments, both as to the nature of the jurisdiction claimed and the agreement which had been supposed by Mr. Fox and Sir John Harvey to exist on the subject. I took occasion to refer to Mr. Fox's letter of the 23d of July last, and the late proclamation of the Governor of New Brunswick; that the public sensibility had been deeply excited on the subject, and that it was not confined to Maine, but had extended throughout the whole Union; that without some explanation, it would, I feared, operate as a bar to the negotiation that was now pending, and lead to unfortunate results. I did not conceal from Lord Palmerston my opinion, that probably the Government of the United States had yielded to the presumption that Mr. Fox and Sir John Harvey had misapprehended the wishes of Her Majesty's Government, as well as mistaken their instructions. That it was evident that there was a misunderstanding on the subject between the two Governments, and it was possible the difficulty might have arisen from confounding a claim of jurisdiction, for the purpose of preserving the peace and the property from injury, with the right of exercising acts of sovereign power, and that, if so, it was important that it should be explained. That, under such circumstances, if he felt at liberty to do so, I should feel gratified in any explanation he might think proper to give.

I am happy in having it in my power to inform you that Lord Palmerston, with his usual frankness, most readily yielded to my request, and said that he would with pleasure communicate to me his views on the subject.

He commenced by remarking that the late proceedings which had taken place in Congress had given a fresh proof of the close relationship of the two nations, and showed that the English habit of not reading, or of soon forgetting Parliamentary papers, prevailed equally in Congress with regard to papers laid before that body. He said that if those who had taken part in the recent debates at Washington had bore in mind the papers which had been communicated by the President to Congress in 1829, they would not have asserted that the British claim to jurisdiction was a new one, nor would they, he thought, have construed it in the unqualified sense in which they appeared to have done. The ground and nature of the claim of jurisdiction were explained, he said, by Sir Charles Vaughan, in his note to the Secretary of State of the 16th of September, 1827, and the very qualified and limited manner in which the right had been exercised, was also clearly stated by Sir Howard Douglas, in his despatch to Sir Charles Vaughan of the 4th of October, 1827, which was communicated to the Secretary of State on the 26th of the same month. The nature and grounds of the British claim, his Lordship said, were further explained by their Minister, in February, 1828, and in the note of Lord Aberdeen of the 14th of August, 1828. Lord Palmerston said that, from this correspondence, it would be seen that the British Government had not pretended to exercise any new act of sovereignty over any part of the disputed territory since the conclusion of the Treaty of Ghent, and that the jurisdiction they claimed over the unsettled and unoccupied part of the territory was in reality only safe custody of the property for the benefit of the future owner, and the prevention of the assemblage of lawless and disorderly persons thereon, to the annoyance and injury of the neighbouring districts. His Lordship further said, that they had not claimed that exercise of sovereignty which Her Majesty's Government were supposed in the United States to contend for. In proof of this, he begged to remind me that two years ago, upon a representation from our Government, the British Government put a stop to a plan for making a railway across the disputed territory, from Quebec to St. Andrew's, because the making of a new road would have implied an acknowledged right of sovereignty on the part of the British Government, while that right was the very question in dispute; and he also referred to a conversation which he held with me in December, 1837, in which he admitted that they did not feel themselves at liberty to march troops across the territory from New Brunswick to Canada, without a previous understanding with the United States Government on the subject. Lord Palmerston concluded, however, by saying that they were entitled to expect that such abstinence should be mutual, and that neither party would, while the general question was pending, either make settlements, cut timber, open roads, or establish military occupation, within the disputed territory.

I informed Lord Palmerston that I should communicate this explanation to my Government, to which he assented, and the interview closed.

I flatter myself that this information will be acceptable and beneficial, and

aid in bringing to a close the pending negotiation for the resurvey of the whole of the disputed territory.

I am strong in the opinion that, if there is another survey, the result will be favourable to a final adjustment of the whole subject. I have, indeed, looked to this as the only feasible scheme of placing the two Governments in possession of the necessary information to settle the controversy themselves, or enable a third Power to do so in case it should be again referred to arbitration.

I am, &c.,
(Signed) A. STEVENSON.

Inclosure 25 in No. 30.

Mr. Stevenson to Viscount Palmerston.

Portland Place, March 30, 1839.

[See Inclosure 1 in No. 7, page 60.]

Inclosure 26 in No. 30.

Viscount Palmerston to Mr. Stevenson.

Foreign Office, April 3, 1839.

[See Inclosure 2 in No. 7, page 62.]

Inclosure 27 in No. 30.

Mr. Stevenson to Viscount Palmerston.

Portland Place, April 4, 1839.

[See Inclosure 3 in No. 7, page 63.]

Inclosure 28 in No. 30.

The Governor of Maine to the President of the United States.

Sir,

*{Executive Department,
Augusta, February 27, 1839.*

I HAVE the honour, herewith, to inclose Document No. 31 of the House of Representatives, relating to trespassers upon the public lands, it containing some information upon this subject not heretofore communicated to your Excellency.

With high respect, I am your Excellency's most obedient servant,

(Signed) JOHN FAIRFIELD,
Governor of Maine.

Inclosure 29 in No. 30.

Message of Governor Fairfield to the Senate and House of Representatives.

Council Chamber, January 23, 1839.

[See Inclosure 7 in No. 5, p. 32.]

Inclosure 30 in No. 30.

Mr. Hamlin to the Governor and Council.

STATE OF MAINE.

Gentlemen,

Land Office, Augusta, January 22, 1839.

I DEEM it my duty to lay before you the accompanying report of George W. Buckmore, in relation to depredations upon the Aroostook and St. John's Rivers; also, a copy of the instructions given him by the Land Agent of Maine and Massachusetts.

It will be seen from his report, that extraordinary depredations are being committed on the public lands situated on those rivers, and that energetic measures will be required to arrest them.

As to the trespassers upon the Aroostook, I am confident nothing short of an armed force, of at least fifty men, can effectually break them up. When the wholesale depredations on the Little Madawaska are stopped, the minor trespassers on the other streams, tributary to the Aroostook, will cease of course.

In an affair of this magnitude, the land agent does not feel himself authorized to proceed without some particular directions from the Governor and Council, or from the Legislature now in session.

(Signed)

ELIJAH L. HAMLIN, *Land Agent.*

Inclosure 31 in No 30.

Mr. Hamlin and Mr. Coffin to Mr. Buckmore.

STATE OF MAINE.

Sir,

Land Office, Bangor, December 14, 1838.

YOU are hereby authorized and empowered to proceed to the Aroostook River and see that no trespassing is committed on the townships belonging to Maine and Massachusetts on that river the ensuing winter. You are also authorized, if it becomes necessary, to take off the teams and supplies of those found trespassing, and sell the same at auction, according to the provisions of an Act approved March 28, 1831.

If there should be any communication open with Fish River, you will make an examination there, and see that no trespasses are committed.

Should you meet with any resistance, or any thing extraordinary takes place, you will give immediate information to this office, where you will also make a return of your doings after the abovenamed service is completed.

(Signed)

ELIJAH L. HAMLIN, *Land Agent of Maine.*

GEO. W. COFFIN, *Land Agent of Mass.*

By E. L. HAMLIN.

Inclosure 32 in No. 30.

Mr. Buckmore to Mr. Hamlin.

Sir,

Augusta, January 22, 1839.

AGREEABLY to your instructions, dated December 14th, requesting me to look after trespassers on the Aroostook and St. John's Rivers, I immediately left Ellsworth and proceeded to the Aroostook River; and after stopping there a few days, I left township No. 11, for Fish River, through the Madawaska settlement, and returned to township No. 11, after an absence of ten days. Finding the amount of depredations to be much larger than was anticipated, and being unable to arrest the trespassers or to take off their teams and supplies, I concluded to return, and herewith lay before you the following report of my doings and examinations, and await such further instructions as you may see fit to give.

A short distance above the Grand Falls, I fell in company with two men, who were going up Grand River, with some others, to make timber for a Mr. Ketchum. I learned from these persons that there were forty or fifty men at work making timber on this river. I also learned that there were from twenty to thirty persons cutting timber on Green River, all well supplied with teams and provisions.

At the Madawaska Settlement, I learned from the inhabitants that the Governor of New Brunswick had given permission to each settler to cut 100 pine logs on his lot, and most of the inhabitants were engaged in cutting logs, under this license, for Sir John Caldwell's mills at the Grand Falls.

During my stop at the Madawaska Settlement, I was called upon by Francis Rice and Leonard R. Coombs, Esquires, two of the magistrates living at Madawaska, to learn my business on the St. John's River, which I freely communicated. They then requested a copy of my instructions, which I furnished them. They said they were authorized by the Governor to arrest all persons attempting to exercise jurisdiction, on the part of the American Government, in the Madawaska Settlement, and that they should forward a copy of my instructions to the Governor at Frederickton.

I was informed here that several crews were at work cutting timber on the Madawaska and St. Francis Rivers. I also learned that there were large parties of trespassers on the Restigouche River, some of whom had come through to the Madawaska Settlement to purchase hay. From this place I proceeded to the mouth of the Fish River, which I ascended about fourteen miles, and found within that distance the following trespassers: A Mr. Whalen, with a crew of eight men and a team of six oxen, supplied by Francis Rice, Esq., before named; C. Fernandee and S. Herbert, with a crew of six men and one team; a crew of fourteen men and one team, supplied by Mr. Carle, an inhabitant of Madawaska; Joseph Dominkee, with a crew of nine men and a team, supplied by Mr. Brunsieu of Canada; Mr. Woobert and R. Martin, with a crew of fourteen men, two pair of horses, and four oxen; L. Nado, with a crew of seven men, with one team of horses and one team of oxen, and several small crews, making altogether, as near as I could calculate, ten pair of horses, sixteen yoke of oxen, and from fifty to seventy-five men.

More teams and men were expected in daily. Some of these crews had been at work here ever since last summer. The most of these trespassers were located, as near as I could judge, on township No. 16, in the 7th range belonging to Maine. The following crews were at work on the main St. John's, between the St. Francis and Madawaska Rivers. Two crews under L. R. Coombs, Esq., beforementioned—one crew under Messrs. Wheelock and Caton, supplied by Sir John Caldwell—one crew under S. Hubert—one crew under William Gardner—one crew under Mr. Hunnewell—one crew under Messrs. Makay and Decenado—one crew under Mr. Canada—and one crew under D. Dagle, making nine crews in all. From the best information I could obtain from the inhabitants, it was calculated that these trespassers would cut on the St. John's and its tributaries above the Grand Falls, this season, including the logs, at least seventy-five thousand tons, about one-third of which would be cut on Fish River.

On the Aroostook River; the trespassers upon whom I served writs last fall, above Beaver Brook, in company with yourself, have not returned, and there is no trespassing by the Provincials above that stream. The crews on Beaver Brook supplied by Peter Ball, have returned. I saw Mr. Ball, and he informed me that as there was trespassing below, he should not stop himself, and that he should resist any attempt to take away his teams.

The crew, which began to cut on Salmon stream early last fall, are still at work, and now say they do not intend to quit, but mean to defend themselves and resist all authority from this State.

On township letter H, belonging to Maine, I found Mr. Johnson, with a crew of ten men, six oxen, and one pair of horses. They refused to quit, and said they should continue to cut the timber in spite of both Governments, and used much threatening language. I stopped one night among the settlers at the mouth of the Little Madawaska, and from the best information I could obtain, there are about seventy-five persons trespassing on this river, with twenty yoke of oxen and ten pair of horses, well supplied with provisions from the Province.

I met several teams on their way up, and noticed that the road leading up the Little Madawaska was trodden hard, and indicated a large amount of travel.

From what I could learn, the most of these trespassers are violent and lawless men, and have given out that they mean to resist any officer who shall attempt to take themselves or their teams.

At the Aroostook Falls I found two crews of about fifteen men and six yoke of oxen, cutting timber within the American line, and hauling it into the river below the falls. From the best information I could obtain, I have no doubt, that from fifteen to twenty thousand tons of timber will be taken off the townships on the Little Madawaska River this winter.

(Signed)

GEORGE W. BUCKMORE.

Inclosure 33 in No. 30

Resolve of the Legislature of Maine, January 23.

[See Inclosure 8 in No. 5, p. 33.]

Inclosure 34 in No. 30.

Message of Governor Fairfield to the House of Representatives.

[See Inclosure 9 in No. 5, p. 34.]

Inclosure 35 in No. 30.

Resolve of the Legislature of Maine, February 16.

[See Inclosure 10 in No. 5, p. 35.]

Inclosure 36 in No. 30.

Instructions to Mr. Rogers.

Sir,

Augusta, February 15, 1839.

IN pursuance of my object disclosed to you this day, you having consented to lend your personal services in effecting that object, I wish you to proceed forthwith to Frederickton, N. B., and have a conference with his Excellency Sir John Harvey, upon the extraordinary events that have just occurred in relation to the seizure and abduction of the Hon. Rufus McIntire and several others, while engaged in the execution of certain duties under a resolve of the Legislature of this State, adopted the 24th of January last. You will communicate to Governor Harvey all the facts in the case, so far as they have come to your knowledge, and ascertain from him whether the high-handed and outrageous proceedings alluded to have been authorized, sanctioned, or in any way countenanced by the Provincial Government; and, if such should be the fact, to demand the instant release of our citizens, and in case of refusal, to return forthwith to this place. If otherwise, as is supposed to be the fact, and the seizure and abduction have been made by a band of lawless and desperate men, Governor Harvey will undoubtedly furnish you with every facility in his power for effecting the release and safe return of the persons alluded to.

As it is the determination of this Government, so far as it may be able, to break up and put an end to the trespassing upon the public lands, and as in effecting that object, it may be necessary to destroy the timber already cut, you will endeavour to ascertain the views and intentions of Governor Harvey in relation to it—and whether any resistance on his part to such a movement is to be apprehended by us.

You will also endeavour to ascertain the facts in relation to the persons engaged in the pillage of our timber, and the still more daring act of seizing our citizens, and transporting them out of the State. Learn, if you can, who they are—where from—how numerous they are—what are their designs—and whether they receive any countenance from British subjects living near the line.

Having fully expressed my views to you personally, I do not deem it necessary to be more particular in making this communication.

With full confidence that you will do everything in the premises which the honour and interest of your State require, I subscribe myself, &c.,

(Signed) JOHN FAIRFIELD,
Governor of Maine.

Inclosure 37 in No. 30.

Governor Fairfield to Sir John Harvey.

Sir,

Augusta, February 15, 1839.

THIS communication will be handed to you by the Hon. Jonathan P. Rogers, a distinguished citizen of this State, whom I have requested to proceed to Frederickton, for the purpose of conferring with your Excellency upon a most extraordinary and high-handed proceeding, on the part of certain trespassers upon the public lands, in seizing and transporting beyond the bounds of the State, the Hon. Rufus McIntire, land agent, and several other persons while aiding him in the regular and legal execution of the duties of his office—and for the purpose of procuring their release. Mr. Rogers will inform your Excellency of the facts as they have been reported here, and confer with you generally upon the subject.

I cannot doubt that your Excellency will furnish Mr. Rogers with the information in your possession, and will afford him every facility in accomplishing the object of his mission.

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

Inclosure 38 in No. 30.

Appointment of Mr. Jarvis.

Sir,

Augusta, February 15, 1839.

AN extraordinary state of affairs upon what is called the disputed territory, has induced me to invite your services in the cause of the State. By the inclosed resolve, you will perceive that the State has come to the determination of breaking up and putting an end to the trespassing upon the public lands. Under this resolve, Mr. McIntire, the land agent, repaired to the scene of operations, with about 200 chosen men. The trespassers had combined, and intended to resist every attempt to disperse them—but finding that our men had supplied themselves with artillery, they thought it prudent to leave the ground, though 300 in number. After this, however, Mr. McIntire with four others, being unfortunately separated from the main body, were seized by a detachment from the trespassers, and transported beyond the bounds of the State. Our men are now on No. 10, upon the Aroostook, fortified, where they will remain until they receive a reinforcement, and then proceed to the further execution of the resolve alluded to.

Under these circumstances, it has become necessary for me to appoint some one to take the place of Mr. McIntire, and to lead on the expedition. I know of no gentleman better qualified for the service than yourself, and trust that you will find no obstacle in the way of your acceptance of the appointment.

Mr. Strickland, Sheriff of Penobscot, is instructed to procure forthwith, from 200 to 300 additional men. He has also been supplied with the necessary funds. I hope you will immediately set out for Bangor, where you can confer with Major Strickland, and repair at the earliest possible moment, with the additional force, to the scene of the trouble, where you will proceed to execute the resolve of the 24th of January.

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

Inclosure 39 in No. 30.

Message of Governor Fairfield to the Senate and House of Representatives.

[See Inclosure 11 in No. 5, p. 35.]

Inclosure 40 in No. 30.

Sir John Harvey to Governor Fairfield.

*Government House, Frederickton,
New Brunswick, February 13, 1839.*

[See Inclosure 14 in No. 5, p. 38.]

Inclosure 41 in No. 30.

Proclamation by Major-General Sir John Harvey.

Frederickton, February 13, 1839.

[See Inclosure 2 in No. 4, p. 19.]

Inclosure 42 in No. 30.

Resolves of the Legislature of Maine, February 20 and 22.

[See Inclosure 12 in No. 5, p. 37.]

Inclosure 43 in No. 30.

*House of Representatives,
February 18, 1839.*

ON motion by Mr. Vose of Augusta,

Ordered, That the Governor be requested to communicate forthwith to the Executive of Massachusetts, any information in his possession, relating to trespasses committed upon the disputed territory—and to request her aid in the measures taken by this State.

Sent up for concurrence.

CHARLES WATERHOUSE,
Clerk.

In Senate, February 19, 1839.

Read and concurred.

WILLIAM TRAFTON,
Secretary.

Inclosure 44 in No. 30.

*House of Representatives,
February 20, 1839.*

ON motion by Mr. Allen, of Alfred,

Ordered, That the Governor be requested, if he shall deem it expedient, to communicate to this House, such further correspondence as he may have had with Sir John Harvey, upon the subject of the north-eastern boundary.

Read and passed.

CHARLES WATERHOUSE,
Clerk.

Inclosure 45 in No. 30.

Message of Governor Fairfield to the House of Representatives.

AGREEABLY to your request of this day, I herewith lay before you my reply to the letter of Sir John Harvey, Lieutenant-Governor of the Province of New Brunswick, under date of the 13th instant, his letter having been heretofore communicated.

(Signed) JOHN FAIRFIELD

Council Chamber February 20, 1839.

Inclosure 46 in No. 30.

Governor Fairfield to Sir John Harvey.

*Executive Department,
Augusta, February 19, 1839.*

[See Inclosure 16 in No. 5, p. 39.]

Inclosure 47 in No. 30.

Message of Governor Fairfield to the House of Representatives.

Council Chamber, February 21, 1839.

[See Inclosure 22 in No. 5, p. 42.]

Inclosure 48 in No. 30.

Sir John Harvey to Governor Fairfield.

*Government House,
Frederickton, N. B., February 18, 1839.*

[See Inclosure 23 in No. 5, p. 43.]

Inclosure 49 in No. 30.

Sir John Harvey to Messrs. McIntire, Cushman, Bartlett, and Webster.

*Frederickton, New Brunswick,
February 18, 1839.*

[See Inclosure 24 in No. 5, p. 44.]

Inclosure 50 in No. 30.

Governor Fairfield to Sir John Harvey.

*Executive Department,
Augusta, February 21, 1839.*

[See Inclosure 25 in No. 5, p. 44.]

Inclosure 51 in No. 30.

Mr. Street to Mr. Jarvis.

*At the Mouth of the Aroostook, River St. John's,
Province of New Brunswick, February 17, 1839.*

[See Inclosure 26 in No. 5, p. 44.]

Inclosure 52 in No. 30.

Mr. Jarvis to Mr. Street.

*Confluence of the St. Croix Stream, Aroostook River,
Township No. 10, State of Maine, February 19, 1839.*

[See Inclosure 27 in No. 5, p. 45.]

Inclosure 53 in No. 30.

Governor Fairfield to President Van Buren.

Executive Department, Augusta, February 18, 1839.

[See Inclosure 6 in No. 5, p. 31.]

Inclosure 54 in No. 30.

Governor Fairfield to President Van Buren.

*Executive Department,
Augusta, February 19, 1839.*

[See Inclosure 15 in No. 5, p. 39.]

Inclosure 55 in No. 30.

Governor Fairfield to President Van Buren.

*Executive Department,
Augusta, February 22, 1839.*

[See Inclosure 31 in No. 5, p. 51.]

Inclosure 56 in No. 30.

The Clerk of the House of Representatives to the President of the United States.

Sir,

Augusta, Me., March 23, 1839

BY the direction of the House of Representatives of the State of Maine,
I have the honour, herewith, to transmit a copy of a resolution yesterday
unanimously adopted by that body.

I have, &c.,
(Signed) **GEORGE ROBINSON,**
Clerk, House Representatives.

Inclosure 57 in No. 30.

STATE OF MAINE.

Resolve relating to the North-Eastern Boundary.

Resolved, by the House of Representatives, That the unquestionable right of this State to the whole of the territory embraced within her limits, as described by the Definite Treaty of Peace of Seventeen Hundred and Eighty-three, ought never to have been submitted to arbitration: and, in the opinion of this House, to consent to another arbitration would be an abandonment of the rights and interests of Maine.

House of Representatives, March 22, 1839.

Read and passed:-

(Signed) H. HAMLIN,
Speaker.

Text: GEO. ROBINSON, Clerk.

Inclosure 58 in No. 30.

The Secretary of State of the United States to the Governor of Maine.

SIR,

Department of State,
Washington, April 2, 1839.

YOUR letter of the 23d ultimo, communicating to the President a resolve of the House of Representatives of Maine, relating to the north-eastern boundary, passed on the preceding day, has been referred to this department, with instructions that I should state to you that the resolve referred to will be respectfully considered by the President.

I am, &c.,
(Signed) JOHN FORSYTH.

Inclosure 59 in No. 30.

The Secretary of State of the United States to the Governor of Maine.

SIR,

Department of State,
Washington, August 4, 1839.

I HAVE the honour to transmit to you, by the directions of the President, a copy of a communication from Mr. Fox, of the 30th of July, and of the extract from his instructions from the British Government, which he sent with it.

I am, &c.,
(Signed) JOHN FORSYTH.

Inclosure 60 in No. 30.

The Acting Secretary of State to the Governor of Maine.

SIR,

Department of State,
Washington, November 6, 1839.

THE British Minister, in a note addressed on the 2nd instant, to this department, states that information, which had reached his Government in England, and more recent intelligence received by himself from the authorities of the Province of New Brunswick, had made it his duty to call the attention of the Government of the United States, to the alleged facts that—Firstly. The armed posse stationed by the State of Maine, for the protection of the public property in the disputed territory, had extended

its operation, and its armed occupation of the country along the whole way from the valley of the Restook to the mouth of Fish River, into the valley of St. John, and thus into a portion of the Madawaska settlements.

Secondly. That the establishments formed by persons composing the armed parties, on the banks both of the Restook and the Fish River, had assumed an aspect and character decidedly military, and more representing a permanent national possession of the country, than could be required in the civil posse of a land agent, temporarily occupying it for the sole purpose of preventing trespasses. That those establishments were fortified with entrenchments and cannon, and garrisoned by a number of armed men, far greater than the occasion would warrant.

Thirdly. That a permanent state road is being constructed, leading into the valley of the Restook, and from thence on the south side of the St. John's, to the Fish River; the object of which is to connect those portions of the disputed territory with the towns of Augusta and Bangor, and other acknowledged parts of the State of Maine.

Fourthly. That, moreover, land surveyors, acting under the authority of the State, are employed in marking out lots, and townships within the same portion of the disputed territory; and that sales of lands are being made, with deeds regularly drawn under the authority of Maine.

The British Minister protesting in the name of his Government, against acts of encroachment on the part of the people of Maine, as being at variance with the agreements entered into in the month of February last, first between him and the Secretary of State at Washington, and subsequently, by your Excellency, the Governor of New Brunswick, and Major-General Scott, for the purpose of adverting the danger of local collision on the frontier, pending the final settlement of the boundary question between the two Governments, thinks that the establishment, in the meantime, of the new interests, and the growing up, as it were, of new proprietary claims upon the lands yet in dispute, which are likely to be the result of the acts referred to, may end by embarrassing the action of both Governments.

In support of this opinion, Mr. Fox states that a similar reasoning was held on the part of the United States, when, in the year 1837, this Government remonstrated against an alleged act, or design rather, of encroachment of a less objectionable character than the operations to which he refers, namely, the survey of a projected line of railroad from Quebec to St. Andrews, passing through a part of the disputed territory, and he adds that, for the preservation of peace between the people on both sides, and of good will between the two nations, such acts as those complained of, ought to be desisted from, and the existing arrangements observed in good faith.

The President, to whom Mr. Fox's note has been communicated, has directed me to express to you his anxious desire, that no occasion should be permitted to call in question, the faithful observance, by the Governments of the United States and Maine, of the arrangements referred to, a sentiment in which he is confident your Excellency will freely concur, and to request that you will transmit to this department, such information as may be in possession of the Government of Maine, in relation to the acts referred to, in order that an appropriate answer may soon be returned to Mr. Fox's communication.

I have, &c.,
(Signed) A. VAIL,
Acting Secretary.

Inclosure 61 in No. 30.

The Governor of Maine to the Acting Secretary of State.

Sir,

*Executive Department,
Saco, November 21, 1839.*

I HAVE the honour to acknowledge the receipt of your communication of the 6th instant, reciting certain complaints that have been made by

the British Government, through its Minister, Mr. Fox, of the authorities of this State for certain alleged proceedings on the part of the latter, in relation to the "disputed territory;" and I lose no time in complying with the request "to transmit such information as may be in the possession of the Government of Maine in relation to the acts referred to, in order that an appropriate answer may soon be returned to Mr. Fox's communication."

The first complaint is, "that the armed posse stationed by the State of Maine for the protection of the public property in the disputed territory, advancing beyond the stipulated limits, has extended its occupation of the country along the whole way from the valley of the Restook to the mouth of Fish River, into the valley of the St. John's, and thus into a portion of the Madawaska settlements."

This complaint is probably founded upon the following facts.—Early last spring, the land agent of the State sent a small force, consisting of some twenty-five men, to Fish River, to disperse a band of trespassers understood to be operating at that place. The enterprise was successful. Their camps were broken up, some of the trespassers driven off, and a few with their teams, were brought out to the settlement on the Aroostook, though subsequently released. The land agent deeming his work but half accomplished, again sent a small force, of about the same number of men as composed the first party, to the mouth of Fish River, to extend a boom across it to prevent the timber which had been cut by the trespassers being driven out into the St. John's, and to prevent further depredations by cutting. That force has remained there until the present time; and has, I believe, been signally successful in accomplishing the objects of the expedition.

This proceeding violates no stipulation ever entered into by the authorities of this State. In no proper sense can the Madawaska settlements be said to include the territory as far west as Fish River, upon either side of the St. John's, it being a distance of some twenty-five miles above it, and the two not being connected by continuous occupations or settlements. But supposing the Fish River territory to be a part of the Madawaska settlements, even then, I maintain there has been no infringement of the stipulations on the part of this State, referred to by Mr. Fox. In that arrangement, negotiated through the agency of General Scott, the right was not relinquished, on the part of this State, of going anywhere upon the disputed territory with an armed posse for the purpose of protecting the timber then recently cut and to prevent further depredations; but such right was expressly reserved, or rather the intention of exercising it was distinctly avowed.

So far as I am informed, the armed posse have confined their operations to the objects before stated, and have given no just cause of complaint, unless the prohibiting Colonel McLaughlan, the Provincial Land Agent, from driving timber down the St. John's into the province of New Brunswick, constitutes such cause. And, in regard to this, I must be permitted to say, that the authorities of Maine can see no reason for making a distinction between persons attempting to drive our timber from the State into a foreign jurisdiction, whatever may be the pretence set up.

Secondly, it is alleged "that the establishments formed by persons composing the armed parties on the banks, both of the Restook and the Fish River, had assumed an aspect and character more decidedly military and more resembling a permanent national possession of the country than could be required in the civil posse of a land agent temporarily occupying it for the sole purpose of preventing trespasses. That these establishments were fortified with entrenchments and cannon, and garrisoned by a number of armed men far greater than the occasion would warrant."

The party at Fish River as before stated, is composed of about twenty-five men,—not militia or soldiers, but hired labourers. A boom has by them been thrown across the river to stop the timber in its passage down. They have erected a blockhouse near the boom, and are armed with muskets. If this assumes "an aspect and character," in the eyes of our provincial neighbours "decidedly military," we hope it is not formidable

enough to create any alarm. But whether it is a force more than sufficient to protect the public property of the State from numerous bands of lawless men, grown desperate by being deprived of their accustomed plunder, and over whom their own government seems heretofore to have had but little controul, is a question which this State must be permitted to decide for itself. In such a case it would be degrading to consent that limits should be prescribed by any power whatever. If the right to protect our territory from invasion, and the public property from plunder, be clear and undeniable, no less so is the choice of means for carrying that right into effect.

Upon the Aroostook a large number of men have been employed. A boom has been extended across the river—a fortification of hewn timber erected near it—and a blockhouse and a few other more temporary buildings put up. The men stationed at what is called the Fort, say twenty-five or thirty in number, are armed with muskets, and I believe that they have also two small pieces of artillery. The remainder, say 100 to 125, have been engaged for the most part in opening roads for summer as well as winter communication, and preparing facilities for supplying the posse. How far these proceedings furnish ground for the complaints of the British Government, you will judge. That any preparations short of them would be insufficient to protect the public property, to me seems to be clear. At all events, the complaint at the extent of this force, was hardly to have been expected from the British Government just at this moment, when a few days only have elapsed since some fifty of its own subjects, bearing the Queen's arms, and otherwise suitably equipped, headed by a veteran militia captain, made an assault in the dead of night upon that very force which is now described as "greater than the occasion would warrant."

No better justification is needed for the course which has been pursued by Maine, especially in regard to the force employed, than a reference to this case. Nor is the force of the circumstance diminished by the fact, that this attack was repulsed by the firing of but one gun; for a disposition is manifested which may not always exhibit itself in so harmless a manner. Again, the complaint at our "establishments upon the disputed territory fortified with entrenchments and cannon," would seem to come with but little show of consistency from the British Government, when it has just completed most extensive and permanent barracks upon the same territory, north of the St. John's, and is in the habit of transporting troops and munitions of war over it at their pleasure.

The third allegation is, "that a permanent state road is being constructed, leading into the valley of the Restook, and from thence, on the south side of the St. John's to the Fish River, the object of which is to connect those portions of the disputed territory with the towns of Augusta and Bangor, and other acknowledged parts of the State of Maine."

That a road commencing near Mattawamkeag point in the county of Penobscot, extending to the Aroostook River, and thence on to the mouth of Fish River, upon the St. John's, is in process of construction, and is even now passable the whole way with some vehicles, is certainly true. But it is not perceived why, at this particular time, it should be regarded as a cause of complaint. This is no new thing. An appropriation for this road was made by the Legislature of this State as early as 1826; from which time it has steadily progressed, and in another year, probably, will be nearly if not quite completed. To say nothing of other advantages anticipated from it, it is manifest that it will afford great facilities for preventing trespasses upon the public lands; and indeed, I may say, that trespassing upon the streams emptying high up upon the St. John's cannot be prevented without such a road. This, therefore, is no new project, got up in violation of any stipulation or understanding, to which this State has in any way been a party, or for the purpose of gaining an additional extent of possession; but is the exercise of a lawful right over that portion of the territory to which we have not only the legal title, but over which we have ever had possession and jurisdiction.

But again, may I not inquire with what propriety and consistency this complaint is made on the part of Great Britain, when she has

herself constructed a permanent railroad over a large part of the territory north of the St. John's, which, it is understood, was very thoroughly repaired the present season, and over which her subjects are constantly passing.

The last allegation is, "that land surveyors, acting under the authority of the State, are employed in marking out lots and townships within the same portion of the disputed territory, and that sales of land are being made with deeds regularly drawn under the authority of Maine."

That Maine is not managing, in the particulars mentioned, these lands upon the Aroostook, and those south of the St. John's, in the same manner that she has been accustomed to since her separation from Massachusetts, and as that State managed them prior to that period, is true. For the last thirty years we have been occasionally surveying and lotting these lands, granting them for literary, charitable, and religious purposes, and selling in small lots to actual settlers. And has this Boundary Question so far advanced, it may be asked, that we cannot now do, with a remonstrance on the part of the British Government, what we have been so long in the habit of doing? Has the almost interminable negotiations—all the efforts that have been put forth—all the events that have occurred,—especially the exciting events of the last year,—but served to weaken our title, diminish our rights, and curtail our privileges? Sure, I am, that Maine will not readily adopt such a view, or quietly yield to its consequences. She has been indulging the hope that some progress towards an acknowledgment of her rights, and the acquisition of her property, had been made, and I am well persuaded she has no disposition, at the present time, to make any retrograde movement.

In compliance with your request, I have now communicated the facts upon which the complaints of the British Government are supposed to be founded. In doing it, and in the accompanying remarks, I have had no intention or desire of producing irritation, or adding, in any degree, to the excitement already existing. This subject is far too momentous, and too nearly involves the peace of the countries interested, to justify any remarks founded in passion or feeling. But it is due to the State, whose organ, upon this occasion, I am, as well as to the whole country, to speak plainly, and without disguise. And under this solemn impression, I must say, that Maine, in my opinion, has done nothing which she was not fully justified in doing, and nothing which she will not be ready to defend with her best powers. And further, that though she has not yet taken military possession of the disputed territory, a continued disposition, on the part of the British Government, to delay a settlement of the Boundary Question, will not fail, in my opinion, to induce such a step, whatever may be the consequences, should she not be relieved from that responsibility by the action of the General Government.

With the most earnest desire for a just, peaceful, and speedy settlement of the question, I have, &c.

(Signed) JOHN FAIRFIELD,
Governor of Maine.

Inclosure 62 in No. 30.

The Governor of Maine to the President of the United States.

*State of Maine, Executive Department,
Augusta, December 23, 1839.*

Sir,

IT having been reported to me, that a large number of British troops had been stationed at Temiscouata Lake, in the disputed territory, and seeing extracts from the provincial papers confirmatory of these reports, I deemed it proper to apply directly to the Lieutenant-Governor of the Province of New Brunswick, which I did by letter of the 12th instant, to ascertain whether these reports were well founded or not. His answer, under date of December 19th, I received yesterday, while on my way to this place. My letter and the reply, are both herewith inclosed. It will

be perceived that two companies of British troops have actually been marched into the disputed territory, and stationed at the Temiscouata Lake, where, it is well known, extensive barracks had been previously erected. This is clearly a violation of the spirit of the agreement entered into between the Lieutenant-Governor of New Brunswick and myself, in March last, though the orders have been issued by the Governor of Lower Canada. I submit, also, whether the contingency contemplated by the Act of Congress of March 3, 1839, has not occurred: whether the facts do not clearly show an invasion of the State of Maine, which the Executive Government of the United States, under the directions of the act aforesaid, as well as under the obligations of the Constitution, is bound to repel.

I may add, that I am well informed that the British Government is also erecting barracks upon both sides of the St. John's, near the mouth of the Madawaska River, and that troops are concentrating at Grand Falls. Under all these circumstances, I deem it to be my duty to call upon the Government of the United States for that protection of this State from invasion, guaranteed to her in the constitution.

With the highest respect, I am, &c.

(Signed)

JOHN FAIRFIELD,
Governor of Maine.

Inclosure 63 in No. 30.

The Governor of Maine to Sir John Harvey.

*Executive Department,
Saco, December 12, 1839.*

[See Inclosure 5 in No. 28, p. 107.]

Inclosure 64 in No. 30.

Sir John Harvey to the Governor of Maine.

*Government House,
Fredericton, N. B., December 19, 1839.*

[See Inclosure 6 in No. 28, p. 108.]

Inclosure 65 in No. 30.

The Secretary of State to the Governor of Maine.

*Department of State,
Washington, January 2, 1840.*

YOUR letter of the 23rd ultimo to the President, has, with its inclosures, been received and referred to this department. The information therein contained, respecting the alleged occupation by British troops of a portion of the disputed territory, had before reached him from another quarter, and, by his direction, had immediately been made the subject of representations from this department to the British Minister, accompanied by a request that he would communicate such information in relation to the subject as he might have in his possession, or could obtain from the British colonial authorities. Presuming that the desired information is to be procured from the last mentioned source, sufficient time has not yet been afforded for that purpose; but, I am instructed by the President to state that so soon as an answer is received from the British Minister, its purport shall be communicated to your Excellency.

I have, &c..

(Signed)

JOHN FORSYTH.

Inclosure 66 in No. 30.

Mr. Fox to the Acting Secretary of State.

Sir,

Washington, July 30, 1839.

I HAVE the honour to acquaint you, for the information of the Government of the United States, that Her Majesty's Government has appointed Colonel Mudge, of the Royal Engineers, and Mr Featherstonhaugh, accompanied by several assistants, to proceed to the territory in dispute between Great Britain and the United States, on the north-eastern frontier of the Republic, for the purpose of making, during the present summer, and before the negotiation which is pending for the establishment of a new joint Commission of Exploration, can, as that negotiation now stands, be terminated, a topographical survey of various parts of the said disputed territory, for the use and information of Her Majesty's Government. Colonel Mudge and Mr. Featherstonhaugh arrived at New York on the 28th instant, and will proceed forthwith to the performance of the duty which has been assigned to them. I have the honour herewith to inclose to you the extract of a despatch from Her Majesty's Secretary of State for Foreign Affairs, directing me to make the present communication to the Government of the United States.

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

Inclosure 67 in No. 30.

Viscount Palmerston to Mr. Fox.

Foreign Office, July 9, 1839.

[See Inclosure 2 in No. 20, page 88.]

Inclosure 68 in No. 30.

The Acting Secretary of State to Mr. Fox.

Washington, August 19, 1839.

[See Inclosure in No. 25, page 96.]

Inclosure 69 in No. 30.

Mr. Fox to Mr. Forsyth.

Washington, November 2, 1839.

[See Inclosure 1 in No. 27, page 98.]

Inclosure 70 in No. 30.

Mr. Forsyth to Mr. Fox.

Washington, December 24, 1839.

See Inclosure 3 in No. 28, page 105.]

Inclosure 71 in No. 30.

Mr. Fox to Mr. Forsyth.

Washington, January 12, 1840.

[See Inclosure 1 in No. 30, p. 113.]

Inclosure 72 in No. 30.

Mr. Forsyth to Mr. Fox.

*Department of State,
Washington, January 16, 1840.*

[See Inclosure 2 in No. 30, page 114.]

Inclosure 73 in No. 30.

Mr. Poinsett to the President of the United States.

Sir,

War Department, January 22, 1840.

IN reply to that portion of the resolution of the Senate, referred by your direction to this department, by the Secretary of State, which requests you "to communicate to the Senate, so far as may not be incompatible with the public interest, whether any, and if any, what measures have been taken under the Act of Congress of March, 1839, or otherwise, to cause the removal or expulsion of the British troops, which have taken possession of a portion of the territory of Maine, claimed by Great Britain, and especially whether, since the last Session of Congress, any military posts have been established in Maine, or any other military measures adopted, preparatory to a just vindication of the honor and rights of the nation and of Maine, as connected with the persevering claim made by Great Britain, to a portion of the territory of that State,"—I have the honor to state, that the circumstance of a portion of the territory of Maine claimed by Great Britain, having been occupied by British troops, was recently communicated to the Government, and having been made the subject of remonstrance, and become a matter of discussion between the two Governments, no measures of a character referred to by the resolution, have been taken, either under the Act of Congress of March, 1839, or otherwise.

A careful military reconnoissance of the undisputed boundary of the State of Maine, was made in 1838, and the result submitted to the Senate during the last Session of Congress; but as no appropriation was made for the erection of fortifications on the sites selected for that purpose, none were commenced; and as is fully set forth in your last annual message to Congress, it did not appear, that the contingency contemplated by the Act alluded to, had occurred, no military measures whatever were deemed necessary, or were adopted.

Very respectfully, &c.,
(Signed)

J. R. POINSETT.

Inclosure 74 in No. 30.

Message from the President of the United States, communicating additional correspondence in relation to the adjustment of the North-Eastern Boundary, and the occupation of the disputed Territory.

To the Senate of the United States:

Washington, January 29, 1840.

I HEREWITH transmit to the Senate, with reference to their resolutions of the 17th instant, copies of two official notes which have passed, subsequently to the date of my message of the 22nd, between the Secretary of State and the British Minister at Washington, containing additional information in answer to the resolutions referred to.

(Signed)

M. VAN BUREN.

Inclosure 75 in No. 30.

Mr. Fox to Mr. Forsyth.

Washington, January, 26, 1840.

[See Inclosure 3 in No. 30, p. 116.]

Inclosure 76 in No. 30.

Mr. Forsyth to Mr. Fox.

*Department of State,
Washington January 28, 1840.*

[See Inclosure 4 in No. 30, page 117.]

Inclosure 77 in No. 30.

Message from the President of the United States to the Senate.

Washington, March 9, 1840.

IN addition to information already communicated, in compliance with the resolutions of the Senate of the 17th January last, I think it proper to transmit to the Senate copies of two letters, with inclosures, since received from the Governor of Maine, and of a correspondence relative thereto between the Secretary of State and the British Minister.

(Signed) M. VAN BUREN.

Inclosure 78 in No. 30.

The Governor of Maine to the President of the United States.

*Executive Department,
Augusta, (Me.) February 15, 1840.*

Sir,

A COMMUNICATION from Mr. Fox, the British Minister, to Mr. Forsyth, Secretary of State, under date of January 26th, contains the following statement:

“It appears from accurate information now in possession of the Under-signed, that the Governor of Maine, and, through him the President and General Government of the United States, have been misinformed as to the facts. In the first place, no reinforcement has been marched to the British post at the Lake Temiscouata; the only change occurring there has been the relief of a detachment of Her Majesty’s 24th Regiment, by a detachment of equal force of the 11th Regiment; this force of one company being now stationed at the Temiscouata post, as it always has 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. In the second place, it is not true that the British authorities either have built, or are building, barracks on both sides of the St. John’s River, or at the mouth of the Madawaska River; no new barracks have, in fact, been built any where.”

This statement has been read by the citizens of this State with the most profound astonishment. And, however high may be the source from which it emanates, I must be permitted to say, in the language of that high functionary, that it is not true; though, in justice to him, I should add, that he has been misinformed. Though this State, in the vindication of her rights and maintenance of her interests, relative to her territorial boundary, from past experience, had no reason to expect any material admissions of the truth on the part of the British authorities, she was not prepared to meet such a positive and unqualified denial of

facts as the foregoing exhibits, especially of facts so easily susceptible of proof. The accuracy of the information alleged to be in the possession of the Minister is only equalled by the justice of the pretensions heretofore set up in regard to title.

But, not to be bandying assertions where proof is abundant, I deem it my duty to transmit to your Excellency the depositions of a number of gentlemen, citizens of this State, of great respectability, and whose statements are entitled to the most implicit confidence.

These depositions abundantly prove that, up to May last, nearly two months subsequent to the arrangement entered into through the mediation of General Scott, no troops whatever were stationed at Temiscouata Lake; that in August, September, and October, the number did not exceed twenty-five; while now it has been increased to about two hundred: that, prior to May, no barracks had been erected at Temiscouata; but that, since that time, two have been built at the head of the lake, besides some five or six other buildings apparently adapted to the establishment of a permanent military post, and at the foot of the lake, two or more buildings for barracks and other military purposes; that, though no new barracks have been erected at Madawaska, certain buildings, heretofore erected, have been engaged for use as such: that a road has been constructed, connecting the military post at the head and foot of the lake—a towpath made the whole length of the Madawaska River—the road from the head of the lake to the military post at the River Des Loup thoroughly repaired—transport boats built, &c., &c.

I would further inform your Excellency, that an agent has been dispatched to Temiscouata and Madawaska for the purpose of procuring exact information of the state of things there at the present moment: but having incidentally found some evidence of the state of things prior to November last, I have thought best to forward it without delay for the purpose of disabusing the Government and the country of the errors into which they may have been led by the communication before alluded to. The report of the agent will be transmitted as soon as received, which may be short of two weeks.

Under these circumstances, I have only to repeat my official call upon the General Government for the protection of this State from invasion.

I have, &c.,

(Signed) JOHN FAIRFIELD,
Governor of Maine.

Inclosure 79 in No. 30.

Report to the Governor of Maine.

Augusta, Maine, February 27, 1840.

[See Inclosure 10 in No. 30, p. 122.]

Inclosure 80 in No. 30.

Resolutions of the Legislature of Maine upon the question of the Boundary.

*British Consulate, Maine and New Hampshire,
Portland, March 5, 1840.*

(Extract.)

ON the 4th instant the following resolutions were brought before the House by Mr. Paine and referred to a committee, viz.:—

First resolution declares “that a continued delay of the British Government to any just and reasonable measure for the settlement of the line, together with recent military movements known to have taken place in the Provinces, clearly indicates a determination on its part, to maintain, by force, if necessary, its usurped and unjustifiable possession of a portion of this State.”

"Second, complains of the delay of the General Government of the United States to prosecute a system of defences for the country, and to make preparations for war which may not be very remote, and to which the clearest dictates of patriotism and common prudence urge."

"Third, That the peculiarly exposed condition of Maine, having a long line of sea coast, calls for the immediate attention of the General Government.

"Fourth, that the British troops quartered upon our territory cannot, consistently with the national honor, be permitted to remain, and that, unless voluntarily withdrawn, it will be the duty of the General Government to expel them by force"

"Fifth, that if during the Session of Congress, no reply should be made by the British Government to a proposition of the General Government (supposed to have been submitted in July last), it will be the imperative duty of our Government to take military possession of the territory and maintain it."

"Sixth, that while a reasonable prospect remains that the General Government will enforce the rights of Maine by taking military possession of the whole territory in dispute, in case the attempt to effect an amicable settlement of the line, should be unsuccessful, this State will forbear to take such possession herself, and no longer."

No 31.

Viscount Palmerston to Mr. Fox.

Sir,

Foreign Office, April 14, 1840.

IN my despatch of the 19th of February last, I instructed you to acquaint the Government of the United States, that Her Majesty's Government were only waiting for the detailed Report which Colonel Mudge and Mr. Featherstonhaugh were then preparing, in order to send to the United States an answer to their last communication about the Boundary Question. I had hoped that the Report would have been completed by this time, and that I might have been enabled to give you instructions thereupon by the present steamer, but it has not yet been delivered in. I have reason to expect, however, that the Report will be ready in the course of a week, when it will be immediately taken into consideration by Her Majesty's Government.

I am, &c.,

(Signed) PALMERSTON.

No. 32.

Mr. Fox to Viscount Palmerston.—(Received April 16, 1840.)

(Extract.)

Washington, March 30, 1840.

THE last document transmitted to Her Majesty's Government in my despatch of the 17th instant, belonging to the series of correspondence that has passed between the United States Government and myself, in relation to the affairs of the disputed territory, was an official note presented by me to Mr. Forsyth on the 13th instant, in conformity with the instructions contained in your Lordship's despatch of the 19th of February.

I formally protested anew in that note against the acts of aggression of the State of Maine, which, so far from being disproved or discontinued, are, on the contrary, persisted in and avowed; and I announced the line of conduct which, under these circumstances, Her Majesty's Government have resolved to pursue for the protection of Her Majesty's rights, pending the negotiation of the Boundary Question.

I have the honour, in the present despatch, to inclose the copy of a detailed answer to the above note, addressed to me by Mr. Forsyth on the 25th instant, together with the copy of another short official note in reply, which, after receiving Mr. Forsyth's answer, I presented to him on the 26th.

I have contented myself, in this last reply, as no new facts or arguments had been produced by Mr. Forsyth, with referring to, and repeating, the protests and declarations contained in the preceding parts of my correspondence, and with recording my opinion, that an adherence to the line of conduct resolved upon by Her Majesty's Government for the defence of Her Majesty's rights, offers the only means of protecting those rights from being, in a continually-aggravated manner, encroached upon and violated. These additional documents, which I now inclose, have been communicated by the President to the Senate. They are referred, together with the rest of the correspondence, to the Senate's Committee of Foreign Affairs. No report from the Committee has yet been made, and no other proceedings had in Congress, excepting some additional speeches delivered by the Senators from Maine and Massachusetts, upon occasion of the communication of the last papers, in a tone, I was glad to perceive, of less hostility than before.

I shall now consider the correspondence as closed on my side, at least for the present, and unless I shall receive instructions from your Lordship to resume it. In continuing the correspondence, as the case now stands, I should only have to repeat again and again the same declarations that have been already made.

Her Majesty's Government cannot acquiesce in the arguments persisted in by Mr. Forsyth in his last official note here inclosed, either as regards the geographical limits of the Madawaska Settlement, or the extent of country over which, according to a fair construction of the provisional agreements of last year, the operations of the Maine Land Agent's posse, employed for the purpose of preventing depredations upon the public timber, were to be allowed to reach. But, on the other hand, the position of Her Majesty's Government has, in the course of the correspondence, been distinctly defined, and the line of conduct to which Her Majesty's Government are resolved to adhere, for the defence of Her Majesty's rights, pending the negotiation of the Boundary Question, has been made known to the Government, and to the people of the United States, in a manner sufficiently clear and decisive. I now feel confident that the intention of violently interrupting the negotiation has been laid aside by the State of Maine, and that the two Governments will, from henceforward, be left to conduct the controversy to its conclusion, in a tranquil and reasonable manner. And this being the case, I see no just cause for apprehending, that the controversy will end in war. Both Governments, and the great majority of both nations, desire to have peace. The danger hitherto has been, that an incidental collision on the border, growing out of the reckless violence of the authorities of Maine, would hurry the two countries into war, in contradiction to the will of their Governments. But I hope and believe, that there is less reason to apprehend such a result now, than at any previous period since the beginning of the Boundary excitement, fifteen months ago.

It will be remarked, that the United States Secretary of State, in his last note, dated the 25th instant, makes an attempt to deny that the hostile and violent intentions imputed to the State of Maine have ever been, in fact, entertained by the authorities or people of that State; and he endeavours, in consequence, to have it appear, that the protests and declarations of Her Majesty's Government have been uncalled for and vexatious, and the accompanying military preparations and precautions unnecessary; but, in this, Mr. Forsyth lays out of view the plain facts of the case; namely, that the protests and declarations for which Her Majesty's authorities are reproached, and the military preparations complained of, with the publicity given to both, are the exact means that have served to induce the people of Maine to desist from those acts of violence which there is no doubt they meditated.

The session of the State Legislature of Maine was adjourned on the 18th instant. The resolutions in relation to the Boundary dispute, of which I had the honour to inclose a copy in my despatch of the 17th instant, were passed, in substance, by the two Houses of the State Legislature, previously to their adjournment, after being in some degree modified. I have not yet, however, received a copy of the resolutions, in the exact form in which they were passed.

Inclosure 1 in No. 32.

Mr. Forsyth to Mr. Fox.

*Department of State,
Washington, March 25, 1840*

THE Undersigned, Secretary of State of the United States, acknowledges to have received Mr. Fox's communication of the 13th instant, in reference to the Boundary negotiation, and the affairs of the disputed territory.

The information given in the closing part of it, that a reply to the last proposition of the United States upon the subject of the boundary, may be expected in a short time, is highly gratifying to the President, who has, however, given directions to the Undersigned, in making this acknowledgment, to accompany it with the expression of his profound regret that Mr. Fox's note is in no other respect satisfactory.

After the arrangements which in the beginning of last year were entered into on the part of the two Governments, with regard to the occupation of the disputed territory, the President had indulged the hope that the causes of irritation which had grown out of this branch of the subject would have been removed. Relying on the disposition of Maine to cooperate with the Federal Government in all that could lead to a pacific adjustment of the principal question, the President felt confident that his determination to maintain order and peace on the border, would be fully carried out. He looked upon all apprehensions of designs by the people of Maine to take possession of the territory, as without adequate foundation, deeming it impossible, that on the eve of an amicable adjustment of the question, any portion of the American people would, without cause and without object, jeopard the success of the negotiation, and endanger the peace of the country.

A troublesome, irritating, and comparatively unimportant, because subordinate subject, being thus disposed of, the President hoped that the parties would be left free at once to discuss, and finally adjust the principal question. In this he has been disappointed. While the proceedings of Her Majesty's Government at home have been attended with unlooked for delays, its attention has been diverted from the great subject in controversy by repeated complaints imputing to a portion of the people of the United States designs to violate the engagements of their Government, designs which have never been entertained, and which Mr. Fox knows would receive no countenance from this Government.

It is to be regretted that at this late hour so much ~~mis~~apprehension still exists on the side of the British Government, as to the object and obvious meaning of the existing arrangements respecting the disputed territory. The ill success which appears to have attended the efforts made by the Undersigned to convey through Mr. Fox to Her Majesty's Government, more correct impressions respecting them, calls for a recurrence to the subject; and a brief review of the correspondence which has grown out of it, may tend to remove the erroneous views which prevail as to the manner in which the terms of the arrangements referred to have been observed.

As Mr. Fox had no authority to make any agreement respecting the exercise of jurisdiction over the disputed territory: that between him and the Undersigned, of the 27th of February, 1839, had for its object some provisional arrangement for the restoration and preservation of peace in the territory. To accomplish this object, it provided that Her Majesty's officers should not seek to expel by force the armed party which had been sent by Maine into the district bordering on the Restook River; and that, on the other hand, the Government of Maine would, voluntarily and without needless delay, withdraw beyond the bounds of the disputed territory any armed force then within them. Besides this, the arrangement had other objects,—the dispersion of notorious trespassers, and the protection of public property from depredation. In case future necessity should arise for this, the operation was to be conducted by concert, jointly or separately, according to the agreement between the Governments of Maine and New Brunswick.

In this last-mentioned respect, the agreement looked to some further arrangements between Maine and New Brunswick. Through the agency o

General Scott, one was agreed to on the 23rd and 25th of March following, by which Sir John Harvey bound himself not to seek, without renewed instructions to that effect from his Government, to take military possession of the territory, or to expel from it, by military force, the armed civil posse, or the troops of Maine. On the part of Maine it was agreed by her Governor, that no attempt should be made without renewed instructions from the Legislature to disturb by arms the Province of New Brunswick, in the possession of the Madawaska Settlement, or interrupt the usual communication between that and the Upper Provinces. As to possession and jurisdiction, they were to remain unchanged; each party holding in fact, possession in part of the disputed territory, but each denying the right of the other to do so. With that understanding, Maine was, without unnecessary delay, to withdraw her military force, leaving only, under a Land Agent, a small civil posse, armed or unarmed, to protect the timber recently cut, and to prevent further depredations.

In the complaints of infractions of the agreements by the State of Maine, addressed to the Undersigned, Mr. Fox has assumed two positions which are not authorized by the terms of those agreements: 1st, admitting the right of Maine to maintain a civil posse in the disputed territory, for the purposes stated in the agreement, he does so, with the restriction that the action of the posse was to be confined within certain limits; and 2ndly, By making the advance of the Maine posse into the Valley of the Upper St. John the ground of his complaint of encroachment upon the Madawaska Settlement, he assumes to extend the limits of that Settlement beyond those it occupied at the date of the agreement.

The United States cannot acquiesce in either of these positions.

In the first place, nothing is found in the agreement subscribed to by Governor Fairfield and Sir John Harvey, defining any limits in the disputed territory, within which the operations of the civil posse of Maine were to be circumscribed.

The task of preserving the timber recently cut, and of preventing further depredations within the disputed territory, was assigned to the State of Maine, after her military force should have been withdrawn from it; and it was to be accomplished by a civil posse, armed or unarmed, which was to continue in the territory, and to operate in every part of it where its agency might be required, to protect the timber already cut, and prevent further depredations; without any limitation whatever, or any restrictions, except such as might be construed into an attempt to disturb by arms the Province of New Brunswick, in her possession of the Madawaska Settlement, or interrupt the usual communication between the Provinces.

It is thus, in the exercise of a legitimate right, and in the conscientious discharge of an obligation imposed upon her by a solemn compact, that the State of Maine has done those acts which have given rise to complaints for which no adequate cause is perceived. The Undersigned feels confident that when those acts shall have been considered by Her Majesty's Government at home, as explained in his note to Mr. Fox, of the 24th of December last, and in connexion with the foregoing remarks, they will no longer be viewed as calculated to excite the apprehensions of Her Majesty's Government that the faith of existing arrangements is to be broken on the part of the United States.

With regard to the second position assumed by Mr. Fox, that the advance of the Maine posse along the valley of the Restook to the mouth of Fish River, and into the valley of the Upper St. John, is at variance with the terms and spirit of the agreements, the Undersigned must observe, that if at variance with any of their provisions, it could only be with those which secure Her Majesty's Province of New Brunswick against any attempt to disturb the possession of the Madawaska Settlements, and to interrupt the usual communications between New Brunswick and the Upper Provinces. The agreement could only have reference to the Madawaska Settlements as confined within their actual limits at the time it was subscribed. The Undersigned, in his note of the 24th of December last, stated the reasons why the mouth of the Fish River and the portion of the valley of the St. John through which it passes; could in no proper sense be considered as embraced in the Madawaska Settlements.

Were the United States to admit the pretensions set up on the part of

Great Britain to give to the Madawaska Settlements a degree of constructive extension that might, at this time suit the purposes of Her Majesty's Colonial authorities, those settlements might soon be made with like justice, to embrace any portions of the disputed territory; and this right given to the Province of New Brunswick to occupy them temporarily, and for a special purpose, might by inference, quite as plausible, give the jurisdiction exercised by Her Majesty's Authorities, an extent which would render the present state of the question, so long as it could be maintained, equivalent to a decision on the merits of the whole controversy in favour of Great Britain. If the small settlement at Madawaska on the north side of the St. John's, means the whole valley of that river,—if a boom across the Fish River, and a station of a small posse on the south side of the St. John's, at the mouth of Fish River, is a disturbance of that settlement, which is twenty-five miles below,—within the meaning of the agreement, it is difficult to conceive, that there are any limitations to the pretensions of Her Majesty's Government under it, or how the State of Maine could exercise the preventive power with regard to trespasses, which was on her part, the great object of temporary arrangement. The movements of British troops lately witnessed in the disputed territory, and the erection of military works for their protection and accommodation, of which authentic information recently received at the Department of State, has been communicated to Mr. Fox, impart a still graver aspect to the matter immediately under consideration. The fact of those military operations established beyond a doubt, left unexplained, or unsatisfactorily accounted for, by Mr. Fox's note of the 7th instant, continues an abiding cause of complaint on the part of the United States, against Her Majesty's Colonial Agents, as inconsistent with arrangements, whose main object was to divest a question already sufficiently perplexed and complicated, from such embarrassments as those with which the proceedings of the British Authorities cannot fail to surround it.

If, as Mr. Fox must admit, the objects of the late agreements were the removal of all military force, and the preservation of the property from further spoliation, leaving the possession and jurisdiction as they stood before the State of Maine found itself compelled to act against the trespassers, the President cannot but consider, that the conduct of the American local authorities strongly and most favourably contrasts with that of the Colonial authorities of Her Majesty's Government. While the one, promptly withdrawing its military force, has confined itself to the use of the small posse, armed as agreed upon, and has done no act not necessary to the accomplishment of the conventional objects, every measure taken or indicated by the other party, is essentially military in its character, and can be justified only by a well-founded apprehension that hostilities must ensue.

With such feelings and convictions, the President could not see, without painful surprise, the attempt of Mr. Fox, under instructions from his Government, to give to the existing state of things a character not warranted by the friendly dispositions of the United States, or the conduct of the authorities and people of Maine—much more is he surprised to find it alleged as a ground for strengthening a military force, and preparing for a hostile collision with the unarmed inhabitants of a friendly State, pursuing within their borders their peaceful occupations, or exerting themselves in compliance with their agreements to protect the property in dispute from unauthorized spoliation.

The President wishes that he could dispel the fear that these dark forebodings can be realized. Unless Her Majesty's Government shall forthwith arrest all military interference in the question—unless it shall apply to the subject more determined efforts than have hitherto been made to bring the dispute to a certain and pacific adjustment the misfortunes predicted by Mr. Fox, in the name of his Government, may most unfortunately happen. But no apprehension of the consequences alluded to by Mr. Fox, can be permitted to divert the Government and people of the United States from the performance of their duty to the State of Maine. That duty is as simple as it is imperative.

The construction which is given by her to the Treaty of 1783, has been again and again, and in the most solemn manner, asserted also by the Federal Government, and must be maintained, unless Maine fully consents to a new Boundary, or unless the construction of the Treaty is found to be erroneous

by the decision of a disinterested and independent tribunal selected by the parties for its final adjustment. The President, on assuming the duties of his station, avowed his determination, all other means of negotiation failing, to submit a proposition to the Government of Great Britain to refer the decision of the question once more to a third party.

In all the subsequent steps which have been taken upon the subject by his direction, he has been actuated by the same spirit. Neither his disposition in the matter, nor his opinion as to the propriety of that course, has undergone any change. Should the fulfilment of his wishes be defeated either by an unwillingness on the part of Her Majesty's Government to meet the offer of the United States in the spirit in which it is made, or from adverse circumstances of any description, the President will in any event, derive great satisfaction from the consciousness that no effort on his part has been spared to bring the question to an amicable conclusion; and that there has been nothing in the conduct either of the Government and people of the United States, or of the State of Maine, to justify the employment of Her Majesty's forces as indicated by Mr. Fox's letter.

The President cannot under such circumstances apprehend that the responsibility for any consequences which may unhappily ensue, will, by the just judgment of an impartial world be imputed to the United States.

The Undersigned avails himself, &c.,

(Signed) JOHN FORSYTH.

Inclosure 2 in No. 32.

Mr. Fox to Mr. Forsyth.

Washington, March 26, 1840.

THE Undersigned, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, has had the honour to receive the official note of yesterday's date, addressed to him by Mr. Forsyth, Secretary of State of the United States, in reply to a note dated the 13th instant, wherein the Undersigned, in conformity with instructions received from his Government, had anew formally protested against the acts of encroachment and aggression, which are still persisted in by armed bands in the employment of the State of Maine, within certain portions of the disputed territory.

It will be the duty of the Undersigned, immediately to transmit Mr. Forsyth's note to Her Majesty's Government in England; and until the statements and propositions which it contains shall have received the due consideration of Her Majesty's Government, the Undersigned will not deem it right to add any further reply, than to refer to, and repeat, as he now formally and distinctly does, the several declarations which it has, from time to time, been his duty to make to the Government of the United States, with reference to the existing posture of affairs in the disputed territory; and to record his opinion, that an inflexible adherence to the line of conduct which Her Majesty's Government have announced it to be their resolution to pursue, for the defence of Her Majesty's rights, pending the negotiation of the Boundary Question, offers to Her Majesty's Government the only means of protecting those rights from being, in a continually-aggravated manner, encroached upon and violated.

The Undersigned avails himself, &c.,

(Signed) H. S. FOX.

No. 33.

Viscount Palmerston to Mr. Fox.

Sir,

Foreign Office, April 30, 1840.

HER Majesty's Government had been in hopes that they should have been able to have sent to you, by the "British Queen," instructions to make to the American Government a further proposal, with a view to arriving at a final settlement of the Boundary Question; but they have been disappointed. Her Majesty's Government felt that they could not fully make up their minds

as to the nature of the proposal to be submitted to the Government of the United States, until they had received and considered the Report of the Commissioners who were employed last summer and autumn in surveying the disputed territory; and the compilation of that report, and of its accompanying map, having taken rather more time than was at first expected, the Report has only very lately been received.

Her Majesty's Government will however now, without delay, give their most earnest attention to this matter; and I trust that by the next steam-packet I shall be able to send to you full instructions upon this subject. The course which Her Majesty's Government at present think of pursuing, is to communicate to the United States Government a copy of the Commissioners' Report, together with a proposal in reply to the last proposition made by the United States Government, for a joint Commission of Survey; and Her Majesty's Government will probably also feel it necessary to lay the Report of the British Commissioners before Parliament, together with certain other documents connected with the Boundary Question, which Parliament has already called for.

You will communicate the substance of this despatch to the Government of the United States.

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

No. 34.

Mr. Fox to Viscount Palmerston.—(Received June 17, 1840.)

(Extract.)

Washington April 17, 1840.

I HEREWITH inclose a correct printed copy of the resolutions upon the Boundary Question, which were adopted by the two houses of the State Legislature of Maine, previously to their adjournment on the 18th of last month, the substance whereof was referred to in my despatch of the 17th ultimo.

Inclosure in No. 34.

Resolutions of the Maine Legislature, 18th of March.

Resolved, That the patriotic enthusiasm with which several of our sister States, the past year, tended us their aid to repel a threatened foreign invasion, demands our grateful recollection; and whilst that 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 President 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 this agreement; and their decision in demanding the removal of the British troops now quartered upon the disputed territory, as the only guaranty that England sincerely desires 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 it has 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 that 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 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.

No. 35.

Mr. Fox to Viscount Palmerston.—(Received May 25, 1840.)

(Extract.)

Washington, May 7, 1840.

I HAVE had the honour to receive, by the steam packet *Great Western*, your Lordship's Despatch of the 14th of April, relating to the boundary negotiation.

Mr. Forsyth informs me that by the same conveyance he has received letters from Mr. Stevenson, which are considered satisfactory by the United States Government, inasmuch as they contain assurances of Mr. Stevenson's conviction, founded, I believe, upon recent personal communications with your Lordship, that a sincere desire exists on the part of Her Majesty's Government to conduct the boundary negotiation to an amicable conclusion.

No further correspondence upon the subject of the boundary affairs has passed between the American Government and myself, and no further proceedings have taken place in Congress, since the date of my Despatch of the 17th of April. The brief but important debate in the Senate of the 14th of April, of which a report was forwarded in that Despatch, has produced a favourable effect throughout the United States.

With reference to the latter part of the correspondence upon the boundary affairs which recently passed between the United States' Government and myself, I have now the honour to inclose copies of a further correspondence upon the same subject between Major-General Sir John Harvey and myself. Sir John Harvey's letter now inclosed, of the 16th of April, relates, it will be seen, principally to the positions assumed in Mr. Forsyth's official note to me of the 25th of March, (forwarded to Her Majesty's Government, in my Despatch of the 30th of March,) with reference to the geographical limits of the Madawaska Settlements, and to the extent of country over which, according to the true intent of the provisional agreement entered into at the beginning of last year, between the Governments of New Brunswick and Maine, the Maine land agent's posse ought to have been allowed to act.

Inclosure 1 in No. 35.

Mr. Fox to Sir John Harvey.

(Extract.)

Washington, March 28, 1840.

I HEREWITH inclose correct copies of two further official notes which have passed between the United States' Government and myself, upon the subject of the affairs of the disputed territory, subsequently to the date of my last letter to you.

These will probably close the correspondence for the present, at least on my part, and until I receive fresh instructions from Her Majesty's Government;

as in continuing it, I should only have to repeat again and again the same declarations which have been already made. Nevertheless, as circumstances may arise to render a renewal of the correspondence necessary, I would very particularly direct your attention to those paragraphs in Mr. Forsyth's note, which I have marked in the margin of the inclosed copy. It is impossible for us to acquiesce in the positions assumed by the United States' Government in those passages, and I shall be extremely glad to be favoured with your opinion upon the several points to which they relate; that is to say, upon the geographical limits, as hitherto always understood, of the Madawaska Settlements; and upon the extent of country over which, according to the fair construction of your agreement with Governor Fairfield, the operations of the Maine land agent's posse, employed for the purpose of preventing depredations upon the public timber, were to be allowed to reach. I do not know whether Her Majesty's Government may desire that I should resume the correspondence with the United States' Government upon the above points; but I shall be most glad to receive every needful information upon the points above mentioned.

Observing what has recently passed, I feel tolerably well assured that the people of Maine will attempt no further inroad or act of aggression over the disputed territory, during the present year at least; but that they will leave their case, for so long, altogether in the hands of the General Government.

Inclosure 2 in No. 35.

Sir John Harvey to Mr. Fox.

Government House,

Frederickton, N.B., April 16, 1840.

Sir,

I HAVE perused with deep interest the note addressed to your Excellency by Mr. Forsyth, under date of the 25th ultimo, of which you have transmitted me a copy and invited my observations upon.

As the subject of that communication relates almost exclusively to the Agreement entered into by the Governor of the State of Maine and myself, through the mediation of General Scott, in March, 1839, I feel myself called upon fully to possess your Excellency not only of the considerations by which I was influenced in acceding to the proposed Agreement, but also of my construction of the true intent, spirit, and meaning of its provisions.

A sudden and entirely unexpected irruption had been made by a large body of the militia of the State of Maine, under the authority of certain "resolves" of its Legislature, adopted after long discussion with closed doors, into a portion of the territory in dispute between Great Britain and the United States, (the whole of which territory had up to that period continued in the possession of Great Britain, and had provisionally constituted an integral part of the province of New Brunswick, subject to its laws and acknowledging no other jurisdiction,) viz., the Valley of the Restook, where they took post, fortified their position, and loudly announced their intention of taking immediate possession of the whole of the disputed territory; and, to support this advanced force, a further call was made by the Government of Maine on the militia of the State, large bodies of which accordingly assembled at Houlton and elsewhere, proclaiming their object. Under circumstances so extraordinary, and proceedings so little comprehensible on the part of a subordinate section of a nation at peace with Great Britain, I could only look to the instructions which I held from Her Majesty's Government for my guidance; by these I found myself required to protest in the first instance, both direct to the authorities of Maine, and through your Excellency to the General Government of the United States, and in the second, to be prepared to assert and maintain the possession and jurisdiction of Great Britain in and over the disputed territory, to give protection to Her Majesty's subjects settled therein, and to guard our established line of communication with Canada by the valley of the St. John and the Madawaska settlement.

The measures which I adopted with a view to the fulfilment of these instructions are known to your Excellency and to the world. At this crisis your Excellency interposed, and a correspondence was shortly afterwards opened with me upon the subject by my friend General Scott of the United States

army, of which the object was to avert a conflict of arms upon a point of comparatively minor importance with respect to the determination of the great question at issue between the two nations, by proposing that each party should pause, should mutually forbear from collision, and should continue in the position in which they then stood as to actual possession, neither party admitting or conceding the ultimate right of the other to such possession, Maine agreeing to withdraw the whole of her militia forces, upon my engaging to abstain from any offensive operations against them with a view to their expulsion.

Upon the ratification of an agreement to this effect, accompanied as it was by an assurance from General Scott, (which to me was entirely conclusive,) of his conviction that it would be fulfilled by Maine "cheerfully and in good faith," I immediately ordered back to Canada Her Majesty's 11th Regiment, which was then in the occupation of both banks of the St. John River, just below the confluence of it with the Madawaska, and I shortly afterwards despatched the warden of the disputed territory with a suitable posse, with instructions to seize and destroy all timber illegally cut, and effectually to prevent, by the force of the laws of this Province, all further depredations upon the timber of that portion of the disputed territory comprised in the valley of the Upper St. John.

Scarcely, however, had these orders been given and these movements made, in the very spirit as I declare to your Excellency, of an anxious desire on my part to give effect to what I considered to be the true intent of the arrangement, when I learned, with equal astonishment and concern, that a portion of the armed posse of Maine, had not only advanced from the valley of the Restook to that of the Upper St. John, and had established and commenced fortifying itself, (why do this, if not conscious of the infringement of the agreement which it was committing?) at the mouth of the Fish River; but that the person in charge of this party (of the name of Nye) had actually threatened to arrest the British warden (whose posse was unarmed) in the execution of the duties which I had assigned to him. Against this bold infraction of the agreement so recently concluded, I immediately protested to the Authorities of Maine, through its land agent, to the Presidential Government through your Excellency, and finally to General Scott as the mediator and guarantee of the compact; to whom I stated, that in order to do all that depended upon me to carry out the great object of the agreement, viz., the prevention of collision, I had instructed the warden to withdraw with his posse from the immediate neighbourhood of that of Maine, which, as I have before stated, had openly threatened to make a prisoner of the British functionary; one, be it remembered, whose appointment had been recognised and concurred in by the United States' Government.

With reference to these proceedings and to the agreement itself, I will here remark that, apart from the consideration of the establishment of the Maine posse at the mouth of Fish River being an encroachment on actual British possession, it cannot but be regarded as highly objectionable when viewed merely in the light of an extension of that of Maine, beyond what she possessed at the time of its conclusion.

In that agreement the Governor of Maine expressly consents to leave the question of possession and jurisdiction as they at present stand, *i. e.*, "Great Britain holding in fact possession of a part of the said Territory, and the Government of Maine denying her right to such possession, and the State of Maine holding in fact possession of another portion of the same territory to which her right is denied by Great Britain."

In giving effect to this agreement, the first inquiry would necessarily be, how the possession and jurisdiction of the respective parties actually stood at the time of its conclusion? On this point the facts are, that Great Britain held the actual possession and jurisdiction which she had had from the beginning in the valley of the Upper St. John, comprehending the Madawaska settlements as limited by the uppermost locations of the actual settlers; and that the 11th Regiment was at that time actually stationed on both banks of the Upper St. John, immediately below the mouth of the Madawaska River. Great Britain was in like manner in possession of the whole course of the Madawaska River and the Temiscouata Lake and Portage, comprehending the Fief of Madawaska on the line of communication connecting the British Provinces. On the other hand it must be admitted that the State of Maine had gained a footing and an

actual possession in the valley of the Restook, which, therefore, was the portion of the disputed territory referred to in the agreement as being, in fact, held in possession by that State. Such were the circumstances as to actual possession at the time of the agreement. Although not required by the terms of that agreement to withdraw Her Majesty's troops from their position in the Madawaska settlement; nevertheless, acting under what I may perhaps be excused for designating as a nice and scrupulous sense of the spirit of that compact, I lost no time, immediately upon its ratification, in ordering them to return to Canada, and in directing them to be replaced by an unarmed civil posse. The consequences I have already stated, and have ventured to apply to them the terms by which the American Secretary of State has thought fit to characterize the strictly defensive measures adopted by the British Colonial authorities.

Finally, with a view to place what is really the principal if not the only question involved in this discussion, in a light in which it does not appear to have been considered, I will observe that the limits within which the operations of the Maine land agent's posse employed for the purpose of preventing depredations upon the public timber ought, under the agreement, to have been restrained, must depend upon the clause in which the Governor of Maine undertakes "to withdraw the military force of the State from the said disputed territory, leaving only, under a land agent a small civil posse, armed or unarmed, to protect the timber recently cut, and to prevent further depredations." The natural and fair construction of this stipulation, that the civil posse was to be left in that part of the disputed territory from which the military force was to be withdrawn, namely, the Valley of the Restook, this being also the portion of the territory before referred to, as in the actual possession of the State of Maine,—and that the operations of this posse should not be extended beyond that portion of it. This, at least, is what I contemplated, and all to which I intended to give my assent,—and I know not that I can better illustrate my impressions on this point than by stating that if a distinct stipulation had been introduced into the agreement, that Maine should acquire the right of advancing her possession and co-ordinate jurisdiction to the Upper St. John, or to any part of that river, I should have felt myself compelled to have instantly rejected such a proposition as alike incompatible with the possession and jurisdiction which I was instructed to maintain; with the protection which I was required to afford to Her Majesty's subjects of the Madawaska settlements, and with the security of our established line of communication with Canada.

The declaration therefore by Mr. Forsyth, in his note of the 25th ultimo, that I had by that agreement assigned to the State of Maine, and therefore myself parted with the right and duty of protecting the public timber in the disputed territory, cannot be regarded as otherwise than a gratuitous, and I might add an unfounded assumption which all my public acts, more especially my proclamations and instructions to the warden sufficiently refute and prove that those rights and duties have never ceased to be exercised by this Government.

In conclusion, I beg earnestly to invite your Excellency's attention to the annexed, very clear, satisfactory, and conclusive memorandum on the limits of the Madawaska settlements by the respected Chief Justice of this province, (before whom Mr. John Baker was tried,) and to the sketch appended to it, of which the fidelity admits of no doubt.

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

Inclosure 3 in No. 35.

Memorandum on the limits of the Madawaska Settlements.

THE geographical limits of the Madawaska settlements may be pointed out with a near approach to precision. These settlements have been progressively formed during a period commencing upwards of fifty years ago, and extending down to the present time, principally by the French Acadian population from the lower parts of the St. John, and their descendants, that have from time to time set down upon the lands, some under grants from the Government

of New Brunswick, and many without title. The lower limit of these settlements, as they existed in March, 1839, may be stated to be the Great Falls, and the upper limit the River St. Francis; and the settlements are made on both banks of the river (that is the Main River St. John) without distinction, and are not confined to the north side of it. For some distance below the confluence of this river, quite up to the St. Francis, although the population is not so dense as it is below, yet there is such a continuity of settlements on one bank or the other, that it may be stated as the general fact, that a traveller on the river is always in sight of a dwelling or a clearing. A reference to Mr. Wilkinson's sketch, which accompanies these remarks, will show this to be the case, and also shows the chapel for the upper settlements on the southern bank of the river, about nine miles above the confluence of the Madawaska. The French settlers throughout this tract of country, without any distinction between those in the upper and those in the lower parts of it, are known in New Brunswick by the common appellation of the "Madawaska settlers," and owe a common allegiance to the Crown of Great Britain. The authorities of this province have always deemed their jurisdiction to extend alike to all parts of these settlements; and there are many instances of the exercise of this jurisdiction on record. The most remarkable instance is that of the case of John Baker, who was tried and convicted in the Supreme Court at Frederickton, in the month of May, 1825, for acts in resistance to British laws and authority, committed on the lot upon which he then resided, and still continues to reside, at the mouth of the Merumticook River, about five miles below the Fish River; which lot, when he first went upon it, about 1823, Baker considered as being within the Province of New Brunswick, and subject to its laws, and he received a provincial bounty for grain raised upon this land. In this case it was proved and held by the Court, that in point of fact, the possession and jurisdiction of the Province of New Brunswick existed throughout the Madawaska settlements, in their whole extent upwards and downwards, and that there was no line of division, in this respect, between the several parts of the whole settlement, nor any principle known to the Court, upon which any such line of division could be formed. This case was one of notoriety, and a subject of discussion between the Governments of Great Britain and the United States. A report of it was among the documents laid before the King of the Netherlands on the Boundary arbitration, and will be found in the Appendix to the Boundary Pamphlet, published at St. John, in 1839. A copy of this pamphlet accompanies these remarks, in which are marked the several passages in the trial of Baker, which are particularly applicable to the limits of the Madawaska settlements.

Thus Mr. Forsyth's reasons for not considering the territory contiguous to the mouth of the Fish River as included in the Madawaska settlement, viz. "That it is distant some twenty-five miles above it; and the two points are not connected by any continuous occupation or settlement of the country," fall to the ground.

No. 36.

Mr. Fox to Viscount Palmerston.—(Received June 17, 1840.)

(Extract.)

Washington, May 28, 1840.

I HAVE had the honour to receive your Lordship's despatch upon the subject of the Maine boundary negotiation of the 30th of April, delivered to me by the Earl of Mulgrave. I have duly communicated the substance thereof to the Government of the United States. No further proceedings have been had in Congress with reference to the boundary negotiation, or to the affairs of the disputed territory, since the date of my last despatch to your Lordship.

CORRESPONDENCE

RELATING TO THE

NORTH AMERICAN BOUNDARY,

BETWEEN THE COLONIAL OFFICE AND HER MAJESTY'S PROVINCIAL
AUTHORITIES IN NORTH AMERICA.

No. 1.

*Major-General Sir John Harvey to Lord Glenelg.—(Received
March 28, 1839.)*

(Extract.)

*Government House,
Fredericton, February 24, 1839.*

IT can scarcely be necessary for me to explain, that, addressed as my remonstrances were to a subordinate State of a nation at peace with England, all I could have intended to convey to that State, was a distinct declaration, that if they should persist in certain acts, against which I found it my duty in obedience to the instructions of my Sovereign so to protest, they must thereby incur the hazard of placing the two nations, not the State of Maine and the Province of New Brunswick, in a state of war. My intimation, that I should, in such a case, be prepared to take military possession of the disputed territory, could have had no reference to any particular amount of physical force to be used on the occasion, it being merely intended as an intimation that, instead, as heretofore, of abstaining, as has always carefully been done, from the employment of any other than the civil authorities of this Province in asserting the right of the possession and jurisdiction of England in and over the district, the claim to which is in dispute, until the question of ultimate right is decided, I should, under certain assumed circumstances, viz.: the entrance into that district of an armed force, claiming to exercise co-ordinate authority on the part of the State of Maine, feel it my duty to support, or rather to replace the Civil by the Military arm, thereby at once making the question, what it virtually is, a strictly national one. To talk therefore of moving thousands of Militia into the territory is, as appears to me, to use the language of absurdity. I am not at present in a position, and therefore shall make no attempt, to resist such an inroad. But the British nation will doubtless feel it right to do so; and in such case, the instant evacuation of the territory, and a full reparation

for this unwarrantable act of aggression will doubtless be demanded and insisted upon from the General Government of the United States, and if not promptly afforded, England will know how to assert her rights.

In the mean time, I have renewed my reiterated applications to Sir Colin Campbell for reinforcements, and have also applied to the Governor-in-Chief for the means of enabling me to protect the Madawaska settlers, and keep open our communication with Canada.

No. 2.

*Major-General Sir John Harvey to Lord Glenelg.—(Received
March 28, 1839.)*

(Extract.)

*Government House,
Fredericton, February 26, 1839.*

I HAVE the honour to inclose several of the latest Journals from the State of Maine, where all appears to be excitement. By private accounts, however, I am assured that there is no present intention entertained of proceeding beyond the valley of Restook. In this case no collision can occur, as my instructions to Colonel Maxwell, are, on no account to quit that of the St. John, the objects of the present service being purely defensive, namely, to protect our communications with Canada and Her Majesty's subjects of the Madawaska Settlement.

I have dispatched special messengers to the Governor-in-Chief, and to Her Majesty's Minister at Washington, as, also, to Sir Colin Campbell for troops, that I am inclined to entertain the hope, that the measure which I propose to adopt in Council to-morrow, of issuing a strong Proclamation against all trespassers on the timber of the disputed territory, sending copies of it by confidential agents, and appointing a posse of civil assistants to act under the Warden in giving effect to it (or the person appointed to act in his absence), may do more towards satisfying and tranquillizing the minds of the Legislature and people of Maine, than any other which could be resorted to:

Inclosure 1 in No. 2.

Mr. Sherwood to Captain S. Tryon.

(Extract.)

*British Consulate, Portland,
Maine, February 18, 1839.*

I HAVE to acquaint you for the information of his Excellency Major-General Sir John Harvey, that in addition to what I have already written you, in regard to the doings of the Legislature of this State in secret Session, and the raising of an armed force of 200 men, to proceed to the disputed territory; that the Governor of said State, has ordered out a force of from 1,000 to 2,000 men, to proceed forthwith in aid of the posse who have invaded Her Majesty's Territory; and report says, if needs be, to march to Fredericton, and there recapture the Land Agent and his associates, with such of Her Majesty's subjects as may be found trespassing upon the disputed territory.

It is a fact, in corroboration, that the Adjutant-General of the State arrived in this city, on Saturday, and took from the Arsenal from 1,000 to 2,000 stand of arms, or more, together with other warlike stores, which were carried away on Sunday morning, to arm the Militia at Bangor, for a further invasion; and, further, several waggons, also left, with powder, blankets, &c., for the army now being raised.

I also understand, that an express from the Governor of Maine, to that of Massachusetts, passed through this city, this morning, asking a co-operation of force to take possession of the Territory, and that the Legislature of Maine intend this day, to pass a resolve, placing at the disposal of the Governor for this purpose, and the Militia, 500,000 dollars. Be it

as it will, I fear from the excitement of the Legislature and people of this State, that matters will be carried to such length, as to cause much trouble to his Excellency, and great expense to his Government. Every thing here looks warlike, and the people are hot for it.

Inclosure 2 in No. 2.

Mr. Sherwood to Captain S. Tryon.

British Consulate,

Portland, February 19, 1839.

(Extract.)

I addressed you yesterday, stating that 1,000 or 2,000 stand of arms and other warlike stores, had been taken from the Arsenal in this city, by order of the Governor of Maine, and carried off to Bangor, to arm the men drafted from the military divisions in that quarter, 1,000 of whom were immediately to march to the disputed territory, in aid of those already there.

I now have to acquaint you that I have since ascertained, that a further draft has been ordered out, of 1,000 men from each of the divisions in the State, for the like purpose, which will, with the force already raised, give an army of between 8,000 and 9,000.

The Militia of Maine consists of eight divisions, or about 43,000.

I need not inform you, that everything in this quarter is warlike, and, indeed, the same in the whole State; that the citizens are eager to try their strength, being confident of success, especially as you have no regular troops, and even if you had, in the woods they think they would be of but little use.

The drafting from the fifth division in this city and quarter, commences this evening or to-morrow morning, and, no doubt, will soon be completed, as whole companies offer their services.

There can be no doubt of the intention of this force. Maine is determined to take possession of the territory if they can, and to exercise exclusive jurisdiction over it.

P.S.—In addition to the arms above mentioned, as taken from the Arsenal here, 500 rifles may be added, which left here the day after, viz: yesterday.

No. 3.

Major-General Sir John Harvey to Lord Glenelg.—(Received April 30, 1839.)

Government House,

Fredericton, March 23, 1839.

(Extract.)

THE confident hope of an early and amicable termination of the present Border dispute, which I ventured to express in my Speech upon closing the Session of the Provincial Legislature this day, I have had the satisfaction of finding confirmed by the arrival at Government House (during my absence at the Province Building), of a semi-official despatch, with an official inclosure, from General Scott, of which copies are inclosed, as well as of the memorandum placed by me upon the agreement.

I have requested the confirmation of this arrangement on the part of the Governor of Maine to be sent to me at Woodstock, to which place I proceed to-morrow.

Pending the reference to Her Majesty's Government, it is not my intention wholly to withdraw the troops from the positions which they at present occupy, with the exception of the Madawaska Settlement which will be sufficiently protected by a detachment which I shall leave at the Grand Falls, where I have caused a rough, but comfortable log barrack to be constructed, at an expense which I apprehend will not exceed about 200/.

I shall place a small guard at the mouth of the Restook, for the purpose of protecting the boom and assisting the proper officer in the protection of timber-seized in its descent from the Restook into the St. John, attaching to each party a small number of militia.

I shall make a similar arrangement at Woodstock, concentrating the remainder of Her Majesty's troops at this place and St. John.

The temporary arrangement entered into with the State of Maine, through the agency of my friend, General Scott, is virtually, that Maine is for the present permitted to remain in the occupation by a Civil Posse of the valley of the Restook, without our admitting any right on her part to do so. New Brunswick remains in the possession of the valley of St. John, without our right to it being conceded by Maine.

Inclosure I in No. 3.

General Scott to Major-General Sir John Harvey.

My dear Sir John,

Augusta, Maine, March 21, 1839.

I RECEIVED with extraordinary dispatch your noble and friendly reply, dated the 12th instant, to my semi-official note addressed to you three days before, and communicating to his Excellency Governor Fairfield, your conciliatory dispositions; we were both anxious to respond in the same spirit, without a moment's delay, but the Governor thought he could make no promise to withdraw the troops of Maine before it could be known that the Legislature would pass a resolution authorizing him to do so. It is now certain that such resolution will be adopted; and apologising for the delay that has occurred, I hasten to dispatch the official note which accompanies this, and sincerely hope that it may prove satisfactory; in that event, and very soon after hearing from you, I do not doubt that I shall have the happiness of communicating to you a certified copy of the Governor's order for the recall of his troops; should I, however, contrary to all expectation, not have it in my power to inclose such order, and promptly, I pledge myself to return you your reply without having permitted it to pass out of my hands, and without permitting a copy of it to be taken.

I have been obliged to be a little specific in the declaration I have taken the liberty to invite from you, in order that I might be equally so in the proposed declaration to be made on the part of Maine, all which may be considered as warranted by treating my note to you of the 9th instant, and your reply of the 12th, as semi-official, and as such, liable to be produced in explanation, if necessary. To this I have no objection, and hope you may feel none.

That negotiations are about to be renewed between our Governments, respecting the disputed territory, either at London or Washington, as may be preferred by Great Britain; and that a messenger recently arrived from London, has informed Mr. Fox that instructions for him were nearly ready, I certainly know through an official letter recently received from Washington.

It is probable the Governor of Maine may deem a civil posse, partly armed and partly unarmed, of (say) from 150 to 250 persons necessary, of which he would probably keep a handful at the boom across the Restook, below the mouth of the little Madawaska, on which there is much cut timber exposed, and the remainder at work on "the Restook road" on this side, although under circumstances, he cannot stipulate on the subject, I am certain that he does not intend to send any part of such posse beyond the waters of the Restook River, and that it is his intention so to employ his people in guarding the timber, as to be but little observed, and to give the least possible irritation to the population of New Brunswick. Any aid which you may be pleased to afford in securing the cut timber coming down the St. John, from the Restook district of the disputed territory, after the timber shall have arrived within your undisputed limits, although uninvited by Maine, could not be regarded by her in any unfriendly spirit.

I have ventured following out a suggestion in your note of the 12th inst., to insert in the declaration invited from you, the words "without renewed instructions from his Government," and there is a corresponding proviso in the proposed declaration to be made by Governor Fairfield. If this proviso be struck out of one declaration, it might be omitted by the other party. It is, however, not probable that new instructions would be given by your Government or the Legislature of Maine, to disturb the proposed temporary arrangement pending negotiations.

I cannot, my dear Sir, believe, if we can succeed in preventing bloodshed at present about this Boundary Question, that it will be possible to get up "a national war" between us. There is no such desire on the part of the Government or people of the United States; on the contrary, the wish to preserve peace with Great Britain is almost universal with us, and is, I am sure, reciprocated on the other side of the Atlantic.

I have had great pleasure in meeting here our old friend, Sir John Caldwell. He has done much good to both countries by his conciliatory sentiments and manners.

Long as I have delayed writing under the circumstances intimated above, I have at last to write in haste, omitting much that I had wished to say of a personal character for some early occasion.

I have, &c..

(Signed)

WINFIELD SCOTT.

Major-General Sir John Harvey, K.C.B.,

&c. &c. &c.

Inclosure 2 in No. 3.

Major-General Scott to Major-General Sir John Harvey.

Eastern Division, United States Army.

Augusta, Maine, March 21, 1839.

THE Undersigned, a Major-General in the Army of the United States, being specially charged with maintaining the peace and safety of their entire Northern and Eastern frontier, having cause to apprehend a collision of armies between the proximate forces of New Brunswick and the State of the Maine, on the disputed territory which is claimed by both—has the honour in the sincere desire of the United States to preserve the relations of peace and amity with Great Britain—relations which might be much endangered by such untoward collision, to invite from his Excellency Major-General Sir John Harvey, Lieutenant-Governor, &c., &c., &c., a general declaration to this effect:—

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 therefrom the armed civil posse, or the troops of Maine.

Should the Undersigned have the honour to be favoured with such declaration or assurance, to be by him communicated to his Excellency the Governor of the State of Maine, the Undersigned does not in the least doubt that he would be immediately and fully authorized by the Governor of Maine to communicate to his Excellency the Lieutenant-Governor of New Brunswick, a corresponding pacific declaration to this effect:—

That in the hope of a speedy and satisfactory settlement by negotiation between the Governments of the United States and Great Britain, of the principal or Boundary Question between the State of Maine and the Province of New Brunswick, it is not the intention of the Governor of Maine, without renewed instructions from the Legislature of the State, to attempt to disturb by arms the said province in the possession of the Madawaska Settlement, or to attempt to interrupt the usual communi-

cations between that province and Her Majesty's Upper Provinces: and that he is willing, in the mean time, to leave the question of possession and jurisdiction as they at present stand; that is, Great Britain holding in fact possession of a part of the said territory, and the Government of Maine denying her right to such possession; and the State of Maine holding, in fact, possession of another portion of the same territory to which Her right is denied by Great Britain.

With this understanding the Governor of Maine will, without unnecessary delay, withdraw the Military force of the State from the said disputed territory, leaving only under a Land Agent a small civil posse, armed, or unarmed, to protect the timber recently cut, and to prevent further depredations. Reciprocal assurances of the foregoing friendly character, having been through the Undersigned, interchanged all danger of a collision between the immediate parties to the controversy will be at once removed, and time allowed the United States and Great Britain to settle amicably the question of limits.

The Undersigned has much pleasure in renewing to his Excellency Major-General Sir John Harvey, the assurances of his ancient high consideration and respect.

(Signed) WINFIELD SCOTT.

Government House, Fredericton.

N. B., March 23, 1839.

The Undersigned, Major-General Sir John Harvey, Lieutenant-Governor of Her Britannic Majesty's Province of New Brunswick, having received a proposition from Major-General Winfield Scott of the United States Army, of which the foregoing is a copy, hereby on his part signifies his concurrence and acquiescence therein.

Sir John Harvey renews with great pleasure to Major-General Scott, the assurances of his warmest personal consideration, regard, and respect.

(Signed) JOHN HARVEY.

THE Undersigned, Governor of Maine, in consideration of the foregoing, the exigency for calling out the troops of Maine having ceased, has no hesitation in signifying his entire acquiescence in the proposition of Major-General Scott.

The Undersigned has the honour to tender to Major-General Scott the assurances of his high respect and esteem.

(Signed) JOHN FAIRFIELD.

No. 4.

Major-General Sir John Harvey to Lord Glenelg.—(Received April 30, 1839.)

(Extract.)

Woodstock, March 27, 1839.

WITH reference to my despatch of the 23d instant, I have the highest satisfaction in transmitting to your Lordship, copies of communications which I have this morning received from Major-General Scott and the Governor of the State of Maine, by which your Lordship will find that the whole of the armed Militia force of the State of Maine has been ordered to be withdrawn forthwith from the disputed territory, and to be disbanded, under the agreement entered into between General Scott and myself, and now confirmed by the signature of Governor Fairfield, in the document of which a copy is herewith transmitted.

I offer your Lordship, and Her Majesty's Government, my congratulations upon this favourable termination of our border difficulties.

I shall now proceed to make immediate arrangements for the disbandment of the Militia and Volunteer Force, which I felt proper to assemble, and for the withdrawal of a portion of Her Majesty's troops. The conduct of both the Queen's troops and the Provincials, during this service, has been beyond all praise; and I rejoice to add the gratifying

fact, that whether owing to the salutary excitement occasioned by the inspiring nature of the service, or to whatever other cause, the whole of the force collected upon this frontier has continued remarkably healthy.

Inclosure 1 in No. 4.

Major-General Scott to Major-General Sir John Harvey.

Augusta, March 21, 1839.

[See Inclosure 2 in No. 3, p. 165.]

Inclosure 2 in No. 4.

STATE OF MAINE.

GENERAL ORDER.

Head-Quarters, Augusta, March 25, 1839.

THE detachment of troops from the fifth and sixth divisions, now in the service of the State, under command of Colonel Orison Ripley, and at present stationed at Augusta, will be inspected, mustered, and discharged, as follows, viz:—

The companies of Light Infantry and Riflemen from the fifth division, on Tuesday, the 26th; the companies of Artillery, Light Infantry, and Riflemen from the sixth division, on Wednesday, the 27th; the A, B, C, and D. Companies of Infantry, on Thursday, the 28th; and the E, F, G, and H. Companies of Infantry, together with the Field Staff Officers, on Friday, the 29th, days of March, instant. Major-General White, of the second division, is charged with the duty of inspecting and mustering the detachment aforesaid; and he will make immediate report thereof to the Adjutant-General.

The detachments will be paid by companies, at the office of the Adjutant-General, immediately after the respective musters.

In directing the discharge of the troops under the command of Colonel Ripley, the Commander-in-Chief avails himself of the occasion to express to the detachment his warm thanks for the prompt manner in which they have responded to the call made for their services, as well as for their good conduct while quartered at the Capital. The rapid progress made in discipline, during the short time they have been on duty, is highly creditable to both officers and men; and it is another evidence, that our patriotic Citizen Soldiers, while they are at all times ready to march in defence of our country's rights, also possess those qualities indispensable to the establishment of an efficient army, "good order, and subordination."

But, in deciding that the condition of our border difficulties has so changed since the Order directing the draft of militia from the fifth and sixth divisions, as to render the service of this detachment not at present necessary, the Commander-in-Chief would remind them, that, while he flatters himself with the hope, that such justice will be done to the State, in regard to our Boundary, as will render it unnecessary again to call in the aid of military powers to preserve the integrity of our soil, yet that it is the duty of every community to be prepared to protect by physical force those rights ever dear to a free people; and, although the numbers of the detachment will forthwith retire to their respective homes and fire-sides, they will recollect, that their services may again be necessary; and, should that emergency unfortunately occur, the Commander-in-Chief doubts not, that they will respond to any further call with that alacrity which has ever characterized the Militia of Maine.

-By the Commander-in-Chief.

(Signed)

A. B. THOMPSON,

Adjutant-General.

*Head-Quarters, Eastern Division,
Augusta, Maine, March 25, 1839.*

The foregoing Order has just been handed to me by the functionary whose signature is attached.

(Signed) WINFIELD SCOTT.

STATE OF MAINE.

GENERAL ORDER.

Head-Quarters, Augusta, March 25, 1839.

MAJOR-GENERAL Isaac Hodsdon, commanding the military force of the State now on duty on the northern frontier, will make immediate preparation for retiring with the troops of his command from the Valley of the Aróstook; and, as soon as a suitable civil force shall have been furnished the Land Agent, to enable that officer to protect the timber, and other public property, of which due notice will be given, he will cause the detachments under his orders to return, by way of Houlton and the Aróstook road, to the city of Bangor.

By the Commander-in-Chief.

(Signed) A. B. THOMPSON,
Adjutant-General.

No. 5.

The Marquis of Normanby to Major-General Sir John Harvey.

(Extract.)

Downing Street, May 16, 1839.

I HAVE received the despatches and the letters of the 23rd and 27th March.

Her Majesty's Government have received with much satisfaction your report of your negotiations with Major-General Scott, for the provisional adjustment of the Boundary Question, and approve and sanction the terms on which you ultimately agreed. The correspondence between yourself and that officer is honourable alike to you and to him. It is gratifying to observe that the feelings of personal esteem which were established between General Scott and yourself, when formerly opposed to each other in the field, should, after the lapse of so many years, have induced and enabled you both to concur in averting from your respective countries the calamities of war. Having laid these papers before the Queen, I have been honoured with Her Majesty's commands to signify to you her entire approbation of your conduct on this occasion.

