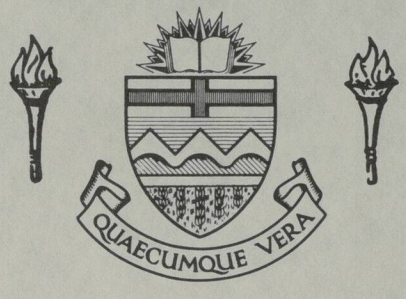
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[1842 [413] VOL XXVIII]

[1843 [424] [450] [439] [442] [451] VOL LXI]

[1845 [664] (200) VOL LII]

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DESPATCHES AND PAPERS
RELATING TO THE BOUNDARY
BETWEEN THE BRITISH POSSESSIONS
IN NORTH AMERICA AND
THE UNITED STATES OF AMERICA

Colonies

Canadian Boundary

2



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NORTH AMERICAN BOUNDARY.

SUPPLEMENTARY REPORTS

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,
1842.

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

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SUPPLEMENTARY REPORTS

RELATING TO

THE BOUNDARY

BETWEEN

THE BRITISH POSSESSIONS IN NORTH AMERICA

AND

THE UNITED STATES OF AMERICA,

UNDER

THE TREATY OF 1783.

No. 1.

Viscount Palmerston to Lieutenant Broughton and Mr. J. D. Featherstonhaugh.

Gentlemen, *Foreign Office, June* 1, 1840.

COLONEL MUDGE and Mr. Featherstonhaugh, the Commissioners who were appointed on the 9th of July, 1839, to explore and survey the Territory in dispute between Great Britain and the United States of America, having been prevented by the advanced period of the season, from completing their examination and survey of that portion of the Boundary Line claimed by the United States, which lies north of the St. John, and in the vicinity of the River St. Lawrence; and Her Majesty's Government having determined that such examination and survey should now be completed, I have to acquaint you that you have been selected as joint-surveyors for that service.

I have accordingly to instruct you to lose no time in preparing the equipments and in selecting the instruments which will be requisite for this expedition, and you should get ready to proceed thereupon with the least possible delay.

It is intended that you should embark on board the steamer "Britannia," appointed to sail from Liverpool for Halifax on the 4th of July.

Upon landing at Halifax you will proceed forthwith to Fredericton, and you will there place yourselves in communication with Lieutenant-Governor Sir John Harvey, who will be instructed to furnish you with all requisite assistance and advice.

You will be accompanied from hence by Corporal Mc Queen, of the Royal Sappers and Miners, who was in the service of the Commissioners during the whole of their expedition in 1839; and you will take with you, upon your survey, such further assistance, either from the Sappers and Miners stationed in New Brunswick, or from the civil surveyors of that province, as, after consulting with Sir John Harvey, you may find necessary.

But if upon your arrival at Halifax you should there find any Sappers or Miners who have been employed on the topographical surveys of Ireland, and who are familiar with the use of instruments, you are authorized to request Sir Colin Campbell, Her Majesty's Lieutenant-Governor of Nova Scotia, to direct two of them to be placed under your orders.

After completing your arrangements at Fredericton, you will proceed to the point where the exploratory due north line which was marked out

by the British and American Commissioners in 1817 and 1818, from the monument at the head of the St. Croix, intersects the River St. John, and from that point of intersection, you will proceed along the said line to its northern termination, where it intersects the waters of the Metis; examining and recording the character of the country through which the said line runs, and ascertaining by spirit-levels and by barometrical observations, the heights of the principal points thereof.

It would be desirable that from the northern extremity of the said exploratory north line, you should proceed westward along the line of boundary which is claimed by the United States as far as the head of the Connecticut, and that you should continue your survey along the whole of that line. But the difficulties and impediments which would obstruct your progress through the first portion of the wild district through which that line passes, might be so great, that if you were, in the first place, to make an accurate survey of that portion of the line, you would not have time to examine before the end of the present season, other and more important parts of the said line; and therefore I think it better that you should reserve a minute survey of the first part of the line above-mentioned, until your other labours shall have been concluded.

I have accordingly to direct that, from the northern extremity of the above-mentioned exploratory north line, you should descend the Metis to its mouth in the St. Lawrence, accurately observing and recording the number of feet which the Metis falls during its course.

You will thence proceed westward along the south shore of the River St. Lawrence, making as you go along such general observations as may be practicable as to the character of that part of the country on the south side of the St. Lawrence, along which runs the line that is claimed as the boundary by the United States; and for the better accomplishment of this purpose, you will occasionally ascend such of the streams falling northward into the St. Lawrence as may afford you facilities for ascertaining any important facts.

In thus proceeding along the southern shore of the St. Lawrence, it will be your duty to explore and survey, with all possible accuracy, that portion of the line claimed by the United States which extends from the height of land nearest to the sources of the River Ouelle, and which, upon a map of the American surveyor, Hiram Burnham, alluded to at page 43 of the Report of Commissioners Mudge and Featherstonhaugh, is laid down as passing by the heads of the River Du Sud, and running to the north-west head of Connecticut River. You will take the height of points as you go along. But you will be particularly careful to note the character of the country, at any point at which the line claimed by the United States, as traced on the before-mentioned map of Hiram Burnham, may strike away from any elevated range of Highlands through which it may up to that point have been carried, and may stretch across any considerable tract of low and level land in its course towards the heads of the River Connecticut, dividing in its course, according to Hiram Burnham's map, the sources of the River Du Sud, the sources of the Etchemin, and the eastern sources of the River Chaudière, from the sources of the Mittaywaquam and the south-western sources of the River St. John.

Having made your observations at the point where the line claimed by the United States is represented on the map of Hiram Burnham as striking away from the elevated range of Highlands laid down upon his map, it will be your duty to proceed along the line of Highlands represented on his map as dividing the sources of the rivers last-mentioned, to the north-western head of the Connecticut River.

From the sources of the Connecticut you will proceed to examine the country lying to the westward thereof, in order to ascertain at what distance from the sources of the Connecticut the forty-fifth parallel of north latitude is intersected by the range of elevated land, which, upon Map A of Commissioners Mudge and Featherstonhaugh, is laid down as extending in a south-westwardly direction from the sources of the Ouelle to the forty-fifth parallel of north latitude.

The object of this examination will be to ascertain whether the range of elevated land last-mentioned, and that more southern range, which, as

laid down upon Map A, passes by the sources of the Connecticut, are separated from each other by any considerable distance of space, and whether the intervening district is a mountainous region connecting those two Ridges by a tract of country of a similarly elevated character, or whether that intervening district is comparatively flat and level, and separates those Ridges by the interposition of a country of a different character?

Having completed the survey of the above-mentioned portion of the Disputed Territory, you will transmit your Report thereof to this department with the least practicable delay; accompanying that Report with a copy of the Barometrical Register which you will have kept, recording the various observations you may have made for ascertaining the elevation of the country, and adding thereto a copy of the record of your daily operations by spirit-level from the River St. John to that point where the exploratory due north line intersects the waters of the Metis. To this you will annex sections of the elevations of the country along the lines which you are directed to survey, and a map of the same; accompanying the whole with the daily remarks you may have made with reference to the elevations of the lines of country you will have traversed.

If after the execution of this service, you should still have sufficient time to make any further progress before the season becomes too much advanced, you will then proceed to complete an accurate exploration and survey of the portion of the American line which lies between the River Metis and the sources of the River Ouelle.

But if the winter should set in before you have completed your surveys of the country between the point where the exploratory due north line intersects the waters of the Metis and the sources of the Ouelle, you are further instructed to remain, one or both of you, in America during the ensuing winter, and to take the earliest opportunity, when it shall be practicable, of finishing the survey of that part of the American line lying between the sources of the Ouelle and the waters of the Metis, transmitting, with the least possible delay, to this department, a detailed report of your proceedings. If this contingency should occur, further instructions will be transmitted to you as to the period of your return to this country.

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

No. 2.

Viscount Palmerston to Captain Broughton and Mr. J. D. Featherstonhaugh.

Gentlemen, *Foreign Office, May* 3, 1841.

HAVING completed the survey of the exploratory due north line to its termination, and descended the waters of the Metis to the mouth of the river of that name in the River St. Lawrence, you will now defer the execution of all that part of your instructions of the 1st of June, 1840, which relates to the immediate examination in a direction westward from the termination of the exploratory due north line, of that part of the line claimed by the United States; from thence to the head of the Connecticut, making the examination of all that part of the country comprehended between those two points; as it is detailed and enjoined upon you in your above-mentioned instructions, subsequent to the investigations which I am now about to instruct you to make in the first instance, and leaving it to be examined at the close of the present season.

Instead, therefore, of proceeding from the waters of the River Metis to the immediate examination of the country lying to the westward, you will proceed, in the first instance, to the head waters of the Connecticut River, and from thence in a north-easterly direction along the Highlands which lie between the waters of the Chaudière River and the waters of Kennebec River,—as laid down in Map A of the Report of Colonel

Mudge and Mr. Featherstonhaugh,—to the Kennebec Road leading to Quebec, taking the elevation of all the highest summits of this chain of Highlands with your barometers, including Bald Mountain and any other conspicuous summits not too distant from your line of operation. From the Kennebec Road before-mentioned you will follow the continuation of the chain of Highlands before-mentioned in a more easterly direction; and as it is laid down upon Map A, extending to Lake Keeaquagam, and dividing the western sources of the Penobscot River from the southern and south-western sources of the River St. John. You will take barometrical observations from the principal summits of this continuation of the Chain, and you will note the point where Mr. Campbell terminated his exploration in the year 1820.

When you have completed this part of your duty you will then proceed from the Kennebec Road before-mentioned, in the direction of Lake Etchemin, and along a line separating the sources of the streams flowing into the St. Lawrence, from the sources of the streams flowing into the River St. John, which line corresponds with the assumed range of hills referred to in Map A before-mentioned, as having been originally brought forward by Hiram Burnham, an American surveyor. Upon this line, which you will pursue in a direct course by the sources of the Du Sud to the River St. Lawrence, you will carefully take the elevations of the country with your barometers, noting the exact nature of the country in your Field Books, especially with reference to any chain of Highlands which has been asserted to exist along the line before referred to. When you shall have completed this branch of the service, you will then attend to the other duties prescribed to you in your instructions of the 1st of June, 1840, and which are not comprehended in the instructions hereby delivered to you, and will carry them all out if the season admits of your doing so.

As it may be found advisable that you should establish two permanent stations for observation by barometer, one at Quebec and the other at Lake Etchemin, you will be furnished with a letter to his Excellency the Governor-General of Canada, requesting him to authorize the necessary facility towards the establishment of one of your observatories in a building on the Queen's Wharf at Quebec.

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

No. 3.

Capt. Broughton and Mr. J. D. Featherstonhaugh to Viscount Palmerston.

My Lord, *Quebec, November* 28, 1840.

WE have the honour, in laying the result of our work up to this period before your Lordship, to report the proceedings of the Expedition from its commencement.

After completing our arrangements at Fredericton, we proceeded to the Grand Falls on the River St. John, and arrived there on the 12th August; on our arrival we found the woods were in such a state of total wilderness that the eight men we had sent on to clear the exploratory due north line made in 1817—1818, could not effect the clearing at the rate necessary to keep them in advance of the Levelling Party, and consequently we were obliged to encrease their number. This delay rendered it useless proceeding to the woods until a sufficient distance had been cleared to ensure the line-men keeping in advance. We accordingly remained at the Grand Falls, where we established an observatory for standard observations, to which we could refer those afterwards made. Having arranged this, on the 20th we sent off all the provisions by canoes to form a depôt beyond the portage on the Restigouche, reserving only sufficient to last the Levelling Party as far as the Grand River. On the 22nd, the line-men having cleared to within four miles of the Grand River,

we decided to commence the levelling. Our daily proceedings will be found recorded in the annexed Levelling Registry; we therefore proceed at once to observe upon the nature of the ground over which we passed.

Upon reference to the accompanying section, your Lordship will observe, that from the St. John to Grand River, a distance of fourteen miles, the highest elevation is about 530 feet above the St. John, or 830 above the sea, presenting a gentle slope for half its distance, and descending gradually to the Grand River, which is 163 feet above the St. John.

After leaving Grand River, (which, on account of its winding character in this part, is crossed by the line three times in a space of less than a mile,) the country, by a gentle inclination, resumes the height before referred to of about 830 feet above the sea, and then falling off to the Wagan, (a branch of the Restigouche, which rises in the same low valley with a branch of Grand River called the Wagansis,) continues a low flat, as far as the main Restigouche, at a distance of twenty-four miles and a quarter from the St. John. The water in the Restigouche, at this point, is 137 feet above the St. John.

From the Restigouche, the country offers a regular surface not much broken or indented by courses of streams, until at the distance of about seven miles and a half along the exploratory due north line, it attains a gradual elevation of 800 feet above the St. John, and then as gradually descends to the Mempticook, the intersection of which by the due north line is 270 feet above the St. John. On leaving the Mempticook, the ground rises gradually to 1,300 feet above the St. John, and preserves the same general elevation for some miles, but intersected by numerous brooks, (tributaries of the Quatawamkedgwick,) remarkable for the depth and precipitous character of the ravines they form, and the broken appearance they give the country.

Before reaching this last-named river, the ground on the south bank suddenly descends from 1,083 feet above the St. John to only 158, giving a bold and precipitous character to this portion of the country. The Quatawamkedgwick flows in a valley about half a mile wide, the ground on the north side rising in a short distance to an elevation of 1,213 feet above it, and continues rising, but more gradually, until it attains the height of 1,410 feet above the St. John, which is the highest land on the exploratory due north line. The line then for five miles passes along a country gradually falling off to 509 feet above the St. John. Through this depression a tributary of the Quatawamkedgwick flows, called States Brook, which runs in a general north and south direction, at no great distance from the due north line. From this stream the ground rises to 1,121 feet above the St. John, and then begins to descend gradually to the Beaver Stream, its regularity being only broken by two small brooks, tributaries of the Restigouche. To the north of the last of these brooks is an elevation of 1,012 feet above the St. John, which divides the waters of the Bay de Chaleurs from those flowing into the St. Lawrence.

The exploratory due north line terminates in a low swampy flat, through which flows a narrow brook called Beaver Stream, being one of the sources of the Metis, and then diffuses itself into a small lake to the westward. We found on exploring the stream, below this lake for some distance, that it was impassable for canoes, we therefore were obliged to cut a portage sufficient for the passage of baggage and canoes parallel with the stream for about two miles, where, finding the water deeper, we embarked on the morning of the 9th October.

The navigation of the stream we found nearly wholly obstructed by natural dams of fallen timber and alders, which, growing on the banks, had crossed each other; by severe labour we were able to cut and effect a passage for the canoes which had then to be dragged through, and which, owing to the severity of the weather, (it snowing hard,) was a work of great exertion and difficulty. The stream always preserves the same character to Lake Metis, and afterwards, on leaving the lake, changes to a rapid rocky river, very difficult of navigation, and which, although descending, occupied us until the evening of the 15th, when we reached its mouth on the St. Lawrence.

The Barometric Observations along the line will be found under their respective dates, but we beg to refer your Lordship to page 56, where an abstract will be found of the mean results of all the observations made at the Beaver Stream, at the termination of our line, and at the different stations during the course of this river.

It would be superfluous further to take up your Lordship's time with the account of the various difficulties we had to encounter in the course of this long journey, or to dwell upon the many hardships we had to endure we only trust your Lordship will do us the justice to believe we underwent them cheerfully in the execution of this important duty, and that no pains were spared to expedite the commission as far as was practicable.

On arriving at the River Ouelle, we were overtaken by snow, which precluded our re-entering the forest, although preparations were made for that purpose, and we were eventually driven into Quebec by the severity of the weather.

Knowing the importance of transmitting our information to your Lordship at an early period, we have used unremitting diligence in preparing our Report and section, and copies of all our notes in order to lay them before your Lordship as soon as possible after the close of our field duties for the season.

We have, &c.,

(Signed) W. E. DELVES BROUGHTON,
Royal Engineers.

(Signed) J. D. FEATHERSTONHAUGH.

Levelling Registry of due North Line from the River St. John to the Beaver Stream.

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
0					*0·00	R. St. John, abv. Gd. Falls.
1	30	9·92	1·16	8·76	8·76	August 24.
2	77	11·11	1·35	9·76	18·52	
3	106	10·04	0·50	9·54	28·06	
4	212·5	10·98	0·35	10·63	38·69	
5	247	11·42	0·15	11·27	49·96	
6	272	10·60	0·31	10·29	60·25	
7	297	10·81	0·16	10·65	70·90	
8	329	11·75	0·08	11·67	82·57	Hardwood, Yellow Birch,
9	401	11·40	0·27	11·13	93·40	and Maple.
10	451	5·70	0·00	5·70	99·40	
11	724	0·00	0·37	0·37	99·03	
12	899	10.76	0·68	10·08	109·11	
13	1,331	8·70	2·68	6·02	115·13	
14	1,776	7·11	0·51	6·60	121·73	
15	2,110	8·07	0·40	7·67	129·40	
16	2,581	7·71	4·91	2·80	132·20	
17	2,861	8·97	0·49	8·48	140·68	
18	2,999	11·80	0·77	11·03	151.71	
19	3,210	10·09	0·56	9·53	161·24	
20	3,367	11·83	1·10	10·73	171·97	
1	3,504	11·24	0·16	11·08	183·05	
2	3,604	5·04	1·47	3·57	186·62	
3	3,809	11·37	0·21	11·16	197·78	
4	4,044	10·73	1·18	9·55	207·33	
5	4,324	9·90	2·07	7·83	215·16	
6	4,885	4·43	6·05	1·62	213·54	Bench mark, No. 1.
7	5,347	8·33	0·31	8·02	221·56	August 25.
8	5,721	12·56	2·90	9.66	231·22	
9	6,035	9·95	0·30	9·65	240·87	
30	6,370	12·44	0·43	12·01	252·88	
1	6,670	12·44	0·67	11·77	264·65	
2	7,110	9·98	3·66	6·32	270·97	
3	7,703	4·57	4·26	0·31	271·28	
4	8,219	0·69	4·65	3·96	267·32	
5	8,465	17·36	1·86	15·50	282·82	Bench mark, No. 2.
6	8,520	11·22	7·41	3·81	286·63	August 26.
7	8,570	7·41	1·37	6·04	292·67	
8	8,740	11·09	0·13	10·96	303·63	
9	8,920	11·05	1·50	9·55	313·18	
40	9,095	11·12	0·14	10·98	324·16	
1	9,280	10·72	0·47	10·25	334·41	
2	9,440	10·62	0·34	10·28	344·69	
3	9,580	10·84	0·84	10·00	354·69	
4	9,780	10·81	1·06	9·75	364·44	
5	10,045	10·50	3·80	6·70	371·14	Hardwood.
6	10,320	3·80	8·01	4·21	366·93	
7	10,720	1·49	7·38	5·89	361·04	
8	10,970	1·72	2·00	0·28	360·76	
9	11,150	2·80	8·12	6·12	354·64	
50	11,380	0·18	10·17	9·99	344·65	
1	11,410	0·29	13·88	13·59	331·06	
2	11,490	0·60	10·46	9·86	321·20	
3	11,590	0·62	10·89	10·27	310·93	
4	11,660	0·50	10·88	10·38	300·55	
5	11,820	0·21	10·98	10·77	289·78	
6	11,950	0·29	11·01	10·72	279·06	
7	12,040	0·57	10·93	10·36	268·70	
8	12,160	0·33	10·78	10·45	258·25	Cedar swamp.
9	12,370	0·74	11·10	10·36	247·89	
60	12,590	0·88	8·93	8·05	239·84	Small brook running west.
1	12,835	4·98	0·93	4·05	243·89	
2	13,070	10·92	0·85	10·07	253·96	
3	13,345	11·01	0·21	10·80	264·76	
	13,345				264·76	Carried over.

* The intersection of the River St. John by the exploratory due North Line, has been determined to be 300 feet above high tide at Chapel Bar in the River St. John.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	13,345				264·76	Brought up.
64	13,570	7·46	1·34	6·12	270·88	
5	13,790	11·00	1·32	9·68	280·56	
6	13,920	6·57	4·30	2·27	282·83	
7	14,280	4·30	1·24	3·06	285·89	
8	14,490	4·56	4·56	0·00	285·89	
9	14,720	4·56	2·20	2·36	288·25	
70	15,190	5·26	4·03	1·23	289·48	
1	15,660	2·52	2·24	·28	289·76	
2	16,035	3·58	1·21	2·37	292·13	
3	16,420	9·78	3 91	5·87	298·00	Bench mark, No. 2.
4	16,830	2·34	7·25	4·91	293·09	August 27.
5	17,420	2·81	2·87	0·06	293·03	
6	17,960	7·48	1·96	5·52	298·55	
7	18,210	6 35	0·97	5·38	303·93	
8	18,670	4·63	2·03	2·60	306·53	
9	19,220	2·80	4·54	1·74	304·79	
80	19,810	8·41	3·55	4·86	309·65	
1	19,990	4·98	0·37	4. 61	314·26	
2	20,260	11·66	0·32	11·34	325·60	
3	20,620	7·43	0·14	7·29	332·89	Cedar swamp.
4	20,850	8·63	0·11	8·52	341·41	
5	21,220	3·08	0·78	2·30	343·71	
6	21,490	5·87	0·89	4·98	348·69	
7	21,720	10·33	1·33	9·00	357·69	
8	21,910	9·17	1·54	7·63	365·32	Birch and Maple.
9	22,160	9·80	0·52	9·28	374·60	
90	22,320	11·27	0·47	10·80	385·40	
1	22,460	11·30	1·09	10·21	395·61	
2	22;620	10·30	1·67	8·63	404·24	
3	23,020	12·11	1·05	11·06	415·30	
4	23,420	10·23	4·50	5·73	421·03	
5	23,920	4·50	5·10	0·60	420·43	
6	24,120	6·08	4·50	1·58	422·01	
7	24,352	4·50	7·07	2·57	419·44	Bench mark, No. 4.
8	24,865	0·77	2·47	1·70	417·74	August 28, at 163 of 513
9	25,242	10·64	1·19	9·45	427·19	reserved road run-
100	25,645	6·38	1·17	5·21	432·40	ning east and west.
1	25,955	11·60	1·25	10·35	442·75	
2	26,365	7·50	1·18	6·32	449·07	
3	26,870	9·65	4·33	5·32	454·39	
4	27,320	2·61	10·44	7·83	446·56	
5	27,655	2·62	10·28	7·66	438·90	
6	28,065	2·84	4·94	2·10	436·80	
7	28,555	2·31	10·73	8·42	428·38	
8	29,015	1·00	7·01	6·01	422·37	
9	29,275	1·47	10·24	8·77	413·60	
110	29,475	1·82	11·01	9·19	404·41	
1	29,713	0·06	10·70	10·64	393·77	
2	30,030	2·34	1·30	1·04	394·81	Bench mark, No. 5.
3	30,277	7·23	1·88	5·35	400·16	August 29.
4	30,615	5·28	2·30	2·98	403·14	
5	30,975	1·66	8·95	7·29	395·85	
6	31,267	1·10	5·59	4·49	391·36	
7	31,483	5·62	1·97	3·65	395·01	
8	31,788	6·73	1·07	5·66	400·67	
9	32,093	5·97	2·58	3·39	404·06	
120	32,416	7·19	1·70	5·49	409·55	
1	32,672	12·51	1·20	11·31	420·86	
2	32,952	12·30	1·37	10·93	431·79	
3	33,252	10·45	4·00	6·45	438·24	
4	33,567	4·00	4·75	·75	437·49	
5	33,855	2·48	11·11	8·63	428·86	Cedar swamp.
6	34,320	3·60	10·58	6·98	421·88	
7	34,458	0·74	7·82	7·08	414·80	
8	34,718	5·61	4·94	0·67	415·47	
9	34,961	3·94	0·19	3·75	419·22	
	34,961				419·22	Carried up.

Levelling Register.—*Continued.*

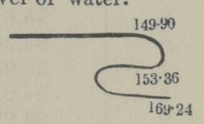
No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	34,961				419·22	Brought up.
130	35,150	9·22	0·35	8·87	428·09	
1	35,323	12·46	0·66	11·80	439·89	
2	35,669	2·31	1·15	1·16	441·05	
3	35,975	3·44	1·15	2·29	443·34	
4	36,166	1·65	1·21	·44	443·78	
5	36,449	3·13	2·12	1·01	444·79	
6	36,645	11·53	0·57	10·96	455·75	
7	36,760	12·90	·87	12·03	467·78	
8	36,973	12·67	·09	12·58	480·36	
9	37,036	13·48	·11	13·37	493·73	
140	37,204	10·	1·53	8·47	502·20	
1	37,372	5·66	10·83	5·17	497·03	
2	37,922	10·21	9·23	·98	498·01	
3	38,328	8·91	0·63	8·28	506·29	
4	38,543	11·70	1·06	10·64	516·93	Hardwood, Yellow Birch, Maple, Pine.
5	38,962	12·13	1·34	10·79	527·72	
6	39,589	11·40	8·64	2·76	530·48	
7	40,043	3·35	11·05	7.75	522·73	
8	40,479	2·15	10·97	8·82	513·91	
9	41,052	·95	7·64	6·69	507·22	
150	41,404	·22	7·55	7·33	499·89	
1	42,006	2·91	7·30	4·39	495·50	
2	42,551	1·57	11·57	10·	485·50	Spring.
3	43,094	3·65	4·56	·91	484·59	
4	43,542	8·14	1·36	6·78	491·37	
5	43,952	4·63	9·90	5·27	486·10	
6	44,387	1·16	11.38	10·22	475·88	
7	44,687	1·83	5·27	3·44	472·44	
8	45,234	3·13	3·82	·69	471·75	
9	45,624	10·62	·55	10·07	481·82	Bench mark, No. 6.
160	46,151	13·79	1·70	12·09	493·91	August 30.
1	46,808	13·10	4·75	8·35	502·26	Cedar swamp.
2	46,940	1·12	10·90	9·78	492·48	
3	47,322	·58	5·39	4·81	487·67	
4	47,890	3·42	11·89	8·47	479·20	
5	48,222	·43	10·25	9·82	469·38	
6	48,502	·86	2·02	1·16	468·22	
7	48,953	8·33	·55	7·78	476·00	
8	49,258	6·46	·69	5·77	481·77	
9	49,572	2·61	3·48	·87	480·90	Hardwood.
170	50,175	4·81	6·64	1·83	479·07	
1	50,634	3·49	6·51	3·02	476·05	
2	51,270	·04	10·73	10·69	465·36	Cedar swamp.
3	51,830	2·56	3·38	·82	464·54	
4	52,336	5·15	1·92	3·23	467·77	Bench mark, No. 7.
5	53,040	6·73	10·51	3·78	463·99	August 31.
6	53,186	·63	10·84	10·21	453·78	
7	53,566	·44	10·39	9·95	443·83	
8	53,850	·11	10·70	10·59	433·24	
9	54,297	1·80	7·78	5·98	427·26	Cedar swamp.
180	54,525	5·98	·91	5·07	432·33	
1	55,078	4·81	1·74	3·07	435·40	
2	55,396	8·07	·76	7·31	442·71	
3	55,932	12·58	1·29	11·29	454·00	
4	56,486	3·41	11·15	7·74	446·26	
5	56,771	·73	11·24	10·51	435·75	
6	56,871	·53	10·75	10·22	425·53	
7	57,064	·00	11·52	11·52	414·01	
8	57,476	·32	11·20	10·88	403·13	
9	57,996	·51	10·76	10·25	392·88	
190	58,432	6·85	10·67	3·82	389·06	
1	59,026	1·15	11·48	10·33	378·73	Brook running west into the Grand River.
2	59,356	7·53	·47	7·06	385·79	
3	60,056	13·31	11·40	1·91	387·70	At 290, large brook running west.
4	60,676	·86	11·44	10·58	377·12	
5	61,052	5·68	1·53	4·15	381·27	
	61,052				381·27	Carried over.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	61,052				381·27	Brought up.
196	61,497	5·40	10·53	5·13	376·14	
7	61,907	·90	8·35	7·45	368·69	
8	62,549	2·72	7·99	5·27	363·42	At 542, large brook running north-east.
9	62,934	5·21	3·24	1·97	365·39	
200	63,393	4·58	·57	4·01	369·40	
1	63,629	10·02	·17	9·85	379·25	
2	63,985	1·53	·26	1·27	380·52	
3	64,453	9·22	1·87	7·35	387·87	Bench mark, No. 8.
4	64,734	10·79	1·83	8·96	396·83	September 1.
5	65,271	10·99	4·16	6·83	403·66	Cedar swamp.
6	65,866	10·41	·45	9·96	413·62	
7	66,220	8·16	1·61	6·55	420·17	
8	66,646	8·29	6·68	1·61	421·78	
9	67,005	3·03	8·77	5·74	416·04	
210	67,461	2·04	1·95	·09	416·13	Hardwood.
1	67,908	7·85	1·05	6·80	422·93	
2	68,283	12·76	·41	12·35	435·28	
3	68,728	2·09	8·19	6·10	429·18	Cedar swamp.
4	69,421	3·42	3·67	·25	428·93	
5	70,281	2·47	10·92	8·45	420·48	Hardwood.
6	70,640	1·67	10·80	9·13	411·35	
7	70,754	·59	10·93	10·34	401·01	
8	70,864	·37	10·75	10·38	390.63	
9	70,959	·35	11·30	10·95	379·68	
220	71,091	·51	10·94	10·43	369·25	Cedar swamp.
1	71,213	·40	11·60	11·20	358·05	
2	71,308	·17	11·13	10·96	347·09	
3	71,412	·09	11·11	11·02	336·07	
4	71,562	·00	11·05	11·05	325·02	
5	71,690	·36	10·67	10·31	314·71	
6	71,809	·50	10·88	10·38	304·33	
7	71,931	·57	10·46	9·89	294·44	
8	72,039	·14	11·40	11·26	283·18	
9	72,136	1·08	10·56	9·48	273·70	Top of steep bank.
230	72,196	·37	10·49	10·12	263·58	
1	72,331	·39	10·79	10·40	253·18	
2	72,488	1·34	9·63	8·29	244·89	
3	72,693	1·87	8·77	6·90	237·99	Strm. 30 ft. wide rnng. E.
4	72,953	2·29	1·11	1·18	239·17	Rivulet running east.
5	72,996	11·	1·48	9·52	248·69	Rivulet running east.
6	73,138	13·24	·60	12·64	261·33	Hardwood.
7	73,349	11·33	·63	10·70	272·03	
8	73,871	8·68	9·63	0·95	271·08	
9	73,949	5·84	·64	5·20	276·28	Cedar swamp.
240	74,183	11·79	1·47	10·33	286·60	
1	74,683	8·05	2·78	5·27	291·87	
2	74,933	5·09	·91	4·18	296·05	
3	75,259	3·15	2·79	·36	296·41	
4	75,730	3·29	7·50	4·21	292·20	
5	76,051	1·54	8·34	6·80	285·40	
6	76,416	1·33	6·81	5·48	279·92	
7	76,675	·94	8·40	7·46	272·46	
8	76,925	5·95	1·85	4·10	276·56	
9	77,239	2·37	9·38	7·01	269·55	
250	77,385	1·11	10·74	9·63	259·92	
1	77,512	1·34	10·95	9·61	250·31	
2	77,631	·00	13·08	13·08	237·23	
3	77,750	·76	10·99	10·23	227·00	
4	77,820	1·90	10·99	9·09	217·91	
5	77,867	1·54	10·92	9·38	208·53	
6	77,934	·24	10·03	9·79	198·74	Swampy bank.
7	77,990	·57	15·98	15·41	183·33	September 2.
8	78,026	·00	16·25	16·25	167·08	
9	78,089	1·83	5·70	3·87	163·21	Level of water in Grand River.
260	78,427	4·20	4·17	·03	163·24	Width of river at ⌊ 115ft.
	78,427				163·24	North bank of river, 14 m., 4,507 ft.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	78,427				163·24	Brought up.
261	78,777	6·87	4·32	2·55	165·79	
2	79,457	2·70	5·21	2·51	163·28	
3	80,143	2·56	7·47	4·91	158·37	
4	80,624	3·88	4·11	·23	158·14	
5	80,903	3·57	8·35	4·78	153·36	Level of water at a bend of the Grand River.
6	81,083	8·35	4·20	4·15	157·51	
7	81,690	3·02	4·92	1·90	155·61	At 213 feet from the 607 level of water at another bend in Grand R.
8	82,103	2·50	8·21	5·71	149·90	Level of water.
9	82,267	8·21	·72	7·49	157·39	
270	82,504	9·54	·68	8·86	166·25	
1	82,612	10·78	·09	10·69	176·94	
2	82,701	10·33	·84	9·49	186·43	
3	82,940	7·04	·87	6·17	192·60	
4	83,177	3·22	10.07	6·85	185·75	Bench mark, No. 9.
5	83,336	1·45	8·00	6·55	179·20	September 3.
6	83,614	8·95	·76	8·19	187·39	Rivulet running to west.
7	83,722	11·27	·93	10·34	197·73	Cedar swamp with soft and deciduous wood.
8	83,860	10·16	·00	10·16	207·89	
9	84,007	12·26	·59	11·67	219·56	
280	84,163	12·52	·03	12·49	232·05	
1	84,312	10·76	·65	10·11	242·16	
2	84,449	12·07	·45	11·62	253·78	
3	84,618	11·71	·24	11·47	265·25	
4	85,038	11·14	2·26	8·88	274·13	Cedar swamp.
5	85,336	10·20	·50	9·70	283·83	
6	85,526	12·16	·00	12·16	295·99	
7	85,696	10·72	·34	10·38	306·37	
8	85,842	10·63	·35	10·28	316·65	
9	86,024	12·21	·00	12·21	328·86	
290	86,182	11·86	·40	11·46	340·32	
1	86,355	13·62	·00	13·62	353·94	
2	86,444	11·00	·15	10·85	364·79	
3	86,590	10·88	1·09	9·79	374·58	
4	86,708	10·93	·01	10·92	385·50	
5	86,950	7·50	11·12	3·62	381·88	
6	87,003	·23	10·79	10·56	371·32	Cedar bottom.
7	87,085	·66	11·26	10·60	360·72	
8	87,306	·12	11·	10·88	349·84	
9	87,492	10·49	·00	10·49	360·33	
300	87,791	13·04	·19	12·85	373·18	
1	88,106	7·27	·76	6·51	379·69	
2	88,180	10·55	·08	10·47	390·16	
3	88,323	13·27	·31	12·96	403·12	
4	88,426	12·02	1·86	10·16	413·28	
5	88,531	11·94	·00	11·94	425·22	
6	88,611	11·63	·52	11·11	436·33	
7	88,697	11·44	·60	10·84	447·17	
8	88,751	11·44	·08	11·36	458·53	
9	88,809	11·44	·00	11·44	469·97	
310	88,883	11·28	·00	11·28	481·25	
1	89,165	8·16	·30	7·86	489·11	
2	89,235	10·73	·23	10·50	499·61	
3	89,477	7·87	10·60	2·73	496·88	
4	89,998	5·83	11·40	3·55	491·33	
5	90,104	1·24	11·55	10·31	481·02	
6	90,162	·02	11·52	11·50	469·52	
7	90,220	·00	11·02	11·02	458·50	
8	90,548	·68	6·43	5·75	452·75	
9	90,635	10·73	·40	10·33	463·08	
320	90,688	11·34	·13	11·21	474·29	
1	90,801	9·20	·26	8·94	483·23	
2	90,884	12·00	·17	11·83	495·06	
3	90,979	11·33	·41	10·92	505·98	
4	91,316	7·30	10·76	3·46	502·52	
	91,316				502·52	Carried over.



Levelling Register.— *Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	91,316				502·52	Brought up.
325	91,488	·23	10·89	10·66	491·86	
6	91,632	·98	10·95	9·97	481·89	
7	91,928	·61	6·72	6·11	475·78	
8	92,152	1·28	11·21	9·93	465·85	
9	92,453	·42	1·07	·65	465·20	
330	92,661	10·02	1·10	8·92	474·12	
1	92,827	10·89	1·47	9·42	483·54	
2	93,023	10·13	3·04	7·09	490·63	Bench mark, No. 10.
3	93,343	9·93	7·55	2·38	493·01	September 4.
4	93,569	1·91	11·43	9·52	483·49	
5	93,676	2·28	11·10	8·82	474·67	
6	93,767	1·43	10·83	9·40	465·27	
7	93,931	·53	9·72	9·19	456·08	Cross a ravine 15 ft. deep.
8	94,025	·82	11·38	10·56	445·52	
9	94,223	1·35	12·24	10·89	434·63	
340	94,417	1·41	10·78	9·37	425·26	
1	94,484	·34	10·55	10·21	415·05	
2	94,508	·59	11·00	10·41	404·64	
3	94,768	2·95	10·34	7·39	397·25	
4	94,932	2·16	5·54	3·38	393·87	
5	95,140	4·02	10·47	6·45	387·42	
6	95,446	1·25	9·60	8·35	379·07	
7	95,603	1·21	11·85	10·64	368·43	
8	95,770	·84	10·70	9·86	358·57	
9	95,953	1·12	11·22	10·10	348·47	
350	96,063	·80	10·91	10·11	338·36	
1	96,223	·74	11·39	10·65	327·71	
2	96,659	·50	4·97	4·47	323·24	
3	96,999	5·78	6·30	·52	322·72	
4	97,183	1·64	4·46	2·82	319·90	At 100 to 183 small brook west.
5	97,592	11·09	·48	10·61	330·51	
6	98,077	4·03	7·19	3·16	327·35	
7	98,479	3·41	1·97	1·44	328·79	
8	99,001	5·53	2·74	2·79	331·58	
9	99,605	10·41	·82	9·59	341·17	
360	99,947	10·36	1·08	9·28	350·45	At 400 small brook west.
1	100,183	10·14	1·82	8·32	358·77	
2	100,386	10·38	1·05	9·33	368·10	
3	100,702	10·67	2·10	8·57	376·67	
4	100,998	9·82	2·84	6·98	383·65	
5	101,310	11·31	·94	10·37	394·02	
6	101,516	10·04	·82	9·22	403·24	
7	101,638	10·48	2·17	8·31	411·55	
8	101,953	10·28	1·63	8·65	420·20	
9	102,164	5·62	2·66	2·96	423·16	Bench mark, No. 11.
370	102,469	6·06	2·83	3·23	426·39	September 5.
1	102,969	7·67	1·27	6·40	432·79	
2	103,331	8·90	1·19	7·71	440·50	
3	103,832	9·84	1·04	8·80	449·30	
4	104,357	6·10	5·14	·96	450·26	
5	104,647	3·32	8·76	5·44	444·82	
6	105,445	3·95	6·35	2·40	442·42	
7	105,468	3·47	3·61	·14	442·28	
8	105,702	2·47	10·51	8·04	434·24	
9	105,961	2·95	8·20	5·25	428·99	
380	106,198	1·35	11·23	9·88	419·11	
1	106,398	2·15	10·92	8·77	410·34	
2	106,716	6·45	2·95	3·50	413·84	
3	107,330	3·57	2·50	1·07	414·91	
4	107,920	4·90	4·63	·27	415·18	
5	108,248	2·60	3·52	·92	414·26	
6	108,546	6·13	·96	5·17	419·43	Bench mark, No. 12.
7	108,744	8·71	1·69	7·02	426·45	
8	108,915	12·68	·94	11·74	438·19	
9	109,032	11·41	·75	10·66	448·85	
390	109,211	4·21	1·51	2·70	451·55	
	109,211				451·55	Carried over.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	109,211				451·55	Brought up.
391	109,565	10·27	1·02	9·25	460·80	
2	109,881	7·21	·80	6·41	467·21	
3	110,000	12·86	·08	12·78	479·99	
4	110,170	13·95	·46	13·49	493·48	
5	110,413	10·57	·82	9·75	503·23	Burnt land begins.
6	110,900	9·29	1·86	7·43	510·66	
7	111,170	5·37	9·20	3·83	506·83	
8	111,288	2·94	10·73	7·79	499·04	
9	111,414	·65	11·14	10·49	488·55	
400	111,474	·71	10·49	9·78	478·77	
1	111,530	·18	11·50	11·32	467·45	
2	111,585	·30	10·34	10·04	457·41	
3	111,775	·00	11·11	11·11	446·30	
4	111,839	·17	10·82	10·65	435·65	
5	111,953	·35	11·15	10·80	424·85	
6	112,028	·48	11·09	10·61	414·24	
7	112,139	·00	11·06	11·06	403·18	
8	112,216	·65	11·37	10·72	392·46	
9	112,286	·00	11·32	11·32	381·14	
410	112,382	·08	10·86	10·78	370·36	
1	112,475	·14	11·26	11·12	359·24	
2	112,536	·62	11·20	10·58	348·66	
3	112,599	·00	11·58	11·58	337·08	
4	112,650	·82	11·25	10·43	326·65	
5	112,708	·00	10·98	10·98	315·67	
6	112,778	·69	11·19	10·50	305·17	
7	112,824	·48	10·81	10·33	294·84	
8	112,874	·11	10·67	10·56	284·28	
9	112,927	·45	11·80	11·35	272·93	
420	112,982	·15	11·30	11·15	261·78	
1	113,058	·30	11·08	10·78	251·00	
2	113,110	·48	10·82	10·34	240·66	
3	113,180	·02	11·46	11·44	229·22	
4	113,225	·84	11·20	10·36	218·86	
5	113,280	·24	11·13	10·89	207·97	
6	113,384	1·07	11·24	10·17	197·80	
7	113,612	·72	9·61	8·89	188·91	
8	113,755	1·95	9·40	7·45	181·46	
9	113,928	·88	6·66	5·78	175·68	
430	114,544	3·09	6·78	3·69	171·99	
1	115,038	3·63	5·49	1·86	170·13	
2	115,732	5·48	3·56	1·92	172·05	At 100 ft. crosses small branch of Wagan rng. W.
3	116,467	3·16	7·34	4·18	167·87	
4	117,021	3·92	1·96	1·96	169·83	At 540 crosses Wagan running E. water 3½ ft. lower than 554.
5	117,632	2·97	2·87	·10	169·93	
6	118,366	2·55	2·84	·29	169·64	
7	119,191	5·22	10·86	5·64	164·00	
8	119,821	6·13	3·94	2·19	166·19	
9	120,097	2·25	9·84	7·59	158·60	
440	120,486	3·81	6·17	2·36	156·24	
1	120,858	5·66	5·14	·52	156·76	
2	121,108	7·66	1·43	6·23	162·99	
3	121,497	11·62	2·54	9·08	172·07	At 50ft. main Wagan rng. E., water 9·92 ft. lower than station 442.
4	121,837	7·75	·67	7·08	179·15	
5	121,951	8·22	1·54	6·68	185·83	
6	122,043	10·04	1·01	9·03	194·86	Bench mark, No. 13.
7	122,171	9·72	·65	9·07	203·93	September 6.
8	122,287	10·73	·88	9·85	213·78	
9	122,427	9·60	·16	9·44	223·22	
450	122,620	10·45	·69	9·76	232·98	
1	122,788	11·69	·64	11·05	244·03	
2	123,128	5·62	11·04	5·42	238·61	
3	123,350	1·04	10·84	9·80	228·81	
4	123,530	1·30	11·39	10·09	218·72	
5	123,648	·93	8·36	7·43	211·29	
6	124,161	4·25	8·02	3·77	207·52	
	124,161				207·52	Carried over.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	124,161				207·52	Brought up.
457	124,543	4·49	9·48	4·99	202·53	
8	124,983	1·14	10·92	9·78	192·75	
9	125,406	3·32	7·17	3·85	188·90	
460	125,754	1·33	·22	1·11	190·01	
1	126,016	2·28	·29	1·99	192·00	
2	126,643	8·73	11·34	2·61	189·39	
3	126,993	·41	11·49	11·08	178·31	
4	127,063	·41	11·31	10·90	167·41	
5	127,100	·89	10·88	9·99	157·42	
6	127,227	·68	11.57	10·89	146·53	
7	127,709	1·42	4·57	3·14	143·38	
8	128,139	3·95	4·98	1·03	142·35	
9	128,189	11·82	16·70	4·88	137·47	Level of water in Restigouche, river 50ft. wide.
	128,189				137·47	Water at Grand River, 163·24 137·47
470	128,349	16·70	2·14	14·56	152·03	ft. 25·77 diffce. of level.
1	129,012	5·69	2·46	3·23	155·26	24m. 1,469 ft. from St. John's
2	129,464	11·50	·59	10·91	166·17	9m. 2,242ft. from Grand R.
3	129,697	7·48	1·41	6·07	172·24	
4	129,925	7·74	1·47	6·27	178·51	
5	130,088	10·18	2·40	7·78	186·29	Bench mark, No. 14.
6	130,238	10·24	·90	9·34	195·63	September 7.
7	130,388	8·42	·87	7·55	203·18	
8	130,555	10·91	1·48	9·43	212·61	
9	130,759	8·36	2·36	6·00	218·61	
480	130,971	8·61	·97	7·64	226·35	
1	131,158	9·86	·73	9·13	235·38	
2	131,364	13·60	·60	13·00	248·38	
3	131,814	8·86	1·98	6·88	255·26	
4	132,214	10·65	1·43	9·22	264·48	
5	132,464	4·95	3·05	1·90	266·38	
6	132,664	9·84	1·64	8·20	274·58	
7	132,831	11·87	·06	11·81	286·39	
8	133,071	6·61	·49	6·12	292·51	
9	133,221	11·98	1.76	10·22	302·73	
490	133,394	12·88	·50	12·38	315·11	
1	133,564	11·44	2·04	9·40	324·51	
2	133,726	11·35	·44	10·91	335·42	
3	133,886	13·81	·90	12·91	348·33	
4	134,017	13·00	·74	12·26	360·59	
5	134,146	10·62	1·36	9·26	369·85	
6	134,284	11·45	·37	11·08	380·93	
7	134,544	11·29	·40	10·89	391·82	
8	134,663	13·05	·47	12·58	404·40	
9	134,850	9·16	·53	8·63	413·03	
500	134,909	12·35	·70	11·65	424·68	
1	135,017	14·25	·72	13·53	438·21	
2	135,107	12·30	·45	11·85	450·06	
3	135,287	13·11	·11	13·	463·06	
4	135,387	13·80	·20	13·60	476·66	
5	135,487	10·33	1·03	9·30	485·96	
6	135,651	12·60	·80	11·80	497·76	
7	135,955	14·25	·18	14·07	511·83	
8	136,255	7·68	1·31	6·37	518·20	
9	136,528	7·80	2·98	4·82	523·02	
510	136,768	10·16	1·30	8·86	531·88	
1	137,026	11·70	2·36	9·34	541·22	
2	137,276	9·64	1·21	8·43	549·65	
3	137,424	10·83	1·08	9·75	559·40	
4	137,636	12·74	1·08	11·66	571·06	
5	137,836	12·56	·77	11·79	582·85	
6	138,086	7·40	2·75	4·65	587·50	Bench mark, No. 15.
7	138,586	8·66	5·92	2·74	590·24	September 8.
8	139,042	5·75	2·50	3·25	593·49	
9	139,372	5·10	6·12	1·02	592·47	
	139,372				592·47	Carried over.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	139,372				592·47	Brought up.
520	139,600	10·59	1·11	9·48	601·95	
1	139,800	13·06	2·20	10·86	612·81	
2	139,950	10·95	1·59	9·36	622·17	
3	140,250	8·87	5·91	2·96	625·13	
4	140,550	2·83	9·29	6·46	618·67	
5	140,865	2·52	8·84	6·32	612·35	
6	141,065	2·82	11·92	9·10	603·25	
7	141,615	4·99	11·30	6·31	596·94	
8	141,865	1·57	13·36	11·79	585·15	
9	142,165	1·49	12·59	11·10	574·05	
530	142,465	·65	11·90	11·25	562·80	
1	142,665	2·25	9·19	6·94	555·86	
2	142,815	1·23	9·14	7·91	547·95	
3	143,115	5·04	1·93	3·11	551·06	
4	143,352	6·65	3·18	3·47	554·53	
5	143,588	10·23	1·07	9·16	563·69	
6	143,977	6·91	·81	6·10	569·79	
7	144,377	5·84	1·08	4·76	574·55	Bench mark, No. 16.
8	144,627	7·64	2·27	5·37	579·92	September 10.
9	144,877	7·27	1·13	6·14	586·06	
540	145,177	8·07	2·80	5·27	591·33	
1	145,477	6·31	3·22	3·09	594·42	
2	145,760	8·68	1·88	6·80	601·22	
3	145,960	8·21	4·50	3·71	604·93	
4	146,360	4·50	8·50	4·00	600·93	
5	146,710	3·41	6·65	3·24	597·69	
6	147,310	9·23	2·05	7·18	604·87	
7	147,710	4·67	3·18	1·49	606·36	
8	148,154	5·64	7·68	2·04	604·32	
9	148,327	1·03	10·84	9·81	594·51	
550	148,613	2·41	6·60	4·19	590·32	
1	148,852	1·28	11·23	9·95	580·37	
2	149,199	1·04	8·61	7·57	572·80	
3	149,749	·69	9·46	8·77	564·03	
4	150,119	2·65	8·25	5·60	558·43	
5	150,269	1·29	11·80	10·51	547·92	
6	150,506	1·37	10·85	9·48	538·44	
7	150,626	·59	12·06	11·47	526·97	
8	150,726	·00	14·23	14·23	512·74	
9	150,798	1·02	11·66	10·04	502·70	
560	150,863	·64	10·12	9·48	493·22	
1	150,983	·16	11·00	10·84	482·38	
2	151,063	·00	10·61	10·61	471·77	
3	151,168	1·54	10·20	8·66	463·11	
4	151,474	3·34	8·62	5·28	457·83	
5	151,674	2·54	6·64	4·10	453·73	
6	151,974	3·88	9·16	5·28	448·45	
7	152,174	1·49	8·29	6·80	441·65	
8	152,424	2·37	9·43	7·06	434·59	
9	152,524	1·55	10·74	9·19	425·40	
570	152,774	3·61	7·55	3·94	421·46	
1	153,074	1·04	5·27	4·23	417·23	
2	153,374	5·99	2·35	3·64	420·87	
3	153,636	5·79	1·77	4·02	424·89	
4	153,836	4·91	3·96	·95	425·84	
5	154,136	7·38	2·93	4·45	430·29	
6	154,234	6·71	2·02	4·69	434·98	
7	154,317	9·79	·42	9·37	444·35	
8	154,443	10·55	·49	10·06	454·41	
9	154,607	7·62	2·02	5·60	460·01	
580	154,672	10·92	1·05	9·87	469·88	
1	154,812	8·60	·77	7·83	477·71	
2	154,974	10·22	·80	9·42	487·13	
3	155,061	9·45	·73	8·72	495·85	
4	155,171	11·35	1·46	9·89	505·74	
5	155,258	11·12	1·17	9·95	515·69	
	155,258				515·69	Carried over.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	155,258				515·69	Brought up.
586	155,336	11·11	1·28	9·83	525·52	
7	155,440	10·51	·07	10·44	535·96	
8	155,516	9·27	·25	9·02	544·98	
9	155,566	8·61	·12	8·49	553·47	Bench mark, No. 17.
590	155,646	10·00	1·44	8·56	562·03	September 14.
1	155,701	11·41	·97	10·44	572·47	
2	155,784	10·38	·03	10·35	582·82	
3	155,878	10·30	·43	9·87	592·69	
4	155,960	11·55	·00	11·55	604·24	
5	156,103	10·99	·29	10·70	614·94	
6	156,433	6·69	9·60	2·91	612·03	At 175 ft. (170th M.T.)
7	156,589	2·90	10·40	7·50	604·53	
8	156,958	11·31	2·00	9·31	613·84	
9	157,430	9·60	1·89	7·71	621·55	
600	157,544	10·07	·62	9·45	631·00	
1	157,737	11·91	·29	11·62	642·62	
2	157,866	10·54	·28	10·26	652·88	
3	158,034	10·45	1·53	8·92	661·80	
4	158,483	10·67	9·56	1·11	662·91	
5	158,578	1·79	10·62	8·83	654·08	
6	158,758	1·21	11·05	9·84	644·24	
7	159,066	1·57	11·14	9·57	634·67	
8	159,308	·99	3·15	2·16	632·51	
9	159,572	10·79	1·10	9·69	642·20	
610	159,802	11·42	·09	11·33	653·53	
1	160,002	7·31	·79	6·52	660·05	
2	160,184	11·54	·85	10·69	670·74	
3	160,408	9·01	·00	9·01	679·75	
4	160,534	14·01	·53	13·48	693·23	
5	160,801	10·35	·32	10·03	703·26	
6	161,116	5·85	9·57	3·72	699·54	
7	161,421	2·24	9·86	7·62	691·92	
8	161,738	2·60	11·14	8·54	683·38	
9	161,904	1·38	10·58	9·20	674·18	
620	162,007	·02	11·41	11·39	662·79	
1	162,249	·22	8·66	8·44	654·35	
2	162,711	1·71	6·33	4·62	649·73	
3	163,126	8·73	1·67	7·06	656·79	
4	163,366	8·88	1·34	7·54	664·33	
5	163,542	10·39	·06	10·33	674·66	
6	163,684	10·19	1·76	8·43	683·09	
7	163,854	10·83	1·03	9·80	692·89	
8	163,993	9·52	1·42	8·10	700·99	
9	164,141	11·65	1·49	10·16	711·15	
630	164,403	9·89	1·11	8·78	719·93	
1	164,529	11·45	·58	10·87	730·80	
2	164,686	9·41	2·02	7·39	738·19	
3	165,231	8·54	9·07	·53	737·66	
4	165,416	4·51	9·89	5·38	732·28	
5	165,506	·73	11·14	10·41	721·87	
6	165,818	2·70	10·03	7·33	714·54	
7	165,937	2·37	11·09	8·72	705·82	
8	166,061	·92	9·16	8·24	697·58	
9	166,121	9·16	·00	9·16	706·74	
640	166,228	10·39	1·39	9·00	715·74	
1	166,307	11·85	·70	11·15	726·89	
2	166,386	10·89	·27	10·62	737·51	
3	166,468	11·13	1·22	9·91	747·42	
4	166,573	12·21	·49	11·72	759·14	
5	166,676	11·00	·74	10·26	769·40	
6	166,765	11·13	·94	10·19	779·59	
7	166,861	11·80	·50	11·30	790·89	
8	166,991	14·52	·77	13·75	804·64	
9	167,406	8·60	5·54	3·06	807·70	
650	167,611	2·33	10·15	7·82	799·88	Bench mark, No. 18.
1	167,756	·06	10·46	10·40	789·48	September 15.
	167,756				789·48	Carried over.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	167,756				789·48	Brought up.
652	167,861	1·81	11·02	9·21	780·27	
3	167,965	1·02	10·69	9·67	770·60	
4	168,065	·42	10·42	10·00	760·60	
5	168,196	·12	10·83	10·71	749·89	
6	168,287	·70	11·24	10·54	739·35	
7	168,373	·90	10·72	9·82	729·53	
8	168.526	·40	1·62	1·22	728·31	
9	168,673	9·98	1·44	8·54	736·85	
660	168,770	11·60	0·70	10·90	747·75	
1	168,868	11·09	0·52	10·57	755·32	
2	169,011	11·83	1·70	10·13	768·45	
3	169,111	11·18	2·04	9·14	777·59	
4	169,473	11·32	1·71	9·61	787·20	
5	169,818	3·81	7·18	3·37	783·83	
6	170,076	4·22	10·13	5·91	777·92	
7	170,261	2·35	10·94	8·59	769·33	
8	170,455	1·89	10·58	8·69	760·64	
9	170,500	·42	11·44	11·02	749·62	
670	170,821	·27	11·11	10·84	738·78	
1	171,311	2·46	8·55	6·09	732·69	
2	171,831	5·47	8·34	2·87	729·82	
3	171,979	2·45	10·90	8·45	721·37	
4	172,161	1·60	10·75	9·15	712·22	
5	172,335	·37	11·39	11·02	701·20	
6	172,467	·57	10·75	10·18	691·02	
7	172,551	·67	11·02	10·35	680·67	
8	172,673	·32	11·24	10·92	669·75	
9	172,852	·68	11·04	10·36	659·39	
680	172,991	1·38	11·25	9·87	649·52	
1	173,121	·37	11·00	10·63	638·89	
2	173,328	1·39	10·70	9·31	629·58	
3	173,586	1·62	11·20	9·58	620·00	
4	173,766	·19	10·91	10·72	609·28	
5	173,961	·38	11·43	11·05	598·23	
6	174,129	2·34	11·04	8·70	589·53	
7	174,211	·57	11·39	10·82	578·71	
8	174,311	·24	14·00	13·76	564·95	Brook running west.
9	174,461	14·00	10·80	3·20	568·15	
690	174,736	7·30	9·02	1·72	566·43	
1	174,836	·31	10·66	10·35	556·08	
2	174,891	·57	10·73	10·16	545·92	
3	174,941	·52	11·15	10·63	535·29	
4	174,981	·41	10·58	10·17	525·12	
5	175,031	·66	11·17	10·51	514·61	
6	175,081	·19	11·20	11·01	503·60	
7	175,205	·26	7·42	7·16	496·44	Surface of water in brook.
8	175,461	6·29	·95	5·34	501·78	
9	175,561	10·11	·00	10·11	511·89	
700	175,761	10·04	·17	9·87	521·76	
1	175,826	10·10	·24	9·86	531·62	
2	175,917	10·65	·55	10·10	541·72	
3	176,001	10·46	·00	10·46	552·18	
4	176,161	11·56	1·24	10·32	562·50	
5	176,486	10·23	·52	9·71	572·21	
6	176,973	8·97	9·60	·63	571·58	
7	177,179	2·08	9·28	7·20	564·38	
8	177,349	2·37	10·30	7·93	556·45	
9	177,451	·45	11·06	10·61	545·84	
710	177,511	·00	11·31	11·31	534·53	
1	177,641	·54	8·13	7·59	526·94	Bench mark, No. 19.
2	177,737	8·05	·21	7·84	534·78	September 16.
3	177,824	10·93	·13	10·80	545·58	
4	177,841	12·30	·65	11·65	557·23	
5	177,888	10·65	·47	10·18	567·41	
6	177,935	10·91	33	10·58	577·99	
7	178,006	11·20	1·44	9·76	587·75	
	178,006				587·75	Carried over.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	178,006				587·75	Brought up.
718	178,053	10·68	·61	10·07	597·82	
9	178,101	9·23	·79	8·44	606·26	
720	178,199	11·02	·89	10·13	616·39	
1	178,301	11·10	1·54	9·56	625·95	
2	178,411	9·65	·54	9·11	635·06	
3	178,501	11·17	·22	10·95	646·01	
4	178,549	9·31	·14	9·17	655·18	
5	178,596	12·53	·25	12·28	667·46	
6	178,679	11·48	·25	11·23	678·69	
7	178,748	11·08	·15	10·93	689·63	
8	178,818	11·64	·20	11·44	701·06	
9	178,891	10·23	·02	10·21	711·27	
730	178,977	10·41	·90	9·51	720·78	
1	179,076	11·54	·36	11·18	731·96	
2	179,191	10·20	·48	9·72	741·68	
3	179,373	13·02	·95	12·07	753·75	
4	179,578	14·48	1·30	13·18	766·93	
5	179,961	5·60	6·15	·55	766·38	
6	180,111	·91	10·52	9·61	756·77	
7	180,261	·75	10·89	10·14	746·63	
8	180,455	·30	10·86	10·56	736·07	
9	180,796	1·08	5·25	4·17	731·90	
740	180,991	10·85	·94	9·91	741·81	
1	181,386	13·37	1·21	12·16	753·97	
2	181,813	3·54	8·69	5·15	748·82	
3	182,024	1·26	10·97	9·71	739·11	
4	182,111	·51	11·15	10·64	728·47	
5	182,231	·76	11·14	10·38	718·09	
6	182,329	·16	11·04	10·88	707·21	
7	182,411	·00	10·80	10·80	696·41	
8	182,514	·10	11·19	11·09	685·32	
9	182,601	·09	11·19	11·10	674·22	
750	182,679	·16	10·64	10·48	663·74	
1	182,761	·99	11·32	10·33	653·41	
2	182,873	1·79	11·24	9·45	643·96	
3	182,961	·70	9·10	8·40	635·56	
4	183,145	7·09	·00	7·09	642·65	
5	183,317	11·86	1·85	10·01	652·66	
6	183,529	10·64	·35	10·29	662·95	
7	183,716	12·33	·78	11·55	674·50	
8	184,261	7·53	10·18	2·65	671·85	
9	184,521	3·65	10·30	6·65	665·20	
760	184,721	1·21	11·32	10·11	655·09	
1	184,873	1·06	10·72	9·66	645·43	
2	185,021	1·88	10·70	8·82	636·61	
3	185,145	·41	10·94	10·53	626·08	
4	185,221	·64	10·44	9·80	616·28	
5	185,396	4·79	1·93	2·86	619·14	
6	185,565	10·47	1·51	8·96	628·10	
7	185,761	13·60	·99	12·61	640·71	
8	185,986	12·82	1·23	11·59	652·30	
9	186,296	10·44	1·77	8·67	660·97	
770	186,661	7·98	1·82	6·16	667·13	
1	186,961	4·53	4·15	·38	667·51	
2	187,073	1·93	10·11	8·18	659·33	
3	187,381	1·05	10·88	9·83	649·50	
4	187,521	1·20	12·70	11·50	638·00	
5	187,631	1·00	10·89	9·89	628·11	
6	187,731	1·28	10·74	9·46	618·65	
7	187,821	1·15	10·44	9·29	609·36	
8	187,915	·15	10·84	10·69	598·67	
9	187,971	·46	10·90	10·44	588·23	
780	188,046	·67	13·80	13·13	575·10	
1	188,121	·31	10·74	10·43	564·67	
2	188,206	·96	10·87	9·91	554·76	
3	188,281	·19	10·57	10·38	544·38	
	188,281				544·38	Carried over.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	188,281				544·38	Brought up.
784	188,396	·29	11·18	10·89	533·49	
5	188,461	1·07	10·38	9·31	524·18	
6	188,531	1·69	10·96	9·27	514·91	
7	188,583	1·24	10·72	9·48	505·43	
8	188,686	·80	13·94	13·14	492·29	
9	188,749	·75	15·97	15·22	477·07	
790	188,801	·44	14·49	14·05	463·02	
1	188,853	·16	15·23	15·07	447·95	Bench mark, No. 20.
2	188,886	·91	15·61	14·70	433·25	September 17.
3	188,911	·62	15·54	14·92	418·33	
4	188,951	·48	15·06	14·58	403·75	
5	188,983	·46	15·51	15·05	388·70	
6	189,006	2·07	15·43	13·36	375·34	
7	189,021	3·45	15·75	12·30	363·04	
8	189,036	2·55	15·97	13·42	349·62	
9	189,051	3·54	13·55	10·01	339·61	Surface of water in brook.
800	189,096	13·55	4·96	8·59	348·20	
1	189,111	9·82	·16	9·66	357·86	
2	189,146	12·04	·05	11·99	369·85	
3	189,189	12·37	·33	12·04	381·89	
4	189,461	13·59	1·71	11·88	393·77	
5	189,581	11·85	·23	11·62	405·39	
6	189,653	16·23	·10	16·13	421·52	
7	189,741	14·34	·00	14·34	435·86	
8	189,818	14·43	·70	13·73	449·59	
9	189,973	16·82	·89	15·93	465·52	
810	190,087	11·95	·77	11·18	476·70	
1	190,211	13·55	1·08	12·47	489·17	
2	190,361	12·01	·33	11·68	500·85	
3	190,513	10·64	·57	10·07	510·92	
4	190,878	10·57	9·35	1·22	512·14	
5	191,161	·48	14·75	14·27	497·87	
6	191,361	8·28	·02	8·26	506·13	
7	191,521	12·49	·09	12·40	518·53	
8	191,684	11·35	·45	10·90	529·43	
9	191,811	11·40	·38	11·02	540·45	
820	191,929	13·98	·47	13·51	553·96	
1	192,047	14·06	·34	13·72	567·68	
2	192,176	15·50	1·11	14·39	582·07	
3	192,285	13·30	·48	12·82	594·89	
4	192,406	11·48	·28	11·20	606·09	
5	192,487	13·80	·11	13·69	619·78	
6	192,567	15·61	·68	14·93	634·71	
7	192,861	11·43	4·85	6·58	641·29	
8	193,077	·79	12·32	11·53	629·76	
9	193,183	·56	10·89	10·33	619·43	
830	193,311	·95	15·95	15·00	604·43	
1	193,387	1·23	17·91	16·68	587·75	
2	193,491	·11	16·15	16·04	571·71	
3	193,588	·08	16·12	16·04	555·67	
4	193,683	·52	16·33	15·81	539·86	
5	193,757	·67	15·81	15·14	524·72	
6	193,821	·08	16·33	16·25	508·47	
7	193,882	·19	16·09	15·90	492·57	
8	193,956	·24	14·01	13·77	478·80	
9	194,018	·58	15·65	15·07	463·73	
840	194,077	·66	16·60	15·94	447·79	
1	194,101	·41	15·67	15·26	432·53	
2	194,141	·00	16·36	16·36	416·17	
3	194,186	·35	15·58	15·23	400·94	
4	194,233	·39	16·92	16·53	384·41	
5	194,261	·92	16·86	15·94	368·47	
6	194,289	2·81	15·81	13·00	355·47	
7	194,311	·29	16·59	16·30	339·17	
8	194,336	·65	15·56	14·91	324·26	
9	194,370	·07	15·52	15·45	308·81	
	194,370				308·81	Carried over.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	194,370				308·81	Brought up.
850	194,389	2·35	15·79	13·44	295·37	
1	194,416	2·93	16·61	13·68	281·69	270·62 feet.
2	194,576	4·18	15·25	11·07	270·62	Surface of water in main stream of Mempticook.
3	194,661	15·25	·03	15·22	285·84	
4	194,686	10·70	·10	10·60	296·44	
5	194,729	8·45	1·05	7·40	303·84	September 18.
6	194,761	10·31	·12	10·19	314·03	
7	194,786	11·13	·01	11·12	325·15	
8	194,829	12·03	·10	11·93	337·08	
9	194,870	12·34	·00	12·34	349·42	
860	194,911	12·85	·26	12·59	362·01	
1	194,933	10·72	·26	10·46	372·47	
2	194,969	12·25	·24	12·01	384·48	
3	195,073	14·72	·18	14·54	399·02	
4	195,261	12·16	4·00	8·16	407·18	
5	195,528	4·00	5·22	1·22	405·96	
6	195,621	2·61	11·71	9·10	396·86	
7	195,691	1·19	11·28	10·09	386·77	
8	195,769	·50	11·26	10·76	376·01	
9	195,969	·83	10·83	10·00	366·01	
870	196,196	5·59	·12	5·47	371·48	
1	196,404	11·59	1·38	10·21	381·69	
2	196,528	9·03	·17	8·86	390·55	
3	196,666	17·52	·50	17·02	407·57	
4	196,786	15·99	·42	15·57	423·14	
5	196,967	14·76	·38	14·38	437·52	
6	197,200	11·24	·72	10·52	448·04	
7	197,521	14·05	·34	13·71	461·75	
8	197,681	3·36	11·33	7·97	453·78	
9	197,761	·78	10·49	9·71	444·87	
880	198,011	·53	11·00	10·47	433·60	
1	198,136	·72	10·72	10·00	423·60	
2	198,161	·46	10·91	10·45	413·15	
3	198,311	1·04	10·66	9·62	403·53	
4	198,381	·96	11·03	10·07	393·46	
5	198,441	·63	15·79	15·16	378·30	
6	198,501	·23	15·67	15·44	362·86	
7	198,561	·77	14·97	14·20	348·66	
8	198,611	·99	15·80	12·16	333·85	
9	198,751	·53	12·69	14·81	321·69	Brook running east, water 2 feet lower.
890	198,921	8·62	·38	8·24	329·93	
1	198,968	15·62	·21	15·41	345·24	
2	199,021	14·95	·28	14·67	360·01	
3	199,131	16·78	·65	16·13	376·14	
4	199,301	15·61	·29	15·32	391·46	
5	199,361	12·53	·00	12·53	403·99	
6	199,491	11·09	·39	10·70	414·69	
7	199,661	14·80	·39	14·41	429·10	
8	199,776	14·55	·00	14·55	443·65	
9	199,991	16·18	1·23	14·95	458·60	
900	200,091	15·72	·00	15·72	474·32	
1	200,343	14·24	·74	13·50	487·82	
2	200,468	15·32	·58	14·74	502·56	
3	200,601	14·11	·00	14·11	516·67	
4	200,741	16·32	·08	16·24	532·91	
5	200,883	18·11	1·52	16·59	549·50	
6	201,097	10·92	·34	10·58	560·08	
7	201,311	11·19	·77	10·42	570·50	
8	201,479	10·92	·84	10·08	580·58	
9	201,641	7·80	10·73	2·93	577·65	
910	201,743	·69	15·02	14·34	563·31	
1	201,861	·36	8·20	7·84	555·47	
2	201,891	8·20	·07	8·13	563·60	
3	201,961	12·80	·11	12·69	576·29	
4	202,021	13·88	·58	13·30	589·59	
5	202,119	11·31	·04	11·27	600·86	
	202,119				600·86	Carried over.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	202,119				600·86	Brought up.
916	202,211	15·26	·34	14·92	615·78	
7	202,291	15·12	·29	14·83	630·61	
8	202,404	13·53	·23	13·30	643·91	
9	202,541	17·03	·76	16·27	660·18	
920	202,672	13·84	·51	13·33	673·51	
1	202,883	16·72	·34	16·38	689·89	
2	203,061	13·74	·51	13·23	703·13	
3	203,211	16·40	·15	16·25	719·37	Bench mark, No. 21.
4	203,401	15·93	·27	15·66	735·03	September 19.
5	203,711	19·41	·74	18·67	753·70	
6	204,004	15·71	·99	14·72	768·42	
7	204,206	14·46	·47	13·99	782·41	
8	204,411	14·26	·51	13·75	796·16	
9	205,186	13·37	9·12	4·35	800·41	
930	205,391	·63	·15	·48	800·89	
1	205,469	11·58	·02	11·56	812·45	
2	205,573	17·36	·51	16·85	829·30	
3	205,686	17·18	·47	16·71	846·01	
4	205,821	15·89	·32	15·57	861·58	
5	205,986	16·53	·46	16·07	877·65	
6	206,176	16·79	·41	16·38	894·03	
7	206,384	13·94	·21	13·73	907·76	
8	206,531	13·56	·17	13·39	921·15	
9	206,706	16·04	·49	15·55	936·70	
940	207,061	15·41	·65	14·76	951·46	
1	207,231	15·56	·44	15·12	966·58	
2	207,426	6·46	·62	5·84	972·42	
3	207,828	14·49	9·70	4·79	977·21	
4	207,961	·55	15·08	14·53	962·68	
5	208,021	·69	15·38	14·69	947·99	
6	208,111	·07	13·26	13·19	934·80	
7	208,161	·87	14·25	13·38	921·42	
8	208,231	·90	15·80	14·90	906·52	
9	208,301	·58	15·34	14·76	891·76	
950	208,361	1·10	15·86	14·76	877·00	
1	208,411	·44	15·34	14·90	862·10	
2	208,469	·00	14·67	14·67	847·43	
3	208,536	·11	17·20	17·09	830·34	
4	208,579	·05	15·67	15·62	814·72	
5	208,625	·29	16·51	16·22	798·50	
6	208,676	·60	15·56	14·96	783·54	
7	208,711	·16	15·36	15·20	768·34	
8	208,749	·06	16·37	16·31	752·03	
9	208,776	·80	15·73	14·93	737·10	
960	208,811	·17	16·49	16·32	720·78	
1	208,846	·52	16·00	15·48	705·30	
2	208,961	16·00	·54	15·46	720·76	Surface of water in brook
3	209,061	16·66	·20	16·46	737·22	running west.
4	209,181	12·25	·36	11·89	749·11	
5	209,786	18·10	·93	17·17	766·28	
6	210,144	6·33	·14	6·19	772·47	
7	210,561	8·38	1·14	7·24	779·71	
8	210,673	15·04	·04	15·00	794·71	
9	210,926	14·73	·00	14·73	809·44	
970	211,331	11·99	2·49	9·50	818·94	
1	211,661	4·38	7·09	2·71	816·23	
2	211,861	1·06	15·28	14·22	802·01	
3	212,011	1·66	14·53	12·87	789·14	
4	212,239	1·76	13·57	11·81	777·33	
5	212,381	1·73	10·29	8·56	768·77	
6	212,769	14·67	·11	14·56	785·33	
7	212,961	13·41	·22	13·19	796·52	
8	213,167	12·53	1·27	11·26	807·78	
9	213,371	12·10	·95	11·15	818·93	
980	213,576	14·67	1·50	13·17	832·10	
1	213,761	13·77	·92	12·84	844·94	
	213,761				844·94	Carried over.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	213,761				844·94	Brought up.
982	213,967	13·47	2·92	10·55	855·49	
3	214,311	8·08	4·54	3·54	859·03	Bench mark, No. 22.
4	214,461	9·73	·58	9·15	868·18	September 20.
5	214,551	15·39	·04	15·35	883·53	
6	214,611	16·44	·14	16·30	899·83	
7	214,661	17·65	·14	17·51	917·34	
8	214,801	17·35	·47	16·88	934·22	
9	214,934	15·31	·00	15·31	949·53	
990	215,011	14·83	·23	14·60	964·13	
1	215,181	13·60	·23	13·37	977·50	
2	215,386	13·98	·91	13·07	990·57	
3	215,751	9·46	·09	9·37	999·94	
4	216,019	5·57	14·90	9·33	990·61	
5	216,191	·20	15·07	14·87	875·74	
6	216,481	1·13	13·89	12·76	962·98	
7	216,761	·77	15·58	14·81	948·17	
8	217,061	1·35	6·72	5·37	942·80	
9	217,211	11·50	·32	11·18	953·98	
1,000	217,331	14·57	·79	13·78	967·76	
1	217,451	16·13	·74	15·39	983·15	
2	217,611	12·55	·56	11·99	995·14	
3	217,711	12·78	·12	12·66	1,007·80	
4	217,791	14·74	·66	14·08	1,021·88	
5	217,886	18·10	·22	17·88	1,039·76	
6	217,979	15·87	·35	15·52	1,055·28	
7	218,111	15·21	·08	15·13	1,070·41	
8	218,183	14·73	·05	14·68	1,085·09	
9	218,294	13·61	·37	13·24	1,098·33	
1,010	218,561	13·47	4·00	9·47	1,107·80	
1	218,711	4·00	10·95	6·95	1,100·85	
2	218,813	·39	13·45	13·06	1,087·79	
3	218,891	·60	15·88	15·28	1,072·51	
4	218,961	·25	13·22	12·97	1,059·54	
5	219,026	·62	15·50	14·88	1,044·66	
6	219,101	·54	15·85	15·31	1,029·35	
7	219,161	·00	13·61	13·61	1,015·74	
8	219,224	·23	14·20	13·97	1,001·77	
9	219,279	·63	15·51	14·88	986·89	
1,020	219,361	·43	15·63	15·20	971·69	
1	219,411	1·39	15·88	14·49	957·20	
2	219,486	·74	14·66	13·92	943·28	
3	219,611	·22	14·81	14·59	928·69	
4	219,711	1·02	16·57	15·55	913·14	
5	219,804	·00	17·16	17·16	895·98	
6	219,891	·48	16·50	16·02	879·96	
7	219,976	·58	15·97	15·39	864·57	
8	220,091	·93	17·19	16·26	848·31	
9	220,311	1·78	14·62	12·84	835·47	
1,030	220,461	1·98	13·23	11·25	824·22	
1	220,561	1·46	13·91	12·45	811·77	Bench mark, No. 23.
2	220,661	·43	14·82	14·39	797·38	September 21.
3	220,781	1·66	13·37	11·71	785·67	
4	220,961	1·09	11·45	10·36	775·31	
5	221,291	3·67	·49	3·18	778·49	
6	221,381	13·20	·24	12·96	791·45	
7	221,511	12·15	·36	11·79	803·24	
8	221,588	15·20	·42	14·78	818·02	
9	221,679	13·50	·25	13·25	831·27	
1,040	221,811	14·58	·63	13·95	845·22	
1	221,923	14·54	·53	14·01	859·23	
2	221,991	16·32	·43	15·89	875·12	
3	222,109	16·19	·47	15·72	890·84	
4	222,191	15·29	3·00	12·29	903·13	
5	222,284	3·00	16·02	13·02	890·11	
6	222,411	·99	16·41	15·42	874·69	
7	222,461	·64	15·49	14·85	859·84	
	222,461				859·84	Carried over.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	222,461				859·84	Brought up.
1,048	222,507	·46	15·82	15·36	844·48	
9	222,557	·00	16·39	16·39	828·09	
1,050	222,591	·00	16·58	16·58	811·51	
1	222,646	·48	16·35	15·87	795·64	
2	222,673	·22	16·11	15·88	779·76	
3	222,711	·53	15·82	15·29	764·47	
4	222,749	·21	17·07	16·86	747·61	
5	222,800	·48	16·00	15·52	732·09	
6	222,854	·74	16·11	15·37	716·72	
7	222,895	·44	16·57	16·13	700·59	
8	222,961	·31	16·16	15·85	684·74	
9	223,005	·58	16·66	16·08	668·66	
1,060	223,067	·08	16·70	16·62	652·04	
1	223,111	·41	16·18	15·77	626·27	
2	223,181	·00	16·30	16·30	619·97	
3	223,253	·74	15·48	14·74	605·23	
4	223,299	·63	15·05	14·42	590·81	
5	223,357	·20	16·03	15·83	574·98	
6	223,397	·09	15·71	15·62	559·36	
7	223,587	1·82	17·31	15·49	543·87	
8	223,673	·75	15·94	15·19	528·68	
9	223,722	1·02	15·90	14·88	513·80	
1,070	223,861	·45	16·28	15·83	497·97	
1	223,921	·11	16·55	16·44	481·53	
2	223,961	·39	15·79	15·40	466·13	
3	224,001	·00	16·14	16·14	449·99	
4	224,061	·10	12·00	11·90	438·09	
5	224,171	13·00	13·00	1·00	437·09	
6	224,371	2·37	9·74	7·37	429·72	
7	224,591	6·84	11·50	4·66	425·06	Brook running east.
8	224,701	11·50	·09	11·41	436·47	
9	224,757	17·10	·57	16·53	453·00	
1,080	224,851	14·01	·07	13·94	466·94	
1	224,898	14·70	·07	14·63	481·57	
2	224,941	14·98	·95	14·03	495·60	
3	225,011	16·50	·64	15·86	511·46	
4	225,111	16·87	·01	16·86	528·32	
5	225,186	15·87	1·15	14·72	543·04	
6	225,291	13·74	·19	13·55	556·59	
7	225,381	16·80	·05	16·75	573·34	
8	225,476	12·09	·42	11·67	585·01	
9	225,549	13·54	·12	13·42	598·43	
1,090	225,621	16·19	·54	15·65	615·08	
1	225,688	13·24	·02	13·22	627·30	
2	225,776	13·65	1·01	12·64	639·94	
3	225,883	16·45	·16	16·29	656·23	
4	225,961	15·25	·21	15·04	671·27	
5	226,011	12·76	·23	12·53	683·80	
6	226,072	14·54	·04	14·50	698·30	
7	226,144	16·11	·11	16·00	714·30	
8	226,181	16·50	·34	16·16	730·46	
9	226,276	15·35	·25	15·10	745·56	
1,100	226,373	13·77	·46	13·31	758·87	
1	226,473	16·20	·07	16·13	775·00	
2	226,561	13·12	·01	13·11	788·11	
3	226,652	15·38	·06	15·32	803·43	
4	226,708	16·22	·69	15·53	818·96	
5	226,767	16·39	·28	16·11	835·07	
6	226,811	16·18	·14	16·04	851·11	
7	226,880	17·19	·00	17·19	868·30	
8	226,943	17·36	·19	17·17	885·47	
9	226,991	16·95	·28	16·67	902·14	
1,110	227,061	17·09	·25	16·84	918·98	
1	227,121	16·93	·03	16·90	935·88	
2	227,201	15·85	1·04	14·81	950·69	
3	227,291	9·58	4·00	5·58	956·27	
	227,291				956·27	Carried over.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	227,291				956·27	Brought up.
1,114	227,381	4·00	10·62	6·62	949·65	
5	227,641	·63	3·17	2·54	947·11	Bench mark, No. 24.
6	227,721	9·42	·38	9·04	956·15	September 22.
7	228,141	12·55	1·29	11·26	967·41	
8	228,286	16·20	·20	16·00	983·41	
9	228,661	15·70	4·00	11·70	995·11	
1,120	228,746	4·00	12·34	8·34	986·77	
1	228,801	1·26	15·66	14·40	972·37	
2	228,888	·86	16·20	15·34	957·03	
3	228,969	·95	16·49	15·54	941·49	
4	229,081	1·19	16·46	15·27	926·22	
5	229,225	·94	15·59	14·65	911·57	
6	229,321	1·03	16·55	15·52	896·05	
7	229,411	·57	15·87	15·30	880·75	
8	229,591	1·36	15·27	13·91	866·84	
9	229,991	5·29	13·70	8·41	858·43	
1,130	230,191	·52	7·35	6·83	851·60	
1	230,421	3·67	15·58	11·91	839·69	
2	230,491	1·47	15·52	14·05	825·64	
3	230,581	·75	16·53	15·78	809·86	
4	230,691	12·00	·48	11·52	821·38	
5	230,770	15·20	·04	15·16	836·54	
6	230,876	16·40	·14	16·26	852·80	
7	230,996	15·97	·57	15·40	868·20	
8	231,052	16·00	·20	15·80	884·00	
9	231,283	15·41	·61	14·80	898·80	
1,140	231,373	15·92	·42	15·50	914·30	
1	231,487	15·47	·23	15·24	929·54	
2	231,601	17·89	·83	17·06	946·60	
3	231,779	14·20	·31	13·89	960·49	
4	232,061	6·31	14·12	7·81	952·68	
5	232,191	·85	16·00	15·15	937·53	
6	232,286	16·00	·22	15·78	953·31	
7	232,416	15·39	·01	15·38	968·69	
8	232,508	12·57	·09	12·48	981·17	
9	232,595	13·40	·28	13·12	994·29	
1,150	232.691	16·31	·43	15·88	1,010·17	
1	232,903	16·37	·55	15·82	1,025·99	
2	233,286	8·78	·75	8·03	1,034·02	
3	233,395	15·84	·65	15·19	1,049·21	
4	233,498	15·29	·25	15·04	1,064·25	
5	233,587	13·72	·62	13·10	1,077·35	
6	233,691	15·43	·09	15·34	1,092·69	
7	233,811	15·48	·65	14·83	1,107·52	
8	233,951	14·48	·10	14·38	1,121·90	
9	234,021	14·89	·14	14·75	1,136·65	
1,160	234,111	15·08	·34	14·74	1,151·39	
1	234,205	17·08	·10	16·98	1,168·37	
2	234,291	15·28	·37	14·91	1,183·28	
3	234,361	16·98	·16	16·82	1,200·10	
4	234,443	16·82	·03	16·79	1,216·89	
5	234,528	15·17	·15	15·02	1,231·91	
6	234,609	15·89	·34	15·55	1,247·46	
7	234,711	17·68	·25	17·43	1,264·89	
8	234,879	16·61	·28	16·33	1,281·22	
9	235,141	10·58	4·00	6·58	1,287·80	
1,170	235,341	4·00	15·21	11·21	1,276·59	
1	235,451	1·33	16·00	14·67	1,261·92	
2	235,561	·97	16·98	16·01	1,245·91	
3	235,651	1·15	15·92	14·77	1,231·14	
4	235,711	·46	16·18	15·72	1,215·42	
5	235,791	·44	17·97	17·53	1,197·89	
6	235,881	·73	17·17	16·44	1,181·45	
7	235,961	·80	16·28	15·48	1,165·97	
8	236,031	·53	17·33	16·80	1,149·17	
9	236,101	·85	16·98	16·13	1,133·04	
	236,101				1,133·04	Carried over.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	236,101				1,133·04	Brought up.
1,180	236,161	·75	16·93	16·18	1,116·86	
1	236,231	·00	16·50	16·50	1,100·36	
2	236,301	·44	15·32	14·88	1,085·48	
3	236,370	·34	17·03	16·69	1,068·79	
4	236,419	·69	16·75	16·06	1,052·73	
5	236,473	·59	16·84	16·25	1,036·48	
6	236,511	1·80	19·50	17·70	1,018·78	Small stream running east.
7	236,591	19·50	·37	19·13	1,037·98	
8	236,636	15·26	·69	14·57	1,052·48	
9	236,681	14·55	·63	13·92	1,066·40	
1,190	236,751	12·44	1·32	11·12	1,077·52	Bench mark, No. 25.
1	236,891	16·52	1·10	15·42	1,092·94	September 23.
2	236,982	15·49	·26	15·23	1,108·17	
3	237,061	15·08	·23	14·85	1,123·02	
4	237,141	15·30	·67	14·63	1,137·65	
5	237,227	15·78	·52	15·26	1,152·91	
6	237,311	15·96	·20	15·76	1,168·67	
7	237,484	15·40	·44	14·96	1,183·63	
8	237,748	5·52	15·27	9·75	1,173·88	
9	237,821	·38	17·28	16·90	1,156·98	
1,200	237,891	·28	16·02	15·74	1,141·24	
1	237,961	·64	15·73	15·09	1,126·15	
2	238,011	·87	16·40	15·53	1,110·62	
3	238,091	·46	15·86	15·40	1,095·22	
4	238,151	·71	14·84	14·13	1,081·09	
5	238,213	·15	15·56	15·41	1,065·68	
6	238,291	·38	16·23	15·95	1,049·73	
7	238,346	1·09	16·93	15·84	1,033·89	
8	238,404	·39	16·34	15·95	1,017·94	
9	238,461	·57	16·84	16·27	1,001·67	
1,210	238,561	2·07	20·00	17·93	983·74	
1	238,666	20·00	·47	19·53	1,003·27	
2	238,719	15·39	·35	15·04	1,018·31	
3	238,811	14·00	·68	13·32	1,031·63	
4	238,971	15·80	·37	15·53	1,047·16	
5	139,101	17·15	·36	16·89	1,064·05	
6	239.341	14·58	·81	13·77	1,077·82	
7	239,461	8·84	3·00	5·84	1,083·66	
8	239,696	3·00	13·87	10·87	1,072·79	
9	239,821	1·39	16·40	15·01	1,057·78	
1,220	239,945	·62	16·68	16·06	1,041·72	
1	240,011	1·23	16·91	15·68	1,026·04	
2	240,091	·50	16·29	15·79	1,010·25	
3	240,161	·36	16·10	15·74	994·51	
4	240,230	·36	16·67	16·31	978·20	
5	240,257	·00	11·66	11·66	966·54	Surface of brook E.
6	240,301	10·73	18·73	8·00	958·54	
7	240,417	18·73	·20	18·53	977·07	
8	240,491	13·83	·22	13·61	990·68	
9	240,561	15·65	·03	15·62	1,006·30	
1,230	240,611	15·25	·24	15·01	1,021·31	
1	240,701	14·26	·07	14·19	1,035·50	
2	240,783	14·64	·16	14·48	1,049·98	
3	240,836	14·14	·50	13·64	1,063·64	
4	240,886	13·55	·31	13·24	1,076·86	
5	240,956	16·95	·12	16·83	1,093·69	
6	241,017	14·14	·48	13·66	1,107·35	
7	241,071	13·07	·15	12·92	1,120·27	
8	241,133	12·04	·48	11·56	1,131·83	
9	241,205	14·24	·22	14·02	1,145·85	
1,240	241,311	14·11	·04	14·07	1,159·92	
1	241,461	14·24	·06	14·18	1,174·10	
2	241,876	16·73	·87	15·86	1,189·96	
3	242,146	10·19	4·00	6·19	1,196·15	
4	242,331	4·00	14·08	10·08	1,186·07	
5	242,431	·83	15·02	14·19	1,171·88	
	242,431				1,171·88	Carried over.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	242,431				1,171·88	Brought up.
1,246	242,541	·44	17·65	17·21	1,154·67	
7	242,611	·92	16·28	15·36	1,139·31	
8	242,686	·63	16·51	15·88	1,123·43	
9	242,755	·36	17·06	16·71	1,106·72	
1,250	242,811	·28	16·62	16·34	1,090·38	
1	242,872	·32	16·50	16·18	1,074·20	
2	242,946	·95	16·18	15·23	1,058·97	
3	243,003	1·07	17·53	16·46	1,042·51	
4	243,141	·53	16·57	16·04	1,026·47	
5	243,181	1·02	16·48	15·46	1,011·01	
6	243,311	1·49	17·74	16·25	994·76	
7	243,383	1·20	16·05	14·85	979·91	
8	243,511	·12	15·03	14·91	965·00	
9	243,676	1·04	15·68	14·64	950·36	
1,260	243,773	1·03	15·07	14·04	936·32	
1	243,861	1·69	15·85	14·16	922·16	
2	243,903	·69	6·69	6·00	916·16	Bench mark, No. 26.
3	243,981	·31	17·85	17·54	898·62	September 24.
4	244,061	1·23	16·50	15·27	883·35	
5	244,141	·20	16·63	16·43	866·92	
6	244,211	·42	15·56	15·14	851·78	
7	244,368	·91	17·55	16·64	835·14	
8	244,452	1·06	16·49	15·43	819·71	
9	244,511	·81	16·82	16·01	803·70	
1,270	244,553	·19	16·85	16·66	787·04	
1	244,595	·37	16·63	16·26	770·78	
2	244,811	·20	30·80	30·60	740·18	
3	245,003	30·80	2·69	28·11	768·29	
4	245,031	16·77	·75	16·02	784·31	
5	245,094	13·50	·16	13·34	797·65	
6	245,193	14·65	·57	14·08	811·73	
7	245,315	13·04	1·08	11·96	823·69	
8	245,407	13·01	·22	12·79	836·48	
9	245,528	16·39	·95	15·44	851·92	
1,280	245,614	13·75	·10	13·65	865·57	
1	245,679	15·88	·60	14·98	880·55	
2	245,761	14·94	·49	14·45	895·00	
3	245,861	13·02	·23	12·79	907·79	
4	245,934	14·50	·16	14·34	922·13	
5	246,061	16·36	1·13	15·23	937·36	
6	246,155	14·67	·45	14·22	951·58	
7	246,294	14·37	·52	13·85	965·43	
8	246,411	13·93	·59	13·34	978·77	
9	246,583	16·03	·02	16·01	994·78	
1,290	246,688	16·02	·76	15·26	1,010·04	
1	246,780	13·48	·78	12·70	1,022·74	
2	246,918	16·67	·51	16·16	1,038·90	
3	247,010	15·10	·77	14·33	1,053·23	
4	247,132	15·66	·24	15·42	1,068·65	
5	247,295	15·30	1·16	14·14	1,082·79	
6	247,398	12·73	·35	12·38	1,095·17	
7	247,597	14·04	·22	13·82	1,108·99	
8	247,777	13·50	·78	12·72	1,121·71	
9	247,927	14·67	·43	14·24	1,135·95	
1,300	248,073	13·70	·62	13·08	1,149·03	
1	248,191	14·98	1·02	13·96	1,162·99	
2	248,317	14·99	1·14	13·85	1,176·84	
3	248,421	15·20	2·88	12·92	1,189·76	
4	248,525	13·10	·58	12·52	1,202·28	
5	248,649	16·11	1·13	14·98	1,217·26	
6	248,861	17·40	1·79	15·61	1,232·87	
7	249,075	16·96	·28	16·68	1,249·55	
8	249,261	15·80	·88	14·92	1,264·47	
9	249,424	14·88	·36	14·52	1,278·99	
1,310	249,561	10·61	1·11	9·50	1,288·49	
1	249,811	8·64	·66	7·98	1,296·47	
	249,811				1,296·47	Carried over.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	249,811				1,296·47	Brought up.
1,312	250,013	4·40	13·07	8·67	1,287·80	
3	250,170	·84	16·44	15·60	1,272·20	
4	250,399	1·84	16·37	14·53	1,257·67	
5	250,686	1·50	13·99	12·49	1,245·18	
6	250,957	1·89	9·38	7·49	1,287·69	
7	251,261	3·63	4·58	·95	1,236·74	
8	251,652	6·80	1·98	4·82	1,241·56	
9	251,896	11·00	·88	10·12	1,251·68	
1,320	252,089	12·36	1·44	10·92	1,262·60	
1	252,370	15·58	1·60	13·98	1,276·58	
2	252,718	7·57	14·16	6·59	1,269·99	
3	252,811	·26	16·63	16·37	1,253·62	
4	252,897	·45	16·95	16·50	1,237·12	
5	252,955	·40	16·92	16·52	1,220·60	
6	253,011	·48	16·85	16·37	1,204·23	
7	253,061	·77	16·83	16·06	1,188·17	
8	253,118	·32	16·35	16·03	1,172·14	
9	253,169	1·10	17·28	16·18	1,155·96	
1,330	353,221	·80	16·35	15·55	1,140·41	
1	253,272	·43	16·61	16·18	1,124·23	
2	253,329	·79	17·27	16·48	1,107·75	
3	253,382	·15	17·03	16·88	1,090·87	
4	253,446	·39	16·88	16·49	1,074·38	
5	253,504	·67	17·31	16·64	1,057·74	
6	253,561	·21	16·62	16·41	1,041·33	
7	253,614	·17	16·88	16·71	1,024·62	
8	253,684	·49	17·29	16·80	1,007·82	
9	253,735	·64	16·08	15·44	992·38	
1,340	253,799	·64	17·01	16·37	976·01	
1	253,853	·62	16·79	16·17	959·84	
2	253,896	·54	17·60	17·06	942·78	
3	254,068	·70	14·88	14·18	928·60	
4	254,176	1·23	16·65	15·42	913·18	
5	254,211	·15	17·47	17·32	895·86	
6	254,236	·10	16·35	16·25	879·61	
7	254,261	1·16	16·68	15·52	864·09	
8	254,341	4·80	35·80	31·00	833·09	
9	254,596	35·80	2·34	33·46	866·55	
1,350	254,671	13·88	5·36	8·52	875·07	Bench mark, No. 25.
1	254,806	15·90	2·90	13·00	888·07	September 20.
2	254,908	11·42	1·21	10·21	898·28	
3	254,961	12·31	·32	11·99	910·27	
4	255,046	13·52	·28	13·24	923·51	
5	255,167	14·80	1·27	13·53	937·04	
6	255,361	12·45	1·41	11·04	948·08	
7	255,561	7·84	·81	7·03	955·11	
8	255,873	3·00	13·27	10·27	944·84	
9	256,076	1·87	14·00	12·13	932·71	
1,360	256,181	·55	23·00	22·45	910·26	
1	256,273	23·00	·32	22·68	932·94	
2	256,361	14·30	1·90	12·40	945·34	
3	256,809	2·79	17·24	14·45	930·89	
4	256,942	1·42	16·87	15·45	915·44	
5	257,027	·17	16·80	16·63	898·81	
6	257,094	·50	16·57	16·07	882·74	
7	257,161	·79	16·47	15·68	867·06	
8	257,239	·35	17·29	16·94	850·12	
9	257,280	·54	16·87	16·33	833·79	
1,370	257,343	·23	16·95	16·72	817·07	
1	257,379	·00	16·78	16·78	800·29	
2	257,424	·00	17·56	17·56	782·73	
3	257,461	·41	16·94	16·53	766·20	
4	257,521	·16	16·77	16·61	749·59	
5	257,561	·10	17·62	17·52	732·07	
6	257,611	·28	16·37	16·09	715·98	
7	257,719	·33	16·96	16·63	699·35	
	257,719				699·35	Carried over.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back. Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	257,719				699·35	Brought up.
1378	257,776	·56	17·24	16·68	682·67	
9	257,821	·55	17·29	16·74	665·93	
1380	257,879	·20	16·49	16·29	649·64	
1	257,911	·81	16·73	15·92	632·72	
2	257,927	1·43	17·26	15·83	617·89	
3	257,957	·38	16·83	16·45	601·44	
4	258,015	·35	16·55	16·20	585·24	
5	258,096	·34	77·62	17·28	567·96	
6	258,121	·10	15·21	15·11	552·85	
7	258,161	9·69	13·19	3·50	549·35	Large brook running east.
8	258,476	13·19	·11	13·08	562·43	Level of water.
9	258,579	17·20	·18	17·02	579·45	
1,390	258,661	16·11	·66	15·45	594·90	
1	258,811	13·46	·19	13·27	608·17	
2	258,921	13·60	·76	12·84	621·01	
3	259,061	11·78	·54	11·24	632·25	
4	259,109	14·62	·80	13·82	646·07	
5	259,151	14·92	·69	14·23	660·30	
6	259,203	17·50	·71	16·79	677·09	
7	259,289	15·23	·59	14·64	691·73	
8	259,355	14·17	1·12	13·05	704·78	
9	259,471	13·63	·58	13·05	717·83	
1,400	259,593	14·40	·20	14·20	732·03	
1	259,695	14·56	·47	14·09	746·12	
2	259,871	11·97	1·50	10·47	756·59	
3	259,977	13·44	1·64	11·80	768·39	
4	260,071	14·25	·50	13·75	782·14	
5	260,231	16·76	·54	16·22	798·36	
6	260,531	13·71	4·00	9·71	808·07	
7	260,635	4·00	17·13	13·13	794·94	
8	260,771	·51	6·64	6·13	788·81	Bench mark, No. 28.
9	261,031	3·34	·66	2·68	791·49	September 26.
1,410	261,111	14·62	·42	14·20	805·69	
1	261,171	12·94	·44	12·50	818·19	
2	261,231	10·57	·11	10·46	828·65	
3	261,315	12·19	·56	11·63	840·28	
4	261,411	12·65	·14	12·51	852·79	
5	261,487	13·25	·14	13·11	865·90	
6	261,579	13·24	·11	13·13	879·03	
7	261,681	16·79	·00	16·79	895·82	
8	261,765	15·45	·47	14·98	910·80	
9	261,956	16·68	·00	16·68	927·48	
1,420	262,051	14·88	1·21	13·67	941·15	
1	262,171	16·67	·54	16·13	957·28	
2	262,256	15·39	·09	15·30	972·58	
3	262,341	12·80	·00	12·80	985·38	
4	262,441	13·73	·09	13·64	999·02	
5	262,491	12·81	·34	12·47	1,012·49	
6	262,565	14·33	·15	14·18	1,026·67	
7	262,621	14·87	·00	14·87	1,041·54	
8	262,686	13·09	·11	13·79	1,055·33	
9	262,721	12·47	·16	12·31	1,067·64	
1,430	262,771	14·07	·32	13·75	1,081·39	
1	262,826	16·43	·00	16·43	1,097·82	
2	262,876	15·87	·03	15·84	1,113·66	
3	262,951	16·98	·00	16·98	1,130·64	
4	263,006	14·24	·02	14·22	1,144·86	
5	263,047	15·90	1·26	14·64	1,159·50	
6	263,101	15·48	1·62	13·86	1,173·36	
7	263,171	14·49	·13	14·36	1,187·72	
8	263,211	11·84	1·35	10·49	1,198·21	
9	263,271	15·34	·01	15·33	1,213·54	
1,440	263,336	15·81	·00	15·81	1,229·35	
1	263,396	14·41	·52	13·89	1,243·24	
2	263,466	14·35	·32	14·03	1,257·27	
3	263,531	13·99	·00	13·99	1,271·26	
	263,531				1,271·26	Carried over.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	263,531				1,271·26	Brought up.
1,444	263,621	13·11	·00	13·11	1,284·37	
5	263,706	16·59	·00	16·59	1,300·96	
6	263,898	4·00	10·30	6·30	1,294·66	
7	264,002	1·90	14·04	12·14	1,282·52	
8	264,061	1·73	10·32	8·59	1,273·93	Bench mark, No. 29.
9	264,121	·59	16·58	15·99	1,257·94	
1,450	264,181	·79	16·61	15·82	1,242·12	
1	264,234	·50	17·11	16·61	1,225·51	
2	264,270	·23	17·43	17·20	1,208·31	
3	264,328	·21	16·81	16·60	1,191·71	
4	264,371	·35	16·20	15·85	1,175·86	
5	264,448	·20	17·10	16·90	1,158·96	
6	264,487	·46	17·12	16·66	1,142·30	
7	264,528	·09	16·85	16·76	1,125·54	
8	264,571	·00	16·77	16·77	1,108·77	
9	264,621	·13	16·41	16·28	1,092·49	
1,460	264,659	·42	16·04	15·62	1,076·87	
1	264,708	·49	16·01	15·52	1,061·35	
2	264,746	·03	17·30	17·27	1,044·08	
3	264,781	·38	7·52	7·14	1,036·94	
4	265,921	·00	750·24	750·24	286·70	
5	266,921	750·24	·00	750·24	1,036·94	Brook 750·24 feet lower than this station. 1,140 feet distance, sighted across the valley.
6	267,271	7·86	3·98	3·88	1,040·82	
7	267,571	12·25	2·29	9·96	1,050·78	
8	267,866	4·19	2·17	2·02	1,052·80	
9	268,181	7·85	8·91	1·06	1,051·74	
1,470	268,431	2·65	14·22	11·57	1,040·17	
1	268,581	3·36	11·31	7·95	1,032·22	
2	268,841	5·67	·45	5·22	1,037·44	
3	268,911	13·64	·89	12·75	1,050·19	
4	268,966	14·78	1·05	13·73	1,063·92	
5	269,086	16·32	·00	16·32	1,080·24	
6	269,141	12·69	1·94	10·75	1,090·99	
7	269,221	13·73	·00	13·73	1,104·72	
8	269,306	15·64	·51	15·13	1,119·85	
9	269,371	14·26	·73	13·53	1,133·38	
1,480	269,429	11·49	·55	10·94	1,144·32	
1	269,495	11·42	·71	10·71	1,155·03	
2	269,551	15·69	1·26	14·43	1,169·46	
3	269,671	11·60	1·09	10·51	1,179·97	
4	269,746	13·16	2·43	10·73	1,190·70	Bench mark, No. 31.
5	269,821	13·30	·11	13·19	1,203·89	September 26.
6	269,939	16·28	·76	15·52	1,219·41	
7	270,242	14·60	2·08	12·52	1,231·93	
8	270,607	8·65	15·29	6·64	1,225·29	
9	270,702	·95	16·70	15·75	1,209·54	
1,490	270,772	1·06	15·42	14·36	1,195·18	
1	270,867	·92	15·90	14·98	1,180·20	
2	270,918	1·20	16·81	15·61	1,164·59	
3	270,980	1·07	15·83	14·76	1,149·83	
4	271,037	·65	16·84	16·19	1,133·64	
5	271,095	·41	16·97	16·56	1,117·08	
6	271,160	·29	16·79	16·50	1,100·58	
7	271,214	·79	16·99	16·20	1,084·38	
8	271,262	·57	17·00	16·43	1,067·95	
9	271,303	0·13	17·68	17·55	1,050·40	
1,500	271,347	1·00	22·00	21·00	1,029·40	
1	271,369	22·00	8·90	13·10	1,042·50	
2	271,506	1·95	12·20	10·25	1,032·25	
3	271,880	·79	16·06	15·27	1,016·98	
4	272,022	2·00	16·93	14·93	1,002·05	
5	272,072	·99	8·23	7·24	994·81	
6	275,122	·00	814·70	814·70	180·11	
7	277,322	814·70	·00	814·70	994·81	Brook 814·70 feet lower than this station. 3,050 feet distance, sighted across the valley.
8	277,422	15·89	·82	15·07	1,009·88	
9	277,476	13·84	1·59	12·25	1,022·13	
	277,476				1,022·13	Carried over.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	277,476				1,022·13	Brought up.
1,510	277,518	13·15	·00	13·15	1,035·28	
1	277,597	13·52	·13	13·39	1,048·67	
2	277,652	12·80	1·49	11·31	1,059·98	
3	277,737	11·96	1·14	10·82	1,070·80	
4	277,902	11·12	2·11	9·01	1,079·81	
5	278,072	7·79	4·00	3·79	1,083·60	
6	278,252	4·00	14·03	10·03	1,073·57	
7	278,272	2·43	14·26	11·83	1,061·74	
8	278,362	·41	12·24	11·83	1,049·91	
9	278,412	·46	14·08	13·62	1,036·29	
1,520	278,442	·18	15·91	15·73	1,020·56	
1	278,482	·86	15·25	14·39	1,006·17	
2	278,517	·34	15·75	15·41	990·76	
3	278,537	·77	16·18	15·41	975·35	
4	278,572	2·92	16·31	13·39	961·96	
5	278,592	·71	15·38	14·67	947·29	
6	278,604	2·68	10·86	8·18	939·11	
7	278,624	·47	15·79	15·32	923·79	
8	278,647	1·53	15·71	14·18	909·61	
9	278,682	2·75	16·49	13·74	895·87	
1,530	278,716	·03	15·99	15·96	879·91	
1	278,747	·19	15·44	15·25	864·66	
2	278,802	·67	15·05	14·38	850·28	
3	278,825	·58	15·16	14·58	835·70	
4	278,862	1·13	15·53	14·40	821·30	
5	278,907	·45	10·53	10·08	810·22	
6	278,962	·47	16·16	15·69	794·53	
7	279,027	1·55	15·87	14·32	780·21	
8	279,072	1·20	15·53	14·33	765·88	
9	279,112	·93	16·16	15·23	750·65	
1,540	279,137	·05	16·08	16·03	734·62	
1	279,172	1·60	17·31	15·71	718·91	
2	279,202	1·60	15·39	13·79	705·12	
3	279,228	1·73	16·39	14·66	690·46	
4	279,257	·15	16·09	15·94	674·52	
5	279,292	·29	15·96	15·67	658·85	
6	279,322	·55	17·13	16·58	642·27	
7	279,357	·55	15·70	15·15	627·12	
8	279,417	1·55	15·33	13·78	613·34	
9	279,452	1·60	16·63	15·03	598·31	
1.550	279,512	·31	16·95	16·64	581·67	
1	279,547	·39	16·03	15·64	566·03	
2	279,592	·08	17·05	16·97	549·06	
3	279,622	·00	15·74	15·74	533·32	
4	279,682	1·80	15·46	13·66	519·66	
5	279,712	·34	16·06	15·72	503·94	
6	279,737	1·83	14·72	12·89	491·05	
7	279,772	·88	15·46	14·58	476·47	
8	279,822	·39	15·41	15·02	461·45	
9	279,872	1·72	15·59	13·87	447·58	
1,560	279,912	1·50	14·91	13·41	434·17	
1	279,942	1·33	16·36	15·03	419·14	
2	279,967	·59	17·00	16·41	402·73	
3	279,997	·65	14·93	14·28	388·45	
4	280,022	·41	14·19	13·78	374·67	
5	280,062	·00	15·60	15·60	359·07	
6	280,114	1·19	15·28	14·09	344·98	
7	280,152	1·73	14·69	12·96	332·02	
8	280,222	1·02	16·00	14·98	317·04	
9	280,324	·96	15·30	14·34	302·70	
1,570	280,492	5·11	13·19	8·08	294·62	
1	280,532	3·80	14·86	11·06	283·56	
2	280,542	1·14	15·68	14·54	269·02	
3	280,567	4·02	14·90	10·88	258·14	
4	280,667	2·69	11·25	8·56	249·58	Bench mark, No. 32.
5	280,713	1·01	16·01	15·00	234·58	September 27.
	280,713				234·58	Carried over.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	280,713				234·58	Brought up.
1,576	280,799	1·15	15·86	14·71	219·87	
7	280,857	·22	16·23	16·01	203·86	
8	280,922	·18	16·74	16·56	187·30	
9	281,034	1·27	15·82	14·55	172·75	
1,580	281,117	1·79	15·72	13·93	158·82	
1	281,122	8·68	13·05	4·37	154·45	Level of dam at Island 15 feet across.
2	281,572	13·05	4·00	9·05	163·50	
3	281,807	4·00	8·97	4·97	158·53	Level of water in the river Quatawamkedgwick.
	281,807				158·53	158·53 Q. 100 ft. wide. 137·47 R.
4	282,022	8·97	5·70	3·27	161·80	163·24 G. R.
5	282,382	6·64	1·28	5·36	167·16	
6	283,597	12·47	3·15	9·32	176·48	
7	283,677	15·30	·72	14·58	191·06	
8	283,731	14·96	·14	14·82	205·88	
9	283,862	13·47	·43	13·04	218·92	
1,590	283,922	13·48	·41	13·07	231·99	
1	283,972	15·27	1·30	13·97	245·96	
2	284,031	15·68	·69	14·99	260·95	
3	284,077	15·47	1·12	14·35	275·30	
4	284,164	15·63	2·25	13·38	288·68	
5	284,260	12·70	·48	12·22	300·90	
6	284,372	13·92	·16	13·76	314·66	
7	284,422	15·92	·68	15·24	329·90	
8	284,467	16·98	·79	16·19	346·09	
9	284,522	16·48	·68	15·80	361·89	
1,600	284,607	16·44	·50	15·94	377·83	
1	284,704	12·67	1·00	11·67	389·50	
2	284,779	16·13	1·27	14·86	404·36	
3	284,822	16·28	·85	15·43	419·79	
4	284,882	16·68	·23	16·45	436·24	
5	284,934	16·62	2·80	13·82	450·06	
6	284,972	16·24	2·50	13·74	463·80	
7	284,992	16·20	2·14	14·06	477·86	
8	285,034	17·18	2·26	14·92	492·78	
9	285,060	16·08	1·91	14·17	506·95	
1,610	285,080	16·41	2·01	14·40	521·35	
1	285,116	16·72	3·03	13·69	535·04	
2	285,147	15·79	2·68	13·11	548·15	
3	285,195	15·70	·28	15·42	563·57	
4	285,237	16·70	2·85	13·85	577·42	
5	285,270	15·28	2·33	12·95	590·37	
6	285,322	16·70	2·40	14·30	604·67	
7	285,357	16·32	2·07	14·25	618·92	
8	285,377	16·24	2·95	13·29	632·21	
9	285,407	17·69	1·82	15·87	648·08	
1,620	285,462	16·35	·03	16·32	664·40	
1	285,482	16·63	2·62	14·01	678·41	
2	285,522	17·44	1·52	15·92	694·33	
3	285,579	14·58	·21	14·37	708·70	
4	285,617	16·68	2·40	14·28	722·98	
5	285,649	17·00	2·53	14·47	737·45	
6	285,689	16·76	1·83	14·93	752·38	
7	285,728	18·21	1·49	16·72	769·10	
8	285,752	16·69	1·33	15·36	784·46	
9	285,774	16·97	2·11	14·86	799·32	
1,630	285,794	17·07	1·81	15·26	814·58	
1	285,831	18·01	1·22	16·79	831·37	
2	285,862	16·76	1·46	15·30	846·67	
3	285,877	16·90	2·30	14·60	861·27	
4	285,914	16·95	2·05	14·90	876·17	
5	285,942	16·35	1·65	14·70	890·87	
6	285,962	16·74	2·35	14·39	905·26	
7	286,005	17·32	2·15	15·17	920·43	
8	286,037	17·21	2·05	15·16	935·59	
9	286,102	15·82	·14	15·68	951·27	
	286,102				951·27	Carried over.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	286,102				951·27	Brought up.
1,640	286,142	17·53	2·42	16·11	966·38	
1	286,182	17·38	2·39	14·99	981·37	
2	286,227	16·17	1·86	14·31	995·68	
3	286,252	16·05	1·10	14·95	1,010·63	
4	286,292	16·27	·69	15·58	1,026·21	
5	286,322	16·96	·07	16·89	1,043·10	
6	286,352	16·84	·43	16·41	1,059·51	
7	286,385	16·80	·31	16·49	1,076·00	
8	286,418	16·87	·19	16·68	1,092·68	
9	286,446	15·98	·29	15·69	1,108·37	
1,650	286,476	14·53	·32	14·21	1,122·58	
1	286,502	16·25	·39	15·86	1,138·44	
2	286,534	16·00	·00	16·00	1,154·44	
3	286,592	16·00	·00	16·00	1,170·44	
4	286,652	15·55	·11	15·44	1,185·88	
5	286,752	15·48	·89	14·59	1,200·57	
6	287,052	16·58	1·56	15·02	1,215·49	
7	287,672	2·30	10·30	8·00	1,207·49	
8	287,852	12·10	·28	11·83	1,219·32	
9	288,059	16·04	·27	15·77	1,235·09	
1,660	288,217	14·73	·11	14·62	1,249·71	
1	288,350	17·45	·00	17·45	1,267·16	
2	288,477	15·15	·12	15·03	1,282·19	
3	288,572	15·89	·16	15·73	1,297·92	
4	288,662	15·59	·21	15·38	1,313·30	
5	288,799	16·47	·16	16·31	1,329·61	
6	288,895	16·23	·31	15·92	1,345·53	
7	289,047	16·58	·40	16·18	1,361·71	
8	289,317	15·04	4·87	10·17	1,371·88	
9	289,577	4·87	15·87	11·00	1,360·88	
1,670	289,732	2·13	17·28	15·15	1,345·73	
1	289,829	·91	16·90	15·99	1,329·74	
2	289,967	·66	16·91	16·25	1,313·49	
3	290,083	·41	16·58	16·17	1,297·32	
4	290,192	·40	16·50	16·10	1,281·22	
5	290,342	1·34	16·51	15·17	1,266·05	
6	290,467	·65	17·00	16·35	1,249·70	
7	290,642	17·00	·75	16·25	1,265·95	
8	290,745	15·32	·28	15·04	1,280·99	
9	290,887	13·90	·48	13·42	1,294·41	
1,680	291,010	15·14	·35	14·79	1,309·20	
1	291,177	15·00	·35	14·65	1,323·85	
2	291,302	13·68	·07	13·61	1,337·46	
3	291,417	15·37	·10	15·27	1,352·73	
4	291,533	16·82	·26	16·56	1,369·29	
5	291,629	15·92	·57	15·35	1,384·64	
6	291,832	16·57	·13	16·44	1,401·08	
7	292,117	11·36	2·00	9·36	1,410·44	
8	292,487	2·00	17·59	15·59	1,394·85	
9	292,687	·59	14·94	14·35	1,380·50	
1,690	292,992	·08	17·27	17·19	1,363·31	
1	293,277	1·09	16·78	15·69	1,347·62	
2	293,537	1·41	16·55	15·14	1,332·48	
3	293,817	·03	21·00	20·97	1,311·51	
4	294,267	21·00	2·40	18·60	1,330·11	
5	294,454	12·82	·93	11·89	1,342·00	Bench mark, No. 33.
6	294,629	14·38	·72	13·66	1,355·66	September 30.
7	294,777	16·07	·20	15·87	1,371·53	
8	295,017	8·10	1·00	7·10	1,378·63	
9	295,317	1·00	15·00	14·00	1,364·63	
1,700	295,607	·46	13·16	12·70	1,351·93	
1	295,902	·44	17·75	17·31	1,334·62	
2	296,311	·59	11·30	10·71	1,323·91	
3	296,852	2·93	15·53	12·60	1,311·31	
4	296,997	1·19	17·13	15·94	1,295·37	
5	297,117	·74	16·32	15·58	1,279·79	
	297,117				1,279·79	Carried over.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	297,117				1,279·79	Brought up.
1,706	297,229	·00	15·28	15·28	1,264·51	
7	297,382	·58	17·02	16·44	1,248·07	
8	297,566	·82	17·07	16·25	1,231·82	
9	297,807	1·41	15·72	14·31	1,217·51	
1,710	298,147	·74	1·08	·34	1,217·17	
1	298,477	11·33	·22	11·11	1,228·28	
2	299,087	9·50	14·38	4·88	1,223·40	
3	299,217	·85	17·04	16·19	1,207·21	
4	299,332	·94	17·53	16·59	1,190·62	
5	299,422	·64	16·49	15·85	1,174·77	
6	299,517	·61	16·93	16·32	1,158·45	
7	299,628	·64	17·56	16·92	1,141·53	
8	299,705	1·44	16·07	14·63	1,126·90	
9	299,870	·70	4·53	3·83	1,123·07	
1,720	300,017	13·71	·36	13·35	1,136·42	
1	300,297	15·11	·83	14·28	1,150·70	October 1.
2	300,637	15·53	1·16	14·37	1,165·07	
3	300,928	10·29	·00	10·29	1,175·36	
4	301,102	12·75	·18	12·57	1,187·93	
5	301,299	15·35	·76	14·59	1,202·52	
6	301,717	11·70	2·00	9·70	1,212·22	
7	302,017	2·00	17·29	15·39	1,196·93	
8	302,217	1·18	24·00	22·82	1,174·11	
9	302,625	24·00	10·35	13·65	1,187·76	
1,730	302,797	·89	15·15	14·26	1,173·50	
1	302,905	·42	16·69	16·27	1,157·23	
2	302,977	1·00	16·13	15·13	1,142·10	
3	303,080	·00	15·48	15·48	1,126·62	
4	303,227	·79	15·85	15·06	1,111·56	
5	303,427	·17	16·55	16·38	1,095·18	
6	304,129	7·65	·59	7·06	1,102·24	
7	304,337	15·10	·36	14·74	1,116·98	
8	304,514	15·90	·35	15·55	1,132·53	
9	304,605	15·26	·05	15·21	1,147·74	
1,740	304,717	15·32	·13	15·19	1,162·93	
1	304,877	15·02	·33	14·69	1,177·62	
2	305,017	16·44	1·73	14·71	1,192·33	
3	305,332	2·67	16·46	13·79	1,178·54	
4	305,507	1·40	14·81	13·41	1,165·13	
5	305,637	1·05	16·05	15·00	1,150·13	
6	305,777	·69	16·29	15·60	1,134·53	
7	305,874	·67	16·90	16·23	1,118·30	
8	306,087	·46	17·13	16·67	1,101·63	
9	306,224	·42	17·44	17·02	1,084·61	
1,750	306,432	·79	16·75	15·96	1,068·65	
1	306,602	·36	14·94	14·58	1,054·07	
2	307,474	·91	16·77	15·86	1,038·21	
3	308,047	·51	17·22	16·71	1,021·50	
4	308,323	1·70	16·70	14·47	1,007·03	
5	308,592	·66	16·59	15·93	991·10	
6	308,777	·67	15·86	15·19	975·91	
7	308,917	·65	16·95	16·30	959·61	
8	309,057	·69	15·95	15·26	944·35	
9	309,297	1·13	17·85	16·72	927·63	
1,760	309,511	·47	15·12	14·65	912·98	
1	309,697	·13	15·78	15·65	897·33	
2	309,799	·73	15·99	15·26	682·07	
3	309,917	·68	26·00	25·32	856·75	Brook running west.
4	310,097	26·00	1·02	24·98	881·73	
5	310,317	13·00	·61	12·39	894·12	
6	310,617	9·84	·78	9·06	903·18	
7	311,037	12·30	1·05	11·25	914·43	
8	311,425	13·06	·11	12·95	927·38	
9	311,667	16·01	·57	15·44	942·82	
1,770	312,125	14·00	·73	13·27	956·09	
1	312,517	10·86	4·00	6·86	962·95	
	312,517				962·95	Carried over.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	312,517				962·95	Brought up.
1,772	312,817	4·00	13·91	9·91	953·04	
3	313,005	2·31	14·47	12·16	940·88	
4	313,417	2·13	15·21	13·08	927·80	
5	313,737	·42	16·93	16·51	911·29	
6	313,977	2·02	16·94	14·92	896·37	
7	314,107	·52	16·41	15·89	880·48	
8	314,235	·55	16·59	16·04	874·44	
9	314,332	·71	16·99	16·28	848·16	
1,780	314,435	·37	16·33	15·96	832·20	
1	314,507	1·17	16·74	15·57	816·63	
2	314,607	·54	17·24	16·70	799·93	
3	314,692	·49	16·45	15·96	783·97	
4	314,767	·19	17·32	17·13	766·84	
5	314,847	·83	16·91	16·08	750·76	
6	314,923	1·36	16·11	14·75	736·01	
7	315,007	·81	17·51	16·70	719·31	
8	315,112	·70	17·77	17·07	702·24	
9	315,205	·77	16·46	15·69	686·55	
1,790	315,329	·06	15·71	15·65	670·90	
1	315,587	·19	16·40	16·21	654·69	
2	315,802	·48	16·29	15·81	638·88	
3	315,877	·54	12·08	11·54	627·34	Bench mark, No. 34.
4	315,942	·08	15·00	14·92	612·42	October 2.
5	316,017	·75	16·59	15·84	596·58	
6	316,047	·57	16·99	16·42	580·16	
7	316,097	·74	16·60	15·86	564·30	
8	316,132	·49	16·79	16·30	548·00	
9	316,187	·40	16·64	16·24	521·76	
1,800	316,217	·14	16·35	16·21	515·55	
1	316,417	·64	6·67	6·03	509·52	Water in States Brook,
2	316,492	6·67	·86	5·81	515·33	18 feet wide.
3	316,517	16·85	·00	16·85	532·18	
4	316,569	15·17	·13	15·04	547·22	
5	316,617	13·50	·04	13·46	560·68	
6	316,642	16·01	·07	15·94	576·62	
7	316,682	15·90	·39	15·51	592·13	
8	316,737	15·75	·28	15·47	607·60	
9	316,832	16·47	·52	15·95	623·55	
1,810	317,003	10·55	·15	10·40	633·95	
1	317,267	12·51	4·00	8·51	642·46	
2	317,505	4·00	13·76	9·76	632·70	
3	317,547	1·45	16·01	14·56	618·14	
4	317,611	·04	17·35	17·31	600·83	
5	317,652	·75	16·63	15·88	584·95	
6	317,717	·42	16·62	16·20	568·75	
7	317,842	5·27	4·04	1·23	569·98	At 100 ft., small brook E.
8	317,892	16·22	·23	15·99	585·97	
9	317,923	16·59	·12	16·47	602·44	
1,820	317,967	16·81	·12	16·69	619·13	
1	318,007	14·60	·69	13·91	633·04	
2	318,137	13·98	·35	13·63	646·67	
3	318,317	17·21	1·15	16·06	662·73	
4	319,062	16·21	1·97	14·24	676·97	
5	319,367	10·50	·88	9·62	686·59	
6	319,630	15·60	·02	15·58	702·17	
7	319,907	11·70	·50	11·20	713·37	
8	320,147	15·68	1·52	14·16	727·53	
9	320,407	13·70	·52	13·18	740·71	
1,830	320,616	17·09	·62	16·47	757·18	
1	320,775	14·18	·60	13·58	770·76	
2	320,982	15·22	·43	14·79	785·55	
3	321,217	14·60	1·20	13·40	798·95	
4	321,393	13·04	·05	12·99	811·94	
5	322,177	11·73	2·43	9·30	821·24	
6	322,817	3·81	10·43	6·62	814·62	
7	323,337	1·42	14·22	12·80	801·82	
	323,337				801·82	Carried over.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	323,337				801·82	Brought up.
1,838	323,657	2·00	16·15	14·15	787·67	
9	323,877	1·45	15·15	13·70	773·97	
1,840	324,012	1·62	11·90	10·28	763·69	Bench mark, No. 35.
1	324,137	·90	14·59	13·69	750·00	October 3.
2	324,329	1·07	16·37	15·30	734·70	
3	324,517	1·13	16·22	15·09	719·61	
4	324,757	·11	14·23	14·12	705·49	
5	324,937	·86	15·95	15·09	690·40	
6	325,187	1·42	15·57	14·15	676·25	
7	325,332	1·97	15·11	13·14	663·11	
8	325,429	·34	15·53	15·19	647·92	
9	325,477	·00	15·33	15·33	632·59	
1,850	325,747	2·68	1·74	·94	633·53	At 60 ft., small brook E.
1	325,835	14·52	·00	14·52	648·05	
2	325,897	12·84	·41	12·43	660·48	
3	325,997	14·25	·70	13·55	674·03	
4	326,147	13·42	1·58	11·84	685·87	
5	326,537	11·86	1·85	10·01	695·88	
6	327,037	7·89	1·37	6·52	702·40	
7	327,367	10·39	1·09	9·30	711·70	
8	327,677	8·59	2·19	6·40	718·10	
9	327,867	14·25	·34	13·91	732·01	
1,860	328,045	16·05	·14	15·91	747·92	
1	328,247	16·98	·03	16·95	764·87	
2	328,507	15·31	·19	15·12	779·99	
3	328,845	13·54	·66	12·88	792·87	
4	329,752	10·91	4·34	6·57	799·44	
5	330,207	3·50	12·28	8·78	790·66	
6	330,677	1·74	14·59	12·85	777·81	
7	330,937	·93	2·13	1·20	776·61	Small brook E., 4 ft. lower.
8	331,587	7·48	5·70	1·78	778·39	
9	331,712	7·92	·56	7·36	785·75	
1,870	332,265	6·70	1·81	4·89	790·64	
1	332,512	11·08	·77	10·31	800·95	
2	332,782	12·99	·89	12·10	813·05	
3	333,052	16·48	·35	16·13	829·18	
4	333,282	12·92	·38	12·54	841·72	
5	333,432	17·00	1·38	15·62	857·34	
6	333,627	15·90	·66	15·24	872·58	
7	333,882	15·00	·45	14·55	887·13	
8	334,287	13·57	4·00	9·57	896·70	
9	334,577	4·00	14·04	10·04	886·66	
1,880	334,815	1·09	16·21	15·12	871·54	
1	334,986	·53	17·19	16·66	854·88	
2	335,052	1·05	13·92	12·87	842·01	
3	335,117	1·15	15·38	14·23	827·78	
4	335,167	·10	15·31	15·21	812·57	
5	335,197	·44	10·75	10·31	802·26	
6	335,287	·80	19·50	18·70	783·56	
7	335,437	19·50	1·05	18·45	802·01	
8	335,507	15·31	·52	14·79	816·80	
9	335,580	16·31	·40	15·91	832·71	
1,890	335,672	15·17	·49	14·68	847·39	
1	335,833	13·30	·44	12·86	860·25	
2	336,067	12·52	2·58	9·94	870·19	
3	336,632	9·19	4·67	4·52	874·71	
4	337,122	7·50	6·25	1·25	875·96	
5	337,392	3·11	9·93	6·82	869·14	
6	337,632	1·62	16·42	14·80	854·34	
7	337,742	·91	16·45	15·54	838·80	
8	337,822	·70	15·52	14·82	823·98	
9	337,887	·45	14·88	14·43	809·55	
1,900	337,949	·70	16·04	15·34	794·21	
1	338,012	1·35	15·64	14·29	779·92	
2	338,051	·37	12·40	12·03	767·89	
3	338,242	·28	16·22	15·94	751·95	
	338,242				751·95	Carried over.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	338,242				751·95	Brought up.
1,904	338,292	·88	14·89	14·01	737·94	
5	338,352	·24	6·35	6·11	731·83	States brook E., 2ft. lower.
6	338,543	13·64	·35	13·29	745·12	
7	358,587	15·53	·36	15·17	760·29	
8	338,847	11·00	·43	10·57	770·86	
9	338,944	15·96	·01	15·95	786·81	
1,910	339,237	15·52	·10	15·42	802·23	
1	339,507	14·92	4·00	10·92	813·15	
2	339,917	4·00	11·50	7·50	805·65	
3	340,457	3·88	1·88	2·00	807·65	
4	340,717	15·70	·68	15·02	822·67	
5	340,912	15·71	·52	15·19	837·86	
6	341,107	16·70	·54	16·16	854·02	
7	341,231	16·98	1·23	15·75	869·77	
8	341,367	17·54	·35	17·19	886·96	
9	341,562	17·71	·09	17·62	904·58	
1,920	341,782	16·73	·26	16·47	921·05	
1	342,002	18·00	·27	17·73	938·78	
2	342,197	14·54	·42	14·12	952·9	
3	342,637	18·00	1·00	17·00	969·9	
4	342,887	9·10	3·82	5·28	975·18	
5	343,417	3·82	11·41	7·59	967·59	
6	343,947	1·50	10·69	9·17	958·42	
7	344,327	2·76	1·87	·89	959·31	
8	344,567	6·44	·46	5·98	965·29	
9	345,482	3·68	4·08	·40	964·89	
1,930	345,937	3·37	10·86	7·49	957·40	
1	345,974	11·41	22·78	11·37	946·03	
2	346,367	22·78	1·10	21·68	967·71	
3	346,737	14·80	1·60	13·20	980·91	
4	347,412	16·70	1·47	15·23	996·14	
5	347,832	17·10	·66	16·44	1,012·58	
6	348,207	16·93	1·54	15·39	1,027·97	
7	348,437	7·83	3·80	4·03	1,032·00	
8	348,687	3·80	2·50	1·30	1,033·30	
9	349,387	4·46	1·40	3·06	1,036·36	
1,940	349,622	17·20	·79	16·41	1,052·77	
1	349,837	17·83	·32	17·51	1,070·28	
2	350,052	15·47	·66	14·81	1,085·09	
3	350,337	13·20	1·62	11·58	1,096·67	
4	350,637	12·59	1·41	11·18	1,107·85	
5	351,137	17·11	3·88	13·23	1,121·08	
6	351,477	3·88	11·77	7·89	1,113·19	
7	351,737	2·95	16·30	13·35	1,099·84	
8	351,957	1·27	17·02	15·75	1,084·09	
9	352,137	·89	16·85	15·96	1,068·13	
1,950	352,267	1·16	16·57	15·41	1,052·72	
1	352,449	·18	17·07	16·89	1,035·83	
2	352,597	·89	15·59	14·70	1,021·13	
3	352,752	·56	16·17	15·61	1,005·52	
4	352,897	·87	16·96	16·09	989·43	
5	353,043	·78	16·23	15·45	973·98	
6	353,197	·49	17·06	16·57	957·41	
7	353,287	1·07	17·09	16·02	941·39	
8	353,377	·34	17·46	17·12	924·27	
9	353,487	·33	17·22	16·89	907·38	
1,960	353,637	·80	6·83	6·03	901·35	
1	353,737	6·07	7·80	1·73	899·62	
2	353,887	7·80	2·15	5·65	905·27	
3	354,087	10·09	1·16	8·93	914·20	
4	354,337	13·50	1·25	12·25	926·45	
5	354,387	18·01	·52	17·49	943·94	
6	354,517	17·07	·55	16·52	960·46	
7	354,637	15·79	·95	14·84	975·30	
8	354,937	13·58	4·00	9·58	984·88	
9	355,107	4·00	15·43	11·43	973·45	
	355,107				973·45	Carried over.

Levelling Register.—*Continued.*

No. of Station.	Distance in feet from the River St. John.	Back Sight.	Fore Sight.	Difference.	Total height in feet above the River St. John.	Remarks.
	355,107				973·45	Brought up.
1,970	355,195	1·82	7·82	6·00	967·45	
1	355,212	7·82	1·82	6·00	973·45	
2	355,368	1·82	16·12	14·30	959·15	
3	355,490	1·23	16·65	15·42	943·73	
4	355,500	2·20	17·62	15·42	928·31	
5	355,690	1·23	8·39	7·16	921·15	Brook running E.
6	355,750	8·39	4·65	3·74	924·89	
7	355,900	13·97	·45	13·52	938·41	
8	356,020	15·22	·45	14·77	953·18	
9	356,200	15·92	·39	15·53	968·71	
1,980	356,690	17·55	·23	17·32	986·03	
1	357,160	7·08	2·16	4·92	990·95	
2	357,800	15·52	4·00	11·52	1,002·47	
3	358,100	4·00	15·40	11·40	991·07	
4	358,410	1·41	14·02	12·61	978·46	
5	358,580	1·09	15·98	14·89	963·57	
6	358,700	1·03	16·98	15·95	947·62	
7	358,800	·64	17·12	16·48	931·14	
8	358,900	·50	17·15	16·65	914·49	
9	358,985	·04	16·93	16·89	897·60	
1,990	359,100	·35	17·28	16·93	880·67	
1	359,450	·74	16·13	15·39	865·28	
2	359,630	2·38	14·54	12·16	853·12	
3	359,750	1·04	16·37	15·33	837·79	
4	359,810	·99	9·80	8·81	828·98	Bench mark, No. 37.
5	359,900	·39	16·80	16·41	812·57	October 6.
6	360,075	·70	16·44	15·74	796·83	
7	360,218	·00	16·29	16·29	780·54	
8	360,390	1·44	16·67	15·23	765·31	
9	360,475	·00	17·28	17·28	748·03	
2,000	360,604	1·69	14·34	12·65	735·38	
1	360,928	2·57	17·15	14·58	720·80	
2	361,117	1·57	16·96	15·39	705·41	
3	361,617	2·12	14·94	12·82	692·59	
4	361,792	1·28	6·84	5·56	687·03	
5	362,218	3·01	9·11	6·10	680·93	
6	362,520	1·82	12·44	10·62	670·31	Bench mark, No. 38.
7	362,825	3·01	7·22	4·21	666·10	Beaver Stream.
	362,825				666·10	
	68 miles, 4,785 feet.					

ABSTRACT.

Height of water in Grand River, above the St. John	.. ..	163·24 feet.
Ditto in Restigouche		137·47
Ditto in Quatawamkedgwick		158·53
Ditto in Beaver Stream..		666·10

(Signed) W. E. DELVES BROUGHTON,
Royal Engineers.

(Signed) J. D. FEATHERSTONHAUGH.

Registry of the State of Instruments on arriving at the Grand Falls. August 14, 1840.

			Th. A.	Th. D.	
A.	....	29·252	68½	68½	Troughton's.
No. 1	....	29·293	58½	„	Newman's.
No. 2	....	29·288	68½	„	Newman's.
411	....	743·3	20	20	
413	....	743·05	„	„	
414	....	743·15	„	„	Bunten's.
416	....	743·0	„	„	
418	....	743·1	„	„	

MEMORANDUM.

	Newman, No. 1.	Do., No. 2.
Capacity	$\frac{1}{54}$	$\frac{1}{52}$
Neutral Point	29·802	29·802
Capillarity Att.	+ ·042	+ ·042
	1000	1000
Temp. Fahr.	68°	68°

Record of Barometric Observations.

Date and Time.	Station.	Bar.	Height.	Th. A.	Th. D.	Remarks, &c.
1840 August 24, 8 A.M.	Grand Falls *	A.	29·134	68	69	North wind; cloudy and threatening rain.
		No. 1	29·148	67½		
		411	740·1	20		
12		A.	29·234	69½	70	
		No. 1	29·246	61½		
		411	741·3	21		
4 P.M.		A.	29·30	70	70	
		No. 1	29·314	70		
		411	742·7	21		
August 25, 8 A.M.	Grand Falls	A.	29·526	59	61	North-west wind; cloudy.
		No. 1	29·524	57½		
		411	747·6	16		
12		A.	29·534	65½	66	
		No. 1	29·540	65½		
		411	748·0	19		
4 P.M.		A.	29·520	72	72	
		No. 1	29·526	72		
		411	748·2	22½		
August 26, 8 A.M.	Grand Falls	A.	29·562	50½	51½	Wind north-west.
		No. 1	29·564	49½		
		411	747·7	11		
12		A.	59·554	69	69	
		No. 1	29·562	68		
		411	749·2	21		
4 P.M.		A.	29·564	72½	73	
		No. 1	29·550	72		
		411	749·2	23		

* The Observatory at the Grand Falls is 109 feet above the surface of the St. John, at its intersection by the exploratory due North Line.

Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.	Th. D.	Remarks.
1840 August 27,						
8 A.M.	Grand Falls	A.	29·620	53½	54½	Wind north-west.
		No. 1	29·616	51½		
		411	749·7	12		
12		A.	29·652	74½	76	
		No. 1	29·654	72		
		411	753·0	24½		
4 P.M.		A.	29·646	74½	75	
		No. 1	29·666	74		
		411	752·8	24		
August 28,						
8 A.M.	Grand Falls	A.	29·762	61	63	Wind south-east; clear weather.
		No. 1	29·756	59½		
		411	755·0	17		
12		A.	29·734	73	73	
		No. 1	29·750	72		
		411	755·1	23		
4 P.M.		A.	29·684	76	76	
		No. 1	29·70	75½		
		411	754·2	24½		
August 29,						
4 A.M.	Grand Falls	A.	29·704	62	63	Wind south; heavy and cloudy weather.
		No. 1	29·714	61		
		411	753·9	17		
12		A.	29·712	72	73	
		No. 1	29·720	70½		
		411	754·2	22½		
4 P.M.		A.	29·684	75½	76	
		No. 1	29·692	75		
		411	753·7	24½		
8 A.M.	On due north line station, No. 111, p. 8.	2	29·388	60	60	
		413	746·6	15½		
		414	747·1	15½		
		416	746·3	15½		
		418	746·9	15½		
August 30,						
8 A.M.	Grand Falls	A.	29·634	60½	61	Wind south.
		No. 1	29·650	60		
		411	752·4	16		
12		A.	29·612	67	68	Wind south-east; cloudy.
		No. 1	29·624	66½		
		411	752·1	20		
4 P.M.		A.	29·562	68½	68½	Wind south; cloudy.
		No. 1	29·582	68½		
		411	751·0	20½		
4 P.M.	On due north line station, No. 173, p. 9.	2	29·188	68	66	
		413	740·8	19½		
		414	741·0	19½		
		416	740·0	19½		
		418	740·9	19½		
August 31,						
8 A.M.	Grand Falls.....	A.	29·364	64	64	Wind south; cloudy.
		No. 1	29·388	63½		
		411	745·9	13		

Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.	Th. D.	Remarks.
1840 August 31, 12	Grand Falls	A.	29·350	68	68	Wind south-west.
		No. 1	29·376	67		
		411	745·4	20		
4 P.M.		A.	29·330	69	69	Wind south-west.
		No. 1	29·360	68		
		411	744·9	20½		
8 A.M.	Due north line station, No. 173, p. 9.	2	29·008	52	62	
		413	735·8	17		
		414	736·2	17		
		416	735·9	17		
		419	735·8	17		
4 P.M.	Due north line station, No. 203, p. 10.	2	29·038	70	68	
		413	737·6	21		
		414	737·7	21		
		416	737·5	21		
		418	737·4	21		
September 1, 8 A.M.	Grand Falls	A.	29·292	58	58½	Wind west; cloudy.
		No. 1	29·314	55		
		411	743·0	14½		
12		A.	29·270	64	64	Wind west; heavy.
		No. 1	29·296	64		
		411	743·3	18		
4 P.M.		A.	29·262	65	55	Wind west; thunder and showers.
		No. 1	29·286	64		
		411	742·6	19		
4 P.M.	Due north line on north bank of Grand River, six feet above the level of the water.	2	29·202	59	62	
		413	741·3	16	16	
		414	741·5	16		
		416	741·4	16		
		418	741·6	16		
September 2, 8 A.M.	Grand Falls	A.	29·324	50	50½	Wind south; cloudy.
		No. 1	29·340	49		
		411	743·1	10		
12		A.	29·270	64½	64½	Strong breeze; wind south-south-west.
		No. 1	29·292	64		
		411	743·0	18½		
4 P.M.		A.	29·230	60	60	Wind south, with rain.
		No. 1	29·252	60		
		411	742·3	16		
8 A.M.	Due north line on north bank of Grand River, six feet above the level of the water.	2	29·274	48	48	
		413	742·6	9	9	
		414	742·7	9		
		416	742·6	9		
		418	742·4	9		
September 3, 8 A.M.	Grand Falls	A.	29·216	56	56	Wind west.
		No. 1	22·232	55		
		411	741·3	13½		
12		A.	29·250	59	59	
		No. 1	29·268	58½		
		411	741·9	15		

Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.	Th. D.	Remarks.
1840 September 4, 4 P.M.	Grand Falls.....	A.	29·612	67	67	Wind north-west; clear.
		No. 1	29·624	66		
		411	750·5	19½		
8 A.M.	On Line Station, No. 385, p. 12.	2	29·190	53½	53	
		413	740·65	12		
		414	740·9	12		
		416	740·85	12		
		418	741·0	12		
September 5, 8 A.M.	Grand Falls.....	A.	29·674	44	45	Wind north-west; thick fog.
		No. 1	29·680	43		
		411	751·5	7		
12		A.	29·650	67½	70	Wind south; clear.
		No. 1	29·666	67		
		411	752·3	21		
4 P.M.		A.	29·604	68½	68½	Wind south; cloudy.
		No. 1	29·618	69		
		411	751·9	20½		
September 6, 8 A.M.	Grand Falls.....	A.	29·466	55½	56	Wind north-west; cloudy.
		No. 1	29·482	55		
		411	748·3	13½		
12		A.	29·448	65½	67	Wind north-west; cloudy.
		No. 1	29·474	65		
		411	748·1	19		
4 P.M.		A.	29·408	68½	69	Wind north-west; cloudy.
		No. 1	29·430	68½		
		411	746·8	20½		
8 A.M.	On north side of the Restigouche, opposite the mouth of the Wagan, five feet above water.	2	29·406	54	54	
		413	746·7	12½	12½	
		414	747·2	12½		
		416	746·8	12½		
		418	747·1	12½		
12	At same place.....	2	29·418	68½	67	
		413	746·1	20		
		414	746·5			
		416	746·1			
		416	746·2			
September 7, 8 A.M.	Grand Falls.....	A.	29·548	53½	54½	Wind north-west; cloudy.
		No. 1	29·562	52		
		411	747·4	12½		
12		A.	29·572	69½	70½	Wind north-west; clear.
		No. 1	29·604	68		
		411	750·5	21		
4 P.M.		A.	29·598	73	74	Wind north-west; clear.
		No. 1	29·610	72		
		411	751·1	23		
September 8, 8 A.M.	Grand Falls.....	A.	29·562	54	54	Wind south.
		No. 1	29·578	52½		
		411	750·1	12½		
12		A.	29·544	70	70½	Wind south-east; sultry.
		No. 1	29·564	69½		
		411	750·2	21		

Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.	Th. D.	Remarks.
1840 Sept. 8, 4 P.M.	Grand Falls.....	A.	29·492	72	72	Wind south-west; cloudy.
		No. 1	29·510	72		
		411	749·0	22½		
8 A.M.	On north bank of Restigouche, five miles below the due north line, twelve feet above the level of water.	2	29·540	55	54	
		413	750·0	13	13	
		414	750·2	13		
		416	750·0	13		
		418	750·1	13		
Sept. 9, 8 A.M.	Grand Falls.....	A.	29·322	62	62	Wind south-west; cloudy.
		No. 1	29·334	62		
		411	744·2	17		
12		A.	29·316	70	71	Wind south.
		No. 1	29·338	69½		
		411	744·2	21½		
4 P.M.		A.	29·290	70	70	Wind south; heavy clouds, with rain.
		No. 1	29·314	69½		
		411	743·7	21		
8 A.M.	On north bank of the Restigouche, five miles below due north line, twelve feet above the level of the water.	2	29·272	61	60½	
		413	743·3	16	16	
		414	743·3	16		
		416	742·9	16		
		418	743·3	16		
Sept. 10, 8 A.M.	Grand Falls.....	A.	29·204	61	61	Wind south; thunder clouds.
		No. 1	29·228	60½		
		411	741·6	16		
12		A.	29·220	68	68	Heavy.
		No. 1	29·244	67		
		411	742·2	20		
4 P.M.		A.	29·212	64½	64	Showery.
		No. 1	29·230	64½		
		411	741·9	18		
Sept. 11, 8 A.M.	Grand Falls.....	A.	29·220	53	53	Wind north-west; heavy rain.
		No. 1	29·238	53		
		411	741·2	11½		
12		A.	29·206	55	55	Rain.
		No. 1	29·226	54½		
		411	741·1	12½		
4 P.M.		A.	29·270	55	55	Wind north-west; clearing.
		No. 1	29·286	54½		
		411	742·3	13		
Sept. 12, 8 A.M.	Grand Falls.....	A.	29·552	45	45	Wind north-west; cloudy.
		No. 1	29·554	45		
		411	748·0	7		
12		A.	29·574	51	51½	Wind north-west; clearing.
		No. 1	29·578	51		
		411	750·6	11		
4 P.M.		A.	29·578	56½	57	Wind north-west; cloudy.
		No. 1	29·592	56½		
		411	750·8	14		

Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.	Th. D.	Remarks.
1840						
Sept. 12,	Seven feet above high water	413	765·5	10	49	
8 A.M.	mark, Campbell Town, on	414	765·9	10		
	Baie des Chaleurs.	416	765·4	10		
12		413	765·2	12	52½	
		414	765·6	12		
		416	765·3	12		
4 P.M.		413	765·6	17½	64	
		414	766·1	17½		
		416	766·1	17½		
4 P.M.	At station No. 577, on due	2	29·242	57	55	
	north line, p. 15.	418	742·5	14	13	
Sept. 13,						
8 A.M.	Grand Falls.....	A.	29·670	42½	42½	Slight frost; wind
		No. 1	29·690	41½		north-west.
		411	752·2	6		
12		A.	29·704	58½	58½	Wind north-west.
		No. 1	29·710	57½		
		411	754·0	15		
4 P.M.		A.	29·584	61	61½	Wind north-west.
		No. 1	29·592	61		
		411	753·9	15½		
8 A.M.	At the same station at	413	768·2	13	52½	
	Campbell Town.	414	768·4	13		
		416	768·2	13		
12		413	767·5	16	60½	
		414	768·1	16		
		416	767·7	16		
4 P.M.		413	767·6	17	61½	
		414	767·6	17		
		416	767·4	17		
8 A.M.	At station No. 577, on due	2	29·318	40½	41	
	north line, p. 15.	418	744·7	6	5	
4 P.M.		2	29·336	58½	56	
		418	744·6	13½	13	
Sept. 14,						
8 A.M.	Grand Falls.....	A.	29·652	43	42½	Wind north-west;
		No. 1	29·658	42		showery.
		411	753·7	6		
12		A.	29·608	56	56	Wind north-west.
		No. 1	29·626	55		
		411	752·3	13½		
4 P.M.		A.	29·562	57	57	Wind north-west;
		No. 1	29·576	56½		cloudy.
		411	751·1	13½		
8 A.M.	At station No. 557, p. 15,	* 2	29·420	38	37½	
	as yesterday.	418	743·8	2½		
Sept. 15,						
8 A.M.	Grand Falls.....	A.	29·360	49	49	Wind north-west;
		No. 1	29·378	48½		heavy rain.
		411	745·6	9½		

* 2 Contains air, and no further dependence can be placed upon its registry.

Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.	Th. D.	Remarks.
1840 Sept. 15, 12	Grand Falls.....	A.	29·364	54½	54	Wind north-west; rain.
		No. 1	29·388	53½		
		411	745·2	12		
4 P.M.		A.	29·394	49½	49½	Wind north-west; rain.
		No. 1	29·412	50		
		411	745·8	9½		
8 A.M.	At station 639, p. 16, due north line.	2	28·750	47½	46	
		418	729·8	8		
4 P.M.	At station 699, p. 17, six feet above the station, on due north line.	2	28·950	54	51	
		418	735·0	11½		
Sept. 16, 8 A.M.	Grand Falls.....	A.	29·528	47	47½	Wind south.
		No. 1	29·536	46½		
		411	747·6	8½		
12		A.	29·592	60	62	Wind west.
		No. 1	29·600	59		
		411	749·2	16½		
4 P.M.		A.	29·596	67	67	Wind south-west.
		No. 1	29·610	66½		
		411	749·8	19½		
8 A.M.	At station 699, p. 17, as yesterday.	2	29·068	42	40½	
		418	737·9	4½		
Sept. 17, 8 A.M.	Grand Falls.....	A.	29·608	47	47½	Wind south-west.
		No. 1	29·620	45½		
		411	751·0	8½		
12		A.	29·606	67	69	Wind south.
		No. 1	29·620	67		
		411	751·7	19½		
4 P.M.		A.	29·562	71½	72	Wind south-south-west.
		No. 1	29·572	71½		
		411	750·8	22		
Sept. 18, 8 A.M.	Grand Falls.....	A.	29·554	51½	52	Wind south.
		No. 1	29·560	50½		
		411	749·9	11		
12		A.	29·564	57½	58	Wind south.
		No. 1	29·576	57		
		411	750·3	9½		
4 P.M.		A.	29·560	61	61	Wind south.
		No. 1	29·574	60½		
		411	750·3	16		
8 A.M.	At four feet below station 855, p. 20, on due north line.	2	29·320	43	43	
		418	744·6	6¼		
Sept. 19, 8 A.M.	Grand Falls.....	A.	29·480	50	52	Wind south-south-east.
		No. 1	29·506	49½		
		411	748·6	10½		
12		A.	29·414	59	60	Wind south-south-west.
		No. 1	29·430	58½		
		411	747·0	15½		

Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.	Th. D.	Remarks.
1840 Sept. 19, 4 P.M.	Grand Falls	A.	29·302	58½	58½	Wind south-south-east.
		No. 1	29·320	58½		
		411	744·4	15		
8 A.M.	At four feet above station 913, p. 20, on due north line.	2	29·012	51	48½	
		418	735·7	9½		
Sept. 20, 8 A.M.	Grand Falls	A.	28·898	52	52½	Wind south-west; cloudy and rain.
		No. 1	28·920	51½		
		411	734·0	11½		
12		A.	28·844	57½	58	Wind south-west.
		No. 1	28·874	56½		
		411	732·7	14		
4 P.M.		A.	28·798	56½	56½	Wind south-west; heavy rain.
		No. 1	28·832	56½		
		411	731·6	13½		
Sept. 21, 8 A.M.	Grand Falls	A.	28·882	44½	44½	Wind west.
		No. 1	28·890	44		
		411	733·7	7		
12		A.	29·016	51	51	Wind west.
		No. 1	29·038	50½		
		411	735·0	10½		
4 P.M.		A.	29·046	50	50	Wind west.
		No. 1	29·066	50		
		411	737·0	10		
12	At station 1,076, p. 23, five feet above station on due north line.	2	28·632	50	46½	
		418	737·1	9		
Sept. 22, 8 A.M.	Grand Falls	A.	29·414	38	37	Wind north-west; much rain and sleet.
		No. 1	29·432	37½		
		411	742·8	3		
12		A.	29·482	39	39	Wind north-west, blowing hard; snow.
		No. 1	99·498	39		
		411	746·3	4		
4 P.M.		A.	29·512	38½	38	Wind north-west; moderating.
		No. 1	29·522	37½		
		411	746·7	3½		
8 A.M.	On Quatawamkedgwick, eight feet above the level of the river, on due north line. P. 31.	413	743·9	3½	38	
		414	743·8	3½		
		416	743·7	3½		
Sept. 23, 8 A.M.	Grand Falls	A.	29·552	36	35½	Wind south; sleet constant.
		No. 1	29·554	36		
		411	750·1	2		
12		A.	29·588	41	41	Wind south-south-east; clearer.
		No. 1	29·600	40		
		411	750·6	5		
4 P.M.		A.	29·616	44	44½	Wind north west.
		No. 1	29·622	43½		
		411	750·9	6½		

Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.	Th. D.	Remarks.
1840 Sept. 23, 8 A.M.	Eight feet above water, Quatawamkedgwick, on due north line.	413 414 416	748·3 748·7 749·1	1½ 1½ 1½	35½	
12		413 414 416	746·7 746·7 749·5	7½ 7½ 7½	43	Rain.
8 A.M.	Three feet above station 1,190, p. 25, on due north line.	2 418	28·466 722·9	32 —¼	31	
Sept. 24, 8 A.M.	Grand Falls	A. No. 1 411	29·838 29·834 755·0	35 34½ 1½	34½	Wind north-west; frost.
12		A. No. 1 411	29·864 29·876 758·5	48½ 47½ 9½	49½	Wind north-west.
4 P.M.		A. No. 1 411	29·824 29·831 757·4	55 55 13½	57	Wind north-west.
8 A.M.	Same place as yesterday ..	413 414 416	755·0 755·0 755·3	—½ —½ —½	30	
12		413 414 416	756·1 756·5 756·3	14 14 14	54	
4 P.M.		413 414 416	754·1 754·5 754·1	8	46½	
Sept. 25, 8 A.M.	Grand Falls	A. No. 1 411	29·774 29·774 755·8	35 34½ 1½	35	Wind south-south-west; frost and thick fog.
12		A. No. 1 411	29·760 29·770 755·8	59½ 58 16½	61½	Wind west.
4 P.M.		A. No. 1 411	29·704 29·716 754·6	65 65 18½	66½	Wind south-west.
8 A.M.	At the same place as yesterday.	413 414 416	753·1 753·1 752·8	1½ 1½ 1½	33½	Frosty.
12		413 414 416	752·8 753·1 752·6	20½ 20½ 20½	63½	
4 P.M.		2 413 414 416 418	29·566 750·9 750·6 750·7 751·3	56 13½ 13½ 13½ 13½	55	
Sept. 26, 8 A.M.	Grand Falls	A. No. 1 411	29·630 29·638 752·3	40 39 4½	40½	Wind south-east.

Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.	Th. D.	Remarks.
1840 Sept. 26, 12	Grand Falls	A.	29·636	64½	67	Wind south-east.
		No. 1	29·646	64		
		411	752·4	19		
4 P.M.		A.	29·576	68	68	Wind south-east.
		No. 1	29·590	68		
		411	751·4	20		
8 A.M.	Same place as yesterday ..	2	29·524	43	42	
		413	749·6	5½	42	
		414	750·0	5½		
		416	749·6	5½		
		418	746·8	5½		
4 P.M.		2	29·442	61	57	
		413	747·5	14½		
		414	747·6	14½		
		416	746·7	14½		
		418	747·4	14½		
Sept. 27, 8 A.M.	Grand Falls	A.	29·426	53½	54	Wind south to south-west; misty.
		No. 1	29·438	53		
		411	747·2	12		
12		A.	29·374	63	63½	Wind south-east to south-west.
		No. 1	29·392	62½		
		411	746·3	17½		
4 P.M.		A.	29·334	64	64½	Wind south-west.
		No. 1	29·350	64		
		411	745·0	18		
8 A.M.	Same place as yesterday ..	2	29·314	52	51	
		413	744·0	10		
		414	744·4	10		
		416	744·4	10		
		418	744·3	10		
4 P.M.		2	29·224	64	61½	
		413	741·9	12½		
		414	742·0	12½		
		416	741·9	12½		
		418	742·0	12½		
Sept. 28, 8 A.M.	Grand Falls	A.	29·426	46	46½	Wind north-west; rain.
		No. 1	29·438	46½		
		411	745·2	8		
12		A.	29·466	45	45	Wind north-west; frequent showers.
		No. 1	29·476	45		
		411	745·6	6		
4 P.M.		A.	29·470	50	50½	Wind north-west to south-west; clearing.
		No. 1	29·474	49½		
		411	745·8	10		
8 A.M.	At same place as yesterday, on the Quatawamkedgwick.	2	29·348	42	44	
		413	745·0	6		
		414	745·0	6		
		416	744·6	6		
		418	744·9	6		
12	At station 1,655, p. 32, at the top of mountain, above river.	2	28·284	50½	46½	
		413	717·8	10		
		414	718·0	10		
		416	717·9	10		
		418	718·3	10		

Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.	Th. D.	Remarks.
1840 Sept. 29, 8 A.M.	Grand Falls	A.	29·556	37	37	Wind south-west; dark fog and frosty.
		No. 1	29·562	36½		
		411	747·8	2½		
12		A.	29·576	53	54½	Wind north-west.
		No. 1	29·590	52		
		481	749·1	12½		
4 P.M.		A.	29·568	60	60½	Wind south-west.
		No. 1	29·582	60½		
		411	749·3	16		
8 A.M.	At station 1,719, p. 33, on due north line, twelve feet below station.	2	28·472	44	44½	
		413	722·4	8		
		414	722·4	8		
		416	722·3	8		
		418	722·5	8		
12	Same station.....	2	28·484	54	54	
		413	722·6	13		
		414	723·0	13		
		416	722·5	13		
		418	722·4	13		
Sept. 30, 8 A.M.	Grand Falls	A.	29·496	45	45½	Wind south-south-west; thick fog.
		No. 1	29·512	44½		
		411	748·2	7		
12		A.	29·558	58	58	Wind north-west, blowing hard.
		No. 1	29·568	58		
		411	749·1	14½		
4 P.M.		A.	29·598	57½	58	Wind north-west, moderating.
		No. 1	29·602	57		
		411	749·4	14		
8 A.M.	Same station as yesterday..	2	28·416	49	51½	
		413	721·0	10		
		414	721·0	10		
		416	720·9	10		
		418	720·8	10		
4 P.M.	At station 1,764, p. 33, on due north line.	2	28·752	50	49	
		413	729·6	10		
		414	730·2	10		
		416	729·8	10		
		418	730·0	10		
October 1, 8 A.M.	Grand Falls	A.	29·842	34	33½	Wind north-west; frost.
		No. 1	29·838	33		
		411	754·6	1		
12		A.	29·840	47½	48½	Wind north-west.
		No. 1	29·842	47½		
		411	756·6	9		
4 P.M.		A.	29·830	54	51	Wind south-west.
		No. 1	29·830	54		
		411	756·8	13		
8 A.M.	Same place as yesterday, on due north line, 1,764, p. 33.	2	28·976	29	29	Hard frost; mercury rising fast.
		413	734·5	1½	29	
		414	735·4	1½		
		416	735·0	1½		
		418	734·4	1½		

Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.	Th. D.	Remarks.
1840 October 1, 4 P.M.	At station on the rivulet ..	2	29·280	41	41	
		413	743·2	5		
		414	743·5	5		
		416	742·9	5		
		418	743·7	5		
October 2, 8 A.M.	Grand Falls	A.	29·810	33	33	Wind west-south-west; frost.
		No. 1	29·810	32½		
		411	755·8	−½		
12		A.	29·789	41½	42	Wind west-south-west; rain.
		No. 1	29·800	40½		
		411	756·0	5½	42	
4 P.M.		A.	29·778	45½	45	Wind south-south-east; misty.
		No. 1	29·778	45		
		411	755·7	7½		
8 A.M.	Same place as last evening.	2	28·250	29½	29½	
		413	742·9	1		
		414	743·2	1		
		416	742·7	1		
		418	742·5	1		
4 P.M.	On margin of the Caribou Plain, station 1,868, p. 35	2	29·000	42	41½	
		413	736·4	5		
		414	736·5	5		
		416	736·5	5		
		418	736·7	5		
October 3, 8 A.M.	Grand Falls	A.	29·602	48	48	Wind south-south-east; misty.
		No. 1	22·612	47½		
		411	751·8	8½		
12		A.	29·478	54	54½	Wind south-south-east; rain and mist.
		No. 1	29·492	53½		
		411	748·9	12		
4 P.M.		A.	29·344	59	59½	Wind south-south-east; constant rain.
		No. 1	29·360	58½		
		411	745·3	15		
8 A.M.	Station same as last evening, 1,868, p. 35.	2	28·842	46½	46½	
		413	731·8	8		
		414	732·2	8		
		416	731·6	8		
		418	732·1	8		
4 P.M.	Four feet above station 1,907, p. 36.	2	28·610	55	55	
		413	725·8	13		
		414	725·9	13		
		416	725·7	13		
		418	726·1	13		
October 4, 8 A.M.	Grand Falls	A.	29·432	39	39	Wind south-west; rain.
		No. 1	29·442	38½		
		411	744·9	4		
12		A.	29·418	50	50½	Wind south-west; clearing.
		No. 1	29·426	49½		
		411	745·4	10½		
4 P.M.		A.	29·396	54	54½	Wind south-west.
		No. 1	29·410	54		
		411	745·3	12½		

Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.	Th. D.	Remarks.
1840 October 4, 8 A M.	Four feet above station 1,907, p. 36, same as yesterday.	2	28·682	37	37	Unsettled squally weather.
		413	727·9	3		
		414	728·1	3		
		416	727·5	3		
		418	728·2	3		
12	Same place	2	28·692	46	46	More settled.
		413	727·0	8		
		414	727·2	8		
		416	727·0	8		
		418	726·9	8		
4 P.M.	Same place	2	28·626	45	46	Calm.
		413	726·7	7½		
		414	726·7	7½		
		416	726·6	7½		
		418	726·3	7½		
October 5, 8 A.M.	Grand Falls	A.	29·494	45½	45½	Wind south-west.
		No. 1	29·512	45		
		411	746·7	7½		
12		A.	29·454	53½	55	Wind south.
		No. 1	29·468	53		
		411	746·9	12		
4 P.M.		A.	29·384	64	64½	Wind south-south-west.
		No. 1	29·402	63½		
		411	746·2	18½		
4 P.M.	At five feet above station 1,977, p. 37.	2		44	43	Weather — raining very heavily. No. 1, which came up with the others too unsettled to register.
		413	722·9	6	43	
		414	723·2	6		
		416	722·9	6		
		418	723·5	6		
October 6, 8 A.M.	Grand Falls	A.	29·396	49½	49½	Wind south-west; rain.
		No. 1	29·412	49½		
		411	745·1	10		
12		A.	29·426	49½	50	Wind north-west; clearing.
		No. 1	29·440	49½		
		411	745·4	10		
4 P.M.		A.	29·450	54	55½	Wind south-west.
		No. 1	29·462	53½		
		411	745·9	12½		
8 A.M.	At same station as last evening.	2	28·450	39	38½	Rainy bad weather.
		413	721·9	3½		
		414	722·4	3½		
		416	722·1	3½		
		418	722·3	3½		
4 P.M.	On Beaver Stream, at due north line.	413	731·4	9	47	
		414	731·5	9		
		416	731·4	9		
		418	731·8	9		
October 7, 8 A.M.	Grand Falls	A.	29·646	37½	37½	Wind north-west; frost.
		No. 1	29·650	36½		
		411	750·3	3		

Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.	Th. D.	Remarks.
1840 October 7, 12	Grand Falls	A.	29·724	44	44	Wind north-west.
		No. 1	29·724	43½		
		411	752·3	7		
4 P.M.		A.	29·744	48½	48½	Wind north-west.
		No. 1	29·744	48		
		411	752·5	9½		
8 A.M.	Camp on Beaver Stream, same as last evening.	413	734·8	—½	32½	Hard frost.
		414	735·2	—½		
		416	734·8	—½		
		418	734·7	—½		
12	Same place	413	737·8	8	40	
		414	738·	8		
		416	738·5	8		
		418	737·9	8		
4 P.M.		..	..	..	..	Arrived too late from exploring.
October 8, 8 A.M.	Grand Falls	A.	29·786	33	34	Wind north-west; frost.
		No. 1	29·790	31		
		411	753·9	1		
12		A.	29·730	56	56½	Wind south-east.
		No. 1	29·740	55		
		411	754·9	13½		
4 P.M.		A.	29·630	60	60	Wind south-east and south-west.
		No. 1	29·640	59½		
		411	752·9	15½		
8 A.M.	Same station as last evening	413	739·2	—1½	29	
		414	739·3	—1½		
		416	739·0	—1½		
		418	739·0	—1½		
October 9, 8 A.M.	Grand Falls	A.	29·772	36	35	Wind north-west; frost.
		No. 1	29·774	35½		
		411	755·1	2		
12		A.	29·810	40	43	Wind north-west; strong wind.
		No. 1	29·812	40		
		411	755·8	4½		
4 P.M.		A.	29·784	43	43	Wind north-west; blowing hard.
		No. 1	29·786	43		
		411	755·7	4½		
October 10, 8 A.M.	Grand Falls	A.	29·828	34	34	Wind north-west; hard frost.
		No. 1	29·830	34		
		411	757·0	1½		
12		A.	29·760	40	40	Wind north-west.
		No. 1	29·768	39½		
		411	755·9	4½		
4 P.M.		A.	29·696	43½	44	Wind north-west.
		No. 1	29·706	43½		
		411	754·4	6½		
October 11, 8 A.M.	Grand Falls	A.	29·348	32	32	Wind south-west; hard frost.
		No. 1	29·364	31		
		411	745·5	0		

Barometric Observations.— *Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.	Th. D.	Remarks.
1840 October 11, 12	Grand Falls	A.	29·242	39½	39⅓	Wind south-west; misty.
		No. 1	29·262	39½		
		411	742·9	4½		
4 P.M.		A.	29·064	42	42	Wind south; dark mist.
		No. 1	29·088	41½		
		411	738·4	5½		
8 A.M.	Five feet above the Beaver Stream, at about six miles below north line.	413	730·3	—1	30	
		414	730·2	—1		
		416	730·3	—1		
		418	730·2	—1		
12	About nine miles below the north line, at the head of the Lake forming the mouth of Beaver Stream, five feet above water.	413				
		414	729·1	5	36	
		416	729·0	5		
		418	729·2	5		
October 12, 8 A.M.	Grand Falls	A.	28·844	46	45½	Wind north-west; heavy rain.
		No. 1	28·870	46		
		411	731·3	7½		
12		A.	28·900	44½	44½	Wind north-west; clearing.
		No. 1	28·928	44½		
		411	732·2	7		
4 P.M.		A.	28·964	44	44	Wind north-west; cloudy.
		No. 1	28·990	44		
		411	733·6	6½		
8 A.M.	About one mile on Lake Metis, twenty feet above water.	413	719·6	4	38	
		414	719·9	4		
		416	719·8	4		
		418	719·7	4		
12	About two miles below the Lake, five feet above water.	413	722·6	4¼	29	
		414	722·5	4¾		
		416	722·3	4		
		418	722·5	4¾		
October 13, 8 A.M.	Grand Falls	A.	29·186	37½	37	Wind north-west; rainy.
		No. 1	29·202	37		
		411	738·9	3		
12		A.	29·206	41	41½	Wind north-west; snow.
		No. 1	29·224	41		
		411	739·6	5½		
4 P.M.		A	29·232	42½	42½	Wind north-west.
		No. 1	29·246	42		
		411	741·0	6		
8 A.M.	Camp half-way down second Lake, ten feet above water.	413	730·7	2¼	37	
		414	730·8	2¼		
		416	730·6	2¼		
		418	730·4	2¼		
12	Five miles lower down the stream, five feet above the water.	413	732·3	5¼	38	
		414	732·4	5¼		
		416	732·4	5¼		
		416	732·4	5¼		

Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.	Th. D.	Remarks.
1840 October 14,						
8 A.M.	Grand Falls	A.	29·070	37	37	Wind south; slight frost.
		No. 1	29·090	36½		
		411	738·5	2½		
12		A.	29·028	44½	44½	Wind south-south-west; rain.
		No. 1	29·046	43½		
		411	737·4	6½		
4 P.M.		A.	29·102	50	50½	Wind west; rain.
		No. 1	29·124	50		
		411	738·1	10½		
8 A.M.	On Metis, at the end of first portage, eight feet above water, below Small Falls.	413	732·6	2	35	Portage about one mile and a quarter.
		414	732·4	2		
		416	732·4	2		
		418	732·2	2		
12	On banks of the Metis, about six miles below last camp, five feet above water.	413	735·5	6	42	
		414	735·6	6		
		416	735·5	6		
		418	735·9	6		
4 P.M.	At the Fourche of the River Metis; direction south-south-east; five feet above water.	413	742·2	5	40½	
		414	742·4	5		
		416	742·2	5		
		418	742·5	5		
October 15,						
8 A.M.	Grand Falls	A.	29·352	35½	35½	Wind south-west; hard frost.
		No. 1	29·358	35		
		411	742·4	2½		
12		A.	29·386	42	42	Wind north-west.
		No. 1	29·400	41½		
		411	743·1	5½		
4 P.M.		A.	29·424	42	41½	Wind south-west.
		No. 1	29·438	42		
		411	744·1	5½		
8 A.M.	Camp on banks of Metis, about seven miles from Fourche, five feet above water.	413	750·8	1½	34	
		414	750·9	1½		
		416	750·7	1½		
		418	751·1	1½		
12	About one mile above the Grand Portage, twelve feet above water.	413	753·1	6	42	
		414	753·1	6		
		416	752·9	6		
		418	753·3	6		
October 16,						
8 A.M.	Grand Falls	A.	29·568	29	28½	Wind north-west; hard frost.
		No. 1	29·580	28		
		411	749·0	−2		
12	At ten miles above the Grand Falls on River St. John.	A.	29·774	43½	46	Wind north-west; some snow.
		No. 1	29·790	43½		
		411	756·7	6		Barometer three feet above the level of water.
4 P.M.	The Observations at the Grand Falls were discontinued to-day at 8 A.M.					

Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.	Th. D.	Remarks.
1840 October 16, 8 A.M.	Mouth of Metis River: high-water mark.	413	767·3	2	34	
		414	767·2	2		
		416	767·0	2		
		418	767.3	2		
12		413	768·9	5½	38½	
		414	768·9	5½		
		416	768·7	5½		
		418	769·0	5½		
October 17, 8 A.M.	Twenty-one miles above the Grand Falls, on the River St. John.	A.	29·994	36½	33	Wind north-east.
		No. 1	30·006	38		
		411	761·6	1½		
12	Grand Island.....	A.	30·018	43½	38½	
		No. 1	30·032	40		
		411	762·0	5½		
8 A.M.	Mouth of River Rimouski, high-water mark on St. Lawrence.	413	774·1	1	1	
		414	774·4	1	1	
		416	774·2	1	1	
		418	774·4	1	1	
October 18, 8 A.M.	At the foot of Little Falls on the River St. John, or mouth of the Madawaska.	A.	29·986	29	31½	Wind north-west; hard frost.
		No. 1	30·006	27½		
		411	761·5	−½		
12	North end of Barnard Island, eight miles above Little Falls.	A.	29·952	57½	54	
		No. 1	29·974	52½		
		411	760·9	12		
8 A.M.	Ten feet above high-water mark, Rivière de la pointe au Mé, one league from Trois Pistoles.	414	773·6	−1	−2	
		416	773·6	−1	−2	
12	Mouth de la Rivière de la pointe à la Loupe, four feet above high-water mark.	413	774·1	7	4	
		418	774·1	7		
October 19, 8 A.M.	Entrance of Lake Temisquata.	A.	29·730	37	34	Wind west-south-west; hard frost. Two feet above water.
		No. 1	29·740	38		
		411	754·1	1½		
12	North end rock in Lake Temisquata, nine miles below head of Lake.	A.	29·638	49	48½	Wind south. Two feet above water.
		No. 1	29·650	48½		
		411	752·8	9½		
4 P.M.	At barracks on Temisquata Lake.	A.	29·562	51¼	51¼	Wind south-west. Two feet above water.
		No. 1	29·584	51¼		
		411	750·9	10¼		
8 A.M.	High tide. River du Loup.	413	767·3	7	5	
		414	767·1	7		
		416	766·9	6½		
		418	767·0	6½		

Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.	Th. D.	Remarks.
1840 October 19, 12	High tide. River du Loup.	413	765·2	10	9	
		414	765·2	10		
		416	765·0	10		
		416				Broken.
October 20, 8 A.M.	Barracks on Lake Temisquata, as yesterday.	A.	29·414	64½	63	Wind west-south-west.
		No. 1	29·444	63½		
		411	747·2	18		
12	Opposite thirty-three mile post, on portage.	A.	28·828	56½	56	Wind west.
		No. 1	28·854	57½		
		411	732·3	14		
4 P.M.	Top of Loon Mountain, on portage, within 300 yards of twenty-nine mile post.	A.	28·398	50½	50½	
		No. 1	28·414	51		
		411	721·2	10½		
8 A.M.	Same place as yesterday, at Du Loup.	413	759·2	13	12	
		414	759·5	13½	12	
		416	759·1	13½	12	
4 P.M.	Same place.....	413	760·9	10½	10	
		414	760·9	10½	10	
		416	760·9	10½	10	
October 21, 8 A.M.	100 yards north of twenty mile post, on portage one and half feet above water.	A.	28·978	40	36½	Wind north-west. On small stream.
		No. 1	28·990	40		
		411	735·7	3½		
12	At the bridge over the St. Francis, level with water.	A.	29·152	52½	51½	Wind west-north-west.
		No. 1	29·174	54		
		411	740·4	11		
8 A.M.	High water mark. Rivière du Loup, as yesterday.	413	764·6	7¼	7	
		414	764·5	7¼	7	
		416	764·5	7¼	7	
12	Same place.....	413	764·6	11¾	10½	
		414	764·5	11¾	10½	
		416	764·3	11¼	10½	
4 P.M.	Same place.....	413	762·6	11¼	10	
		414	762·7	11½	10	
		416	762·5	11	10	

Abstract of Barometric Observations made at Beaver Stream and various Stations on the Metis, to its Mouth in the St. Lawrence, above high tide at Chapel Bar, in the River St. John.

At Beaver Stream	1,012 feet.
Six miles below North Line	954
Nine miles below North Line	902
First Lake Metis	847
Two miles below Lake	820
Second Lake Metis	779
Three miles below Lake	743
Seventeen miles below Lake, at the Portage.	615
Six miles below Portage	455
Fourche to the eastward	325
Seven miles below Fourche	210
One mile above the Falls	137
Mouth of the Metis River	−130

No. 4.

Captain Broughton and Mr. J. D. Featherstonhaugh to the Earl of Aberdeen.

My Lord, *London, February* 11, 1842.

WE have the honour to report, for your Lordship's information, that in pursuance of the instructions dated 3rd of May, 1841, received from Viscount Palmerston, we proceeded to make an exploration of the country named in those instructions; the result of which we now submit to your Lordship, accompanied by a general plan of the country and a section of the line passed over, together with a registry of the barometric observations taken along its entire course.

On the 21st of June, we proceeded from Quebec to the extreme western point on Lake Memphramagog, when having ascertained that it was bounded on its western side by a chain of lofty mountains, we passed as near as practicable along the 45° north lat. to its intersection with the Connecticut River. This portion of the country is mountainous and broken, and is deeply indented by streams.

On ascending the Connecticut from the 45° north lat. to its head, we crossed its tributaries on the western side, including Hall's Stream, Indian Stream, and Perry's Stream; these being the three largest which occur, but which are all inferior in volume to the main stream or Connecticut.*

From the head of the Connecticut (which is a small lake) the country becomes extremely mountainous; the general direction of the chain north-easterly, averaging at least 2,500 feet above the tide water in the St. Lawrence at Quebec, and presenting a visible mountainous elevation of about 800 feet above the general level of the country as far as the monument on the Kennebec road.

On arriving at the Kennebec road, we visited the highest summit of the Bald Mountain Ridge, elevated about 3,624 feet above the tide water at Quebec. This is a spur breaking off from the main Ridge about six miles south-west of the monument on the Kennebec road, which, pursuing an easterly direction, divides the branches of the Moose River (a tributary of the Kennebec) from the Penobscot waters.

An extensive view of the country was obtained from this mountain, with which the result of our subsequent explorations fully agreed: confirming the fact, *that the chain of Highlands from the Connecticut River, on reaching the sources of Metjarmette, continues on in a north-easterly direction, crosses the northerly branches of the Penobscot, and then becomes identified with the Keeaquagum mountains, south of the St. John:* whilst the country between the Metjarmette and the Etchemin presents the appearance of an extensive plain, bounded on the north, by a chain of lofty mountains, stretching far to the west, and occupying the line of Highlands which is the continuation of that line claimed by the United States.

From the monument on the Kennebec road to the Metjarmette the Range continues more northerly, and is of a somewhat lower elevation, averaging about 2,200 feet above the tide water in the St. Lawrence at Quebec, and presenting a visible elevation of about 600 feet above the general level of the country.

The chain of mountains continues as stated above, in the same north-easterly direction, broken through in many places by small branches of the Penobscot, until it reaches the southern sources of the St. John, where, dividing them from the Penobscot waters, it becomes identified with the Keeaquagum mountains, as laid down upon Map A accompanying the Report laid before Parliament in 1840.

* No doubt can possibly exist to any one who has travelled this portion of the country, as to neither of the above Tributaries being the main river Connecticut, as has been asserted.

On leaving this continuous chain, at the heads of the Metjarmette, to cross the plain to Lake Etchemin, which lies nearly due north from thence, the country assumes a totally different character, and may be represented in general terms as a flat morass; for the highland features cease altogether, and no chain or ridge is any longer observable to break its flat character. It is true, that an isolated mound here and there occurs, and that, like many other table-lands, it is an elevated flat; Lake Etchemin, which is upon its extreme edge, being about 1,248 feet above high tide in the St. Lawrence at Quebec; but many parts of the plain are lower than Lake Etchemin itself, and for miles around, nothing is to be seen but a country of similar appearance.

This portion of the country was twice explored *on different lines*, and on both occasions we came to the same result, viz: *That this is an extensive plain about twenty-five miles in breadth, intervening and cutting off the Highlands claimed by the United States of America, from any connection with the Range extending from the heads of the Connecticut to the heads of the Metjarmette,* these Highlands being, however, represented on the American map of Mr. Burnham as existing and crossing this plain between these points.

In a north-western direction from Lake Etchemin, and distant about five miles, a lofty Range, which, as has been before stated, is the continuation of the line claimed by the United States, crosses the River Etchemin and the road to Quebec, and continues to the south-westward; whilst the same chain running from Lake Etchemin in a north-easterly direction, divides the waters of the Du Sud from some of the western sources of the St. John, until at length losing, with some abruptness, its lofty character, it gradually ceases altogether before it reaches Black River, and an extensive swamp of spruce trees commences, which extends for about twelve miles, and in which the sources of Black River and the River Ouelle take their rise.

In thus briefly noticing the nature of the country we passed over, it has been our desire not to trespass too long on your Lordship's time; and we beg to refer to the accompanying Map and Section, which we trust will furnish every desired information. It only remains, therefore, to state, that from the circumstance of its having been an unusually dry summer, the streams were very often dried up at their sources, which exposed our party to such privations that our Indians and guides repeatedly deserted us; this occasioned so much delay, that on arriving at the River Ouelle, the season was too far advanced to permit us to proceed any further; we, therefore, returned to Quebec to make the necessary arrangements for returning to England.

We have, &c.,

(Signed) W. E. DELVES BROUGHTON,
Royal Engineers.

(Signed) J. D. FEATHERSTONHAUGH.

Explanation accompanying the Barometric Registers.

A prefatory notice of the mode of conducting the annexed barometrical observations, and of the construction of the barometers used in them, is deemed advisable.

The barometers which were selected for the summer's operations, were sixteen in number, thirteen of them made by M. Bunten, Paris, of the syphon construction—the zero being in the middle, and reading with verniers from it, both up and down, the sum of these readings being the height of the mercurial column in millimètres, tenths and (by estimation) hundredths.

The other barometers were graduated in English inches and tenths, reading with a vernier to two thousandths of an inch. One of Troughton and Simms's construction (A), with a guage or zero point, to which the surface of the mercury in the cistern is to be carefully adjusted by a screw beneath, before an observation can be made. And two made by Newman (No. 1 and 2) without a guage point, for which a correction by computation is necessary, as also for capillarity.

After several comparisons of all the instruments, it was deemed advisable to take with us only a certain number of the syphon barometers, and to leave the rest in the observatories at Quebec and Lake Etchemin. Therefore, three of the syphon barometers were selected to be sent to Lake Etchemin, four to Quebec, and the remainder, six in number, were reserved to accompany the expedition through the woods. The large mountain barometer of Troughton and Simms, with one of Newman's were also left at Quebec, whilst the other of Newman's was sent to Lake Etchemin; but both of these last barometers had sustained so much injury during the previous year, that no dependence could be placed upon their indications.

The syphon barometers were divided into sets in such a manner that the means of each set should harmonize as much as possible, and thus avoid the necessity of making any correction for individual error. Whenever opportunity offered, these sets were again compared with each other, and, if required, such alterations were made as to correct any difference in the means of each set.

It was found that such a discrepancy occasionally existed between the barometer (A) of Troughton and the syphons, which could not be charged to the latter, on account of individual agreement, that it was also thought most advisable to reject its registry as being very often erroneous, probably on account of the great precision and nicety required in adjusting the zero, and possibly owing to some damage it might have received during the two previous years.

The registry, therefore, is given in millimètres and tenths, and the temperatures in degrees both of Fahrenheit and centigrade thermometers.

Comparison of Barometers at Quebec, May 23rd, 1841.

Th. D. F.	Th. A. C.	Bar.	Height.	Corrected for Temp.	
59	15¾	411	762·65	762·67	
	15¾	413	762·50	762·52	
	15¾	414	762·65	762·67	
	16	416	762·00	762·00	
					3,049·86 ÷ 4 = 762·46.
	15½	377	763·00	763·05	
	15½	418	762·40	762·45	
	16	429	762·80	762·80	
					2,288·30 ÷ 3 = 762·77.
	15¾	456	761·90	761·92	
	16¾	457	763·00	762·92	
	15¾	458	763·00	763·02	
	15¾	459	762·65	762·68	
	16	460	763·10	763·10	
	16	461	762·90	762·90	
					4,576·54 ÷ 6 = 762·75.

Comparison of Barometers at Quebec, May 25th, 1841.

Th. D. F.	Th. A. C.	Bar.	Height.	Corrected for Temp.	
59	16	411	756·20	756·20	
	16¼	413	756·30	756·28	
	16	414	756·20	756·20	
	16	416	756·00	756·00	
					3,024·68 ÷ 4 = 756·17.
	15¾	377	756·30	756·32	
	16½	418	756·00	755·95	
	16¾	429	756·10	756·07	
					2,268·34 ÷ 3 = 756·11.
	16½	456	755·30	755·25	
	16½	457	756·30	756·25	
	16½	458	756·30	756·25	
	16¾	459	755·90	755·82	
	16¼	460	756·40	756·38	
	16	461	756·30	756·30	
					4,536·25 ÷ 6 = 756·04.

Comparison of Barometers at Quebec, May 27th, 1841.

Th. D. F.	Th. A. C.	Bar.	Height.	Corrected for Temp.	
61	18¾	411	758·8	758·72	
	18¾	413	758·6	758·52	
	18¾	414	759·5	759·42	
	18½	416	759·3	759·25	
					3,035·91 ÷ 4 = 758·98.
	18¾	377	758·9	758·82	
	18½	418	758·9	758·85	
	18¼	429	758·6	758·58	
					2,276·25 ÷ 3 = 758·75.
	18½	456	758·5	758·45	
	18½	457	759·8	759·75	
	18½	458	759·9	759·85	
	18	459	758·9	758·90	
	18	460	759·3	759·30	
	18½	461	759·1	759·05	
					4,555·30 ÷ 6 = 759·21.

Record of Barometric Observations made at the Fixed Observatories, and at the Principal Stations along the lines of Survey.

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 June 3, 8 A.M.	Queen's Wharf....	411 413 414 416	759·4	52	11	50¾		Wind north-west; cloudy.
	St. Anselme.....	456 457 458	745·6	47	8	45		
12	Queen's Wharf....	411 413 414 416	759·4	60	15½	59½		
	Frampton Hill	456 457 451	730·2	56	13	51		
4 P.M.	Queen's Wharf....	411 413 414 416	758·9	62	16½	61		
	Bridge on L'eau Chaude.	456 457 458	734·9	62	16½	58		
June 5, 8 A.M.	Lake Etchemin, five feet above water..	377 418 429	722·5	53	11½	53		Wind north-west; cloudy.
	Ridge five miles south of Lake Etchemin.	456 457 458	718·9	52	11¼	50	10	Wind north-west.
June 9, 8 A.M.	Custom-hcuse, 25 feet above high tide in the St. Lawrence.	411 413 414 416 456	759·6	65	18½	63½		Wind east; rain.
	Lake Etchemin....	377 418 429	726·9	62	16¾	62½		
4 P.M.	Custom-house	411 413 414 416 456	759·0	67	19¼	65¾		Wind south, gentle.
	Lake Etchemin....	377 418 428	726·6	68	20¼	68½		Wind south-west.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 June 10, 8 A.M.	Custom-house	411 413 414 416 456	759·8	69	20¾	65½		Wind west.
	Lake Etchemin	377 418 429	727·4	76	24½	75½		Wind west.
4 P.M.	Custom-house	411 413 414 416 456	756·1	74	23½	75¾		Wind west.
	Lake Etchemin	377 418 429	724·5	71	21½	72½		Wind west.
June 12, 8 A.M.	Custom-house	411 413 414 416	757·9	71	21¾	67		Wind north-east.
	Lake Etchemin	377 418 429	724·0	65	18	59		Wind north-west.
4 P.M.	Custom-house	411 413 414 416	757·5	70	21	71½		Wind north-east.
	Lake Etchemin	377 418 429	724·9	67	19¼	65		Wind north-west.
June 16, 8 A.M.	Custom-house	411 413 414 416	759·9	68	20	65		Wind north-west.
	Lake Etchemin	377 418 429	725·8	52	11	52¾		Wind north.
12	Custom-house	411 413 414 416	760·2	69	20½	72		Wind west, cloudy.
	Lake Etchemin	377 418 429	727·1	61	16¼	60		Wind north.
June 17, 8 A.M.	Custom-house	411 413 414 416	765·1	59	15¼	58½		Wind south-east, fair.
	Lake Etchemin	377 418 429	731·6	54	12¼	55		Wind north-west.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 June 18, 8 A.M.	Custom-house.....	411 413 414 416	767·5	69	20½	65¾		Wind east, fair.
	Lake Etchemin	377 418 429	734·3	59	15¼	60¼		Wind east.
June 19, 8 A.M.	Custom-honse.....	411 413 414 416	766·2	60	15½	58¾		Wind north-east, rainy.
	Lake Etchemin	377 418 429	732·8	53	11¾	53¾		Wind east, rain.
June 20, 2 P.M.	Custom-house.....	411 413 414 416	765·2	63	17	62		Wind east, clear.
	Lake Etchemin.....	377 418 429	731·6	56	13	56		Wind westerly.
June 21, 8 A.M.	Custom-house.....	411 413 414 416	768·0	68	20	65		Wind east, clear.
	Lake Etchemin.....	377 418 429	734·8	56	13	57		Wind south.
4 P.M.	Custom-house.....	411 413 414 416	766·8	72	22	74		Wind north-north-east.
	Lake Etchemin	377 418 429	734·1	71	21½	71½		Wind south-east.
June 22, 8 A.M.	Custom-house.....	411 413 414 416	764·8	72	22½	69		Wind north-east, clear.
	Lake Etchemin	377 418 429	731·8	61	16¼	63		Wind west, clear.
	Port St. Francis....	456 457 458 459 460 461	764·2	68	20	67	19·5	Wind west, clear. Wind west.
12	Custom-house.....	411 413 414 416	763·4	72½	22½	71¼		Wind, north-east.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 June 22, 12	Lake Etchemin....	377 418 429	731·0	72	22	73		Wind west.
	Baie Le Févre.....	456 457 458 459 460 461	763·7	74	23½	74	23½	Wind west.
2 P.M.	Custom-house.....	411 413 414 416	762·6	75	24	80¾		Wind north-north-west.
	Lake Etchemin....	377 418 429	730·6	77½	25¼	79		Wind west.
	St. Zephyra	456 457 458 459 460 461	760·0	78	25½	76	24½	
4 P.M.	Custom-house.....	411 413 414 416	762·0	77	25	79¼		Wind west.
	Lake Etchemin....	377 418 429	730·5	83	28¼	83		Wind west.
	Wendover.....	456 457 458 459 460 461	756·6	78	25½	77	25	Wind west.
June 23, 8 A.M.	Custom-house	411 413 414 416	759·6	70	21	68¼		Wind north-east; raining.
	Lake Etchemin....	377 418 429	727·9	66	19	67		Wind south.
	Wickham	456 457 458 459 460 461	750·0	71	21½	70	21	
10 A.M.	Custom-house	411 413 414 416	759·6	70½	21¼	68½		Wind north-east; cloudy.
	Lake Etchemin....	377 418 429	727·9	68	20	68½		Wind south-west.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 June 23, 10 A.M.	Durham	456 457 458 459 460 461	744·5	75	24	74	23½	Wind south-west.
2 P.M.	Custom-house	411 413 414 416	759·4	74½	23¾	75¾		Wind east; cloudy.
	Lake Etchemin....	377 418 429	727·8	74	23¼	74½		Wind south-west.
	Melbourne.....	456 457 458 459 460 461	750·3	78	25½	73½	23	Wind south-west.
June 24, 2 P.M.	Custom-house	411 413 414 416	765·7	62	16¾	62¾		Wind north-east.
	Lake Etchemin....	377 418 429	732·0	64	17¾	64		Wind north-east.
	Sherbrooke, 20 feet above the river St. Francis.	456 457 458 459 460 461	752·3	69	20½	67	19½	
June 25, 12	Custom-house	411 413 414 416	765·1	59	15	58½		Wind north-east.
	Lake Etchemin....	377 418 429	731·9	59½	15¼	60		Wind north-east.
	Sherbrooke, same place.	456 457 458 459 460 461	752·2	71	22	72	22¼	
4 P.M.	Custom-house	411 413 414 416	764·4	60	15¾	59¼		Wind north-east; raining.
	Lake Etchemin....	377 418 429	731·2	61	16	62		Wind north-east.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	P.	C.	
1841 June 25, 4 P.M.	Sherbrooke, same place.	456 457 458 459 460 461	751·8	73½	23	72½	22·½	Wind north, fair.
June 26, 4 P.M.	Custom-house.....	411 413 414 416	760·2	61½	16¼	60¾		Wind north-east, raining.
	Lake Etchemin.....	377 418 429	727·6	65½	18¾	66½		Wind south-east, raining.
	Compton.....	456 457 458 459 460 461	739·6	73½	23	72½	22	Wind south, raining.
June 27, 4 P.M.	Custom-house.....	411 413 414 416	760·1	73½	23	75¾		Wind south-west.
	Lake Etchemin	377 418 429	728·6	75	24	76		Wind north-west.
	Stanstead	456 457 458 459 460 461	733·7	75½	24¼	78	25¾	
June 28, 8 A.M.	Custom-house.....	411 413 414 416	758·8	65¼	18½	64¼		Wind east, rain.
	Lake Etchemin.....	377 418 429	726·0	64	17¾	64		Wind north-west, rain.
	Stanstead, same place	456 457 458 459 460 461	730·7	69	20½	67	19½	Wind south-west.
4 P.M.	Custom-house.....	411 413 414 416	757·4	66	19	68½		Wind north-east.
	Lake Etchemin	377 418 429	724·7	68½	20¼	66½		Wind north-east.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 June 28, 4 P.M.	Stanstead, same place	456 457 458 459 460 461	731·2	67½	19¾	66	19	Threatening rain.
June 29, 8 A.M.	Custom-house.....	411 413 414 416	757·5	70½	21½	69¼		Wind south-west.
	Lake Etchemin.....	377 418 429	725·8	67	19½	67		Wind north-west.
	Stanstead, same place	456 457 458 459 460 461	733·1	67½	19¾	67	19½	Wind south-west, fine.
2 P.M.	Stanstead, same place	459 460 461	732·2	78	25¾	78	25¾	Wind south-west.
	Lake Memphramagog.	456 457 458	742·0	79¾	26½	79¼	26¼	Wind south-west.
4 P.M.	Custom-house.....	411 413 414 416	756·2	71¾	22	71½		Wind south-west, rain.
	Lake Etchemin.....	377 418 429	724·3	72	22¼	72		Wind west, rain.
June 30, 8 A.M.	Custom-house.....	411 413 414 416	756·3	73½	23	71½		Wind south-east.
	Lake Etchemin.....	377 418 429	724·3	65	18¼	65		Wind north-west.
	Stanstead	456 457 458 459 460 461	732·0	71¾	22	70	21	Wind north-west. Heavy rain all night.
4 P.M.	Custom-house.....	411 413 414 416	753·7	76	24½	74½		Wind south-west.
	Lake Etchemin.....	377 418 429	722·6	71¾	22	72		Wind west.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A. F.	Th. A. C.	Th. D. F.	Th. D. C.	Remarks.
1841 July 1, 8 A.M.	Custom-house.....	411 413 414 416	754·6	73½	23	71½		Wind south-west.
	Lake Etchemin	377 418 439	722·1	65	18¼	63¾		Wind west.
	Fourche R. Coaticook.	456 457 458 459 460 461	728·7	69	20½	68	20	
2 P.M.	Custom-house.....	411 413 414 416	754·7	73½	23	74¼		Wind west.
	Lake Etchemin	377 418 429	722·4	69	20½	69¾		Wind west.
	Settlement in Bassford.	456 457 458 459 460 461	729·9	74¾	23¾	75	24	Tube broken.
July 3, 2 P.M.	Custom-house.....	411 413 414 416	760·5	67½	19¾	66½		Wind north-north-west; change.
	Lake Etchemin	377 418 429	727·1	59½	15¼	60		Wind west.
	Junction of Leech Stream with Connecticut River, 10 feet above water.	456 457 458 459 461	735·5	61¾	16½	61	16	Wind west.
4 P.M	Custom-house.....	411 413 414 416	760·2	69	20½	67½		Wind north-west.
	Junction of Leech Stream with Connecticut River, 10 feet above water.	456 456 458 459 461	735·4	62½	17	61¾	16½	Wind west.
July 4, 8 A.M.	Custom-house.....	411 413 414 416	761·4	65½	18¾	66		Wind south-east; clear.
	Lake Etchemin	377 418 429	727·7	53¾	12	54½		Wind north-west.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 July 4, 8 A.M.	Same place, Leech stream.	456 457 458 459 461	736·2	56¾	13¾	53	11½	
July 6, 8 A.M.	Custom-house.....	411 413 414 416	756·1	65	18¼	65½		Wind north-east.
	Lake Etchemin	377 418 429	723·5	59	15	61		Wind south-west.
	Second or Middle Lake of Connecticut River, 5 feet above water.	456 457 458 459 461	709·8	61¾	16½	60	15½	Wind south-west.
July 7, 8 A.M.	Custom-house.....	411 413 414 416	757·4	73½	23	72		Wind south-west.
	Lake Etchemin	377 418 429	724·4	59	15	60		Wind west.
	Connecticut River, between first and second lakes.	456 457 458 459 461	708·1	59	15	56¾	13¾	
July 8, 8 A.M.	Custom-house.....	411 413 414 416	759·7	73½	23	73		Wind south-west.
	Lake Etchemin	377 418 429	726·3	57	14	59½		Wind north-west.
	First Lake Connecticut.		703·8	56¼	13	57	14	
12	Custom-house.....	411 413 414 416	759·0	73½	23	72¾		Wind north-west.
	Lake Etchemin	377 418 429	726·5	66	19	66½		Wind west.
	Top of ridge dividing the Connecticut and Margallaway.	456 457 458 459 461	684·8	63	17¼	61¾	16½	
4 P.M.	Lake Etchemin	377 418 429	726·5	68	20	68¼		Wind west.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 July 8, 4 P.M.	Ridge dividing the Connecticut and St. Francis waters.	456 457 458 459 461	693·0	64½	18	69	16½	Wind west.
July 9, 8 A.M.	Custom-house.....	411 413 414 416	759·1	66	19	66½		Wind west, fine.
	Lake Etchemin.....	377 418 429	727·7	57¾	14¼	57¾		Wind west.
	Swamp sources of St. Francis, north of 1st lake Connecticut.	456 458 457 459 461	714·5	59	15	55½	13	
4 P.M.	Custom-house.....	411 413 414 415	758·0	65½	18½	66½		Wind south, raining.
	Lake Etchemin.....	377 418 429	726·7	57	14	58½		Wind south-west, raining.
	The same swamp...	456 457 458 459 461	717·9	64½	18	61¼	16¼	
July 10, 12	Custom-house.....	411 413 414 416	752·9	65½	18¾	66		Wind south-west, cloudy.
	Lake Etchemin.....	377 418 429	719·8	55½	13	56		Wind south-west, raining.
	Top Ben D'Urbin ..	456 457 458 459 461	686·6	51¼	10¾	51	10½	Wind south-west, raining.
2 P.M.	Custom-house.....	411 413 414 416	753·2	67	19½	67		Wind west, rain.
	Lake Etchemin.....	377 418 429	720·5	57¾	14¼	58		Wind south-west, rain.
	Ben D'Urbin same place as noon	456 457 458 459 461	687·6	52	11	52	11	Wind south-west, rain.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 July 11, 10 A.M.	Custom-house.....	411 413 414 416	757·2	64	17¾	64		Wind north-west, clearing.
	Lake Etchemin.....	377 418 429	723·9	53	11¾	53¾		Wind north-west.
	Top of ridge.....	456 457 458 459 461	689·2	48	9	48	9	Wind north-west, fair.
2 P.M.	Lake Etchemin.....	377 418 429	724·1	58¾	14¾	58¾		Wind west.
	In a swamp.....	456 457 458 459 461	698·4	56½	13½	55¾	13	Wind west, fair.
4 P.M.	Lake Etchemin.....	377 418 429	724·0	61	16	61¼		Wind west, fair.
	Top of ridge.....	456 457 458 459 461	685·4	54½	12½	53¾	12	Fair.
July 12, 8 A.M.	Custom-house.....	411 413 414 416	757·6	70¾	21½	68		Wind west, clear.
	Lake Etchemin.....	377 418 429	724·0	54	12¼	54½		Wind west.
	Gipp's peak, estimated 300 feet below the top.	456 457 458 459 461	684·5	50	8	46	7¾	Wind north-west, clear.
10 A M.	Lake Etchemin.....	377 418 429	724·0	58	14½	58¼		Wind west.
	Small river foot of Gipp's peak.	456 457 458 459 461	706·7	55½	13	55½	13	
12	Lake Etchemin.....	377 413 429	724·2	60	15¾	60		Wind north-west, fair.
	Top of ridge	456 457 458 459 461	694·7	58	14¼	60	15½	Wind north-west.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 July 12, 4 P.M.	Custom-house.....	411 413 414 416	757·0	70½	21½	70		Wind north-west, lowering.
	Lake Etchemin	377 418 429	724·2	62¾	17	63		Wind north-west.
	Arnold's River	456 457 458 459 461	706·7	59	15	58	14½	
July 13, 10 A.M.	Custom-house.....	411 413 414 416	758·2	73	22¾	72		Wind south-west, clear.
	Lake Etchemin	377 418 429	725·1	64¾	18	66½		Wind west.
	Top of Mount Gosford.	456 457 458 459 461	665·2	61	16	61½	16½	
12	Lake Etchemin	377 418 429	725·7	70	21	69¾		Wind west.
	Top or ridge	456 457 458 459 461	694·2	65	18½	65	18½	
5 P.M.	Lake Etchemin	377 418 429	726·5	74½	23¾	76	24½	Wind west.
	Summit of mountain, six miles south of Lake Macanamac.	456 457 458 459 461	691·7	67	19½	68	20	
July 14, 8 A.M.	Custom-house.....	411 413 414 416	759·9	75¾	24¼	73		Wind south-west, clear.
	Lake Etchemin ...	377 418 429	727·2	62	16¾	64		Wind west.
	Camp	456 457 458 459 461	704·7	61	16	61	16	Wind south-west, clear.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 July 14, 10 A.M.	Lake Etchemin	377 418 429	727·6	70½	21½	71½		Wind south-west.
	Ridge.....	456 457 458 459 461	707·8	70½	21½	70½	21½	
12	Lake Etchemin	377 418 429	727·8	74½	23¾	75		Wind south-west.
	Two miles north-east of last station.	456 457 458 459 561	724·9	71	21¾	70	21	Wind south-west.
2 P.M.	Lake Etchemin	377 418 429	727·4	73½	23	74		Wind south-west.
2¼ P.M.	Ridge.....	456 457 458 459 461	719·4	70½	21½	71½	22	
3 P.M.	Lake Etchemin	377 418 429	727·1	73½	23	73½		Wind south-west, rain.
	Highest point of peak.	457	713·4	71½	22	71¾	22	
4 P.M.	Lake Etchemin	377 418 429	726·8	73½	23	73½		Wind south-west, rain.
	Bottom of hill.....	456 457 458 459 461	720·9	68½	20¼	70	21	
July 15, 8 A.M.	Custom-house.....	411 413 414 416	754·8	76	24½	74		Wind west; showery.
	Lake Etchemin	377 418 429	723·3	68	20	68¾		Wind south-west.
	On ridge.....	456 457 458 459 461	694·9	66¾	19¼	68	20	
10 A.M.	Custom-house.....	411 413 414 416	754·9	74¼	23½	74		

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 July 15, 10 A.M.	Lake Etchemin	411 413 414 416	723·9	70½	21½	71		Wind south-west.
	In swamp.....	456 457 458 459 461	723·7	71½	22	70¾	21½	Wind west; showery.
July 16, 4 P.M.	Custom-house.....	411 413 414 416	762·1	75	23¾	74		Wind south-west; clear.
	Lake Etchemin.....	377 418 429	729·4	70½	21½	71½		Wind north-west.
	Lake Macanamac...	456 457 458 459 461	728·0	71	21¾	70½	21½	Wind south-west; fine.
July 17, 8 A.M.	Custom-house	411 413 414 416	765·8	70½	21½	71		Wind north-west; fine.
	Lake Etchemin.....	377 418 429	730·7	55½	13	56		Wind south-west.
	Top of mountain ..	456 457 458 459 461	696·3	56¾	13¾	56¾		
10 A.M.	Lake Etchemin	377 418 429	731·5	64	18	66		Wind south-west.
	Summit of ridge....	456 457 458 459 461	690·8	61	16	61¾	16½	
12	Lake Etchemin	377 418 429	731·7	68½	20¼	69½		Wind south-west; fine.
	Foot of ridge.....	456 457 458 459 461	714·6	68	20	67¾	19¾	
2¼ P.M.	Lake Etchemin	377 418 429	731·7	71	21¾	73		Wind south-west.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 July 17, 2¼ P.M.	Summit of ridge ..	456 457 458 459 461	696·0	69	20½	70	21	
4 P.M.	Lake Etchemin ..	377 418 429	731·7	75	24	77		Wind south-west.
	Small rivulet	456 457 458 459 461	716·8	67¾	19¾	67¾	19¾	
4¼ P.M.	Lake Etchemin ..	—	731·7	75	24	77		Wind south-west.
	Highest point of hill	—	711·6	67	19½	67¾	19¾	
July 18, 10 A.M.	Custom-house.. ..	411 413 414 416	764·9	73	22¾	72¾		Wind south-east; clear.
	Lake Etchemin ..	377 418 329	732·4	70	21	71		Wind south-east.
	Top of ridge	456 457 458 459 461	705·8	70	21	69	20½	Wind north-west; fine.
12	Lake Etchemin ..	377 418 429	732·3	76½	24¾	73		Wind south-east.
	Small stream	456 457 458 459 461	715·0	75¼	24	74¾	23¾	Wind south.
2 P.M.	Lake Etchemin ..	377 418 429	732·1	74½	23½	75¼		Wind south-east.
	On ridge..	456 457 458 459 461	715·1	77	25	76½	24¾	
4 P.M.	Custom-house.. ..	411 413 414 416	764·0	77½	25¼	75½		Wind north-west; clear.
	Lake Etchemin ..	377 418 429	731·9	79	26	80		Wind south-east; clear.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 July 18, 4 P.M.	Top of ridge	456 457 458 459 461	709·9	72½	22½	73	22¾	
July 19, 8 A.M.	Custom-house ..	411 413 414 416	763·6	74½	23¾	72½		Wind south-west.
	Lake Etchemin ..	377 418 429	730·9	61	16	61½		Wind south-east.
	Small Lake, Kennebec Source	456 457 458 459 461	722·8	62¾	17	62¾	17	
10 A.M.	Lake Etchemin ..	377 418 429	731·3	66	19	66		Wind south-east.
	Top of ridge	456 457 458 459 461	713·2	68	20	69	20½	
12	Lake Etchemin ..	377 418 429	731·6	70	21	70		Wind north-west.
	Cedar Swamp.. ..	456 457 458 459 461	717·1	70½	21½	70½	21½	Wind north-west; fair.
2 P.M.	Lake Etchemin ..	377 418 429	731·7	70½	21½	72		Wind north-west.
	On small brook flowing into Chaudière.	456 457 458 459 461	722·6	69	20½	69	20½	Wind north-west.
4 P.M.	Custom-house ..	411 413 414 416	764·1	75¾	24¼	74		Wind north-west.
	Lake Etchemin ..	377 418 429	732·3	74½	23½	75		Wind north-west.
	Top of ridge	456 457 458 459 461	705·4	69	20½	68	20	
5½ P.M.	Lake Etchemin ..	—	732·5	74¼	23½	76		
	Top of ridge	—	697·5	69	20½	69	20½	

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 July 20, 10 A.M.	Custom-house ..	411 413 414 416	770·4	74½	23¾	74½		Wind south-west; fine.
	Lake Etchemin ..	377 418 429	737·3	69	20½	71		Wind west.
	Source Du Loup ..	456 457 458 459 461	719·7	70	21	69	20½	
12	Lake Etchemin ..	377 418 429	737·7	74½	23½	76		Wind west.
	Source Du Loup ..	456 457 458 459 461	723·9	74¼	23½	74¼	23½	
2 P.M.	Lake Etchemin ..	377 418 429	737·5	75¾	24¼	77		Wind west.
	Top of ridge	456 457 458 459 461	707·9	73	22¾	71	21¾	Wind west.
4 P.M.	Lake Etchemin ..	377 418 429	737·3	75	24	76		Wind west.
	Foot of ridge	456 457 458 459	716·8	72	22¼	71¾	22	
July 21, 10 A.M.	Custom-house ..	411 413 414 416	769·0	74	23¼	74		Wind south-south-west; cloudy.
	Lake Etchemin ..	377 418 429	736·7	69¼	20¾	69¾		Wind west.
	Top of ridge	456 457 458 459	707·5	75	24	72½	22½	
12	Lake Etchemin ..	377 418 429	736·3	74¼	23½	76		Wind west.
	Small brook	456 457 458 459	724·1	79½	26½	79½	26½	

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 July 21, 2 P.M.	Lake Etchemin ..	377 418 429	735·5	79	26	79¾		Wind west.
	Lake Emilie, du Loup water.	456 457 458 459	726·4	79	26	79¾	26½	
7 P.M.	Lake Etchemin ..	377 418 429	734·0	77	25	77	25	
	Sandy Hill	456 457 458 459	687·4	70½	21½	70½	21½	
July 22, 8 A.M.	Custom-house.. ..	411 413 414 416	762·2	76½	24¾	76		Wind south-west.
	Lake Etchemin ..	377 418 429	731·0	68	20	68½		Wind west.
	Sandy Hill stream ..	456 457 458 459	721·3	73¾	23	71¾	22	Wind west; fine.
10 A.M.	Lake Etchemin ..	377 418 429	730·6	76	24½	76½		
	Sandy Bay settlement, Hilton's.	456 457 458 459	721·4	82	27¾	81	27¼	
2 P.M.	Lake Etchemin ..	377 418 429	728·5	72½	22½	73		Wind west; rain.
	Monument on Kennebec road.	456 457 458 459	709·4	73¾	23	73¾	23	
July 23, 8 A.M.	Custom-house.. ..	411 413 414 416	764·8	77	25	75¼		Wind south-east.
	Lake Etchemin ..	377 418 429	730·5	61¾	16½	64		Wind west; cloudy.
	Monument on Kennebec road.	456 457 458 459	712·1	69	20½	70	21	
10 A.M.	Custom-house.. ..	411 413 414 416	764·7	77½	25¼	76½		

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 July 23, 10 A.M.	Lake Etchemin ..	377 418 429	732·3	69	20½	70		Wind west.
	Monument	456 457 458 459	712·5	70¼	21¼	70	21	
4 P.M.	Lake Etchemin ..	377 418 428	732·0	77¼	25¼	78½		
	Intersection of Kennebec road and Metjarmette.	456 457 458 459	743·4	85	29½	85	29½	
July 24, 8 A.M.	Custom-house.. ..	411 413 414 416	764·6	72	22¼	71¾		Wind north-east.
	Lake Etchemin ..	377 418 429	731·9	63	17¼	64		Wind south-east.
	Bridge at St. Henri, 15 feet above water	456 457 458 459	758·9	73½	23	72½	22½	
July 26, 2 P.M.	Custom-house.. ..	411 413 414 416	761·4	75	24	74½		
	Lake Etchemin ..	377 418 429	728·2	66¾	19¼	67½		Wind north; cloudy.
July 31, 12	Custom-house.. ..	411 413 414 416	762·6	70¾	21½	69		
	Lake Etchemin ..	377 418 429	730·2	67¼	19½	68		Wind east.
Aug. 1, 2 P.M.	Custom-house.. ..	411 413 414 416	763·1	70	21	69		Wind south-west.
	Lake Etchemin ..	377 418 429	731·2	68¼	20½	69½		Wind west.
Aug. 2, 12	Custom-house.. ..	41¼ 413 414 416	765·9	74	23¼	72		Wind south-west.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 Aug. 2, 12	Lake Etchemin ..	377 418 429	734·4	75	24	76		Wind south-west.
Aug. 3, 12	Custom-house.. ..	411 413 414 416	766·3	79	26	77		Wind west.
	Lake Etchemin ..	377 418 429	734·8	75	24	76		Wind west.
Aug. 4, 4 P.M.	Custom-house ..	411 413 414 416	761·2	78	25½	77		Wind south-west.
	Lake Etchemin ..	377 418 429	730·1	72½	22½	73		Wind west.
Aug. 5, 4 P.M.	Custom-house ..	411 413 414 416	761·4	73½	23	73		Wind west.
	Lake Etchemin ..	377 418 429	729·6	70	21¼	70		Wind west.
Aug. 6, 12	Custom-house ..	411 413 414 416	762·6	71¾	22	71½		Wind north-west.
	Lake Etchemin ..	377 418 429	730·1	67¼	19½	68		Wind east.
Aug. 7, 4 P.M.	Custom-house ..	411 413 414 416	762·3	78	25½	76½	24¾	Wind south-west.
	Lake Etchemin ..	377 418 429	730·5	74¼	23½	77		Wind south-east.
	St. Joseph's	456 457 458 459	751·0	77	25	77½		
Aug. 8, 4 P.M.	Custom-house ..	411 413 414 416	763·2	79	26¼	78	25½	Wind south-west.
	Lake Etchemin ..	377 418 429	731·5	77	25	78		Wind south.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 Aug. 10, 10 A.M.	Custom-house ..	411 413 414 416	765·0	71¾	22	70½	21½	Wind south-west.
	Lake Etchemin ..	377 418 429	732·0	59	15	59		Wind west; cloudy.
	Monument on Kennebec Road, same as July 22, 2 P.M.	456 457 458 459	712·3 tube broken.	59	15	58		Wind north-west.
12	Lake Etchemin ..	377 418 429	732·2	63	17¼	63½		Wind west.
	Monument	456 457 458	712·0	63¼	17½	64½		Wind south-west.
4 P.M.	Lake Etchemin ..	377 418 429	732·3	67	19¾	68½		Wind west.
	Monument	456 457 459	712·1	69	20½	65¼		
Aug. 11, 12	Custom-house ..	411 413 414 416	766·3	65	18½	64	18	Wind north-east.
	Lake Etchemin ..	377 418 429	733·2	65	18¾	65¾		Wind south-east; cloudy.
	Monument	—	712·8	74¾	23¾	74		Wind south-east.
4 P.M.	Lake Etchemin ..	377 418 429	732·7	68	20	68¾		
	Monument	—	712·0	69	20½	70		
5 P.M.	Monument	—	711·3	63¾	19¾	67½		
	Meadow at foot of Bald Mountain, south side.	456 457 458 462	721·0	68	20	66½		
Aug. 12, 12	Custom-house ..	411 413 414 416	761·8	73¼	23	72¾	22½	Wind west.
	Lake Etchemin ..	377 418 429	730·3	64	17¾	65		Wind west.
	Monument	—	709·8	65		69		Fine.
	Bald Mountain ..	456 457 458	671·0	61½	16½	62½		Wind north-west.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 Aug. 12, 2 P.M.	Lake Etchemin ..	377 418 429	729·8	68	20	69		Wind west; cloudy.
	Monument	—	709·5	70¼	21½	69		
	Bald Mountain ..	456 457 458	670·0	64¾	18	65¾		
Aug. 13, 8 A.M.	Custom-house ..	411 413 414 416	761·7	71¾	22	66	19	Wind west; clear.
	Lake Etchemin ..	377 418 429	727·8	57	14	57½		Wind north-west.
	Monument	—	707·5	59	15	60		
Aug. 16, 10 A.M.	Custom-house ..	411 413 414 416	768·1	71	21¾	71	21¾	Wind south-west; clear.
	Lake Etchemin ..	377 418 429	736·5	63½	18½	66½		Wind south-west; clear.
	Monument	456 457 458	716·4	70¼	21¼	70¼		Wind south.
3 P.M.	Lake Etchemin ..	—	735·0	77	25	80¾	27	Wind west; fine.
	On ridge, 2 miles north-east from Monument.	—	702·7	78	25½	74		Wind west.
4 P.M.	Lake Etchemin ..	377 418 429	734·8	81	27¼	82		Wind west; fine.
	Camp side of ridge, 3 miles from Monument.	456 457 458	707·1	75	24	75		Wind north-west; fine.
Aug. 17, 8 A.M.	Custom-house ..	411 413 414 416	764·3	75	24	74	23¼	Wind west; fair.
	Lake Etchemin ..	377 418 429	732·4	65¾	18¾	66½		Wind west; fine.
	Same as last evening	456 457 458	704·9	65½	18½	66		Wind north-west; fine.
10 A.M.	Lake Etchemin ..	377 418 429	732·4	75	24	75¾		Wind north-west; fair.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 Aug. 17, 10 A.M.	On Lake, Du Loup water, 7 feet above.	456 457 458	710·7	75¾	24¼	72		Wind west.
11 A.M.	Lake Etchemin ..	—	732·4	76½	24¾	77½	25¼	Wind north-west; fine.
	Top of ridge, 1 mile north-east of Lake.	456 457 458	705·5	77½	25½	75		Wind west.
12	Lake Etchemin ..	477 418 429	732·3	78	25½	80		Wind west.
	Small brook	456 457 458	711·4	82	27¾	79		
3 P.M.	Lake Etchemin ..	—	732·0	83	28¼	83¾	28¾	
	Camp on small brook.	456 457 458	715·4	84	29	83½		
Aug. 18, 8 A.M.	Custom-house ..	411 413 414 416	761·9	74¼	23½	74	23¼	Wind west; heavy.
	Lake Etchemin ..	377 418 429	730·8	68	20	69		Wind south-west; heavy.
	Same as last evening	456 457 458	714·8	72½	22½	72¼		Wind south-west; fine.
10 A.M.	Lake Etchemin	377 418 429	731·2	74½	23¾	76		Wind south-west; fine.
	Half a mile east from Camp.	456 457 458	712·2	79¾	26½	76¼		Wind south-west.
11 A.M.	Lake Etchemin ..	—	731·0	77	25	80¾	27	Wind south-west.
	One mile and a half east of Camp.	456 457 458	706·0	80	26¾	79		
2 P.M.	Lake Etchemin ..	377 418 429	730·3	82¼	28	84		Wind south-west.
	Top of ridge	456 457 458	707·4	84	29	82½		
3 P.M.	Lake Etchemin ..	—	730·2	83¼	28½	84½		Wind south-west; cloudy.
	On top of ridge ..	456 457 458	701·1	85¼	29½	81¾		Wind south-west; cloudy.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 Aug. 18, 4 P.M	Lake Etchemin ..	377 418 429	730·1	84	29	85		Wind south-west.
	On Lake flowing into Portage River, 6 feet above water.	456 457 458	712·5	81	27¼	79		Wind south-west.
Aug. 19, 8 A.M.	Custom-house	411 413 414 416	761·3	72½	22½	72½	22½	Wind south-east.
	Lake Etchemin ..	377 418 429	729·0	65¾	18¾	66½		Wind south-west; rain.
	Same as last night ..	456 457 458	712 2	66	19	66¾		Wind south-west; rainy.
10 A.M.	Lake Etchemin ..	377 418 429	729·4	67¾	19¾	68		Wind west; rain.
	Top of ridge between the two Portage Lakes.	456 457 458	704·8	67¾	19¾	66¾		Wind north-west; heavy.
11 A.M.	Lake Etchemin ..		729·5	67¾	19¾	68	20	
	New Portage Road		719·2	70	21	67½		
2 P.M.	Lake Etchemin ..	377 418 429	729·7	70½	21¼	71		
	Portage Lake	456 457 458	720·4	68½	20¼	68		
Aug. 20, 8 A.M.	Custom-house ..	411 413 414 416	765·0	74¼	23½	71¾	22	Wind south-west; clear.
	Lake Etchemin ..	377 418 429	731·2	60	15½	61		Wind north-west; clear.
	Portage Lake	456 457 458	722·5	66	19	67		Wind south-west; foggy.
Aug. 21, 4 P.M.	Custom-house ..	411 413 414 416	761·6	81½	27½	80¾	27	Wind west; hazy.
	Lake Etchemin ..	377 418 422	730·7	79	26	80		Wind south-west; clear.
	Penobscot Lake ..	456 457 458	721·8	77	25	74¼		

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 Aug. 22,	Observations discontinued at Quebec ..							
4 P.M.	Lake Etchemin ..	377 418 429	730·5	63½	17½	63¾		Wind south-east; cloudy.
	Portage Lake	456 457 458	721·0	60	15½	59½		
Aug. 23,	Lake Etchemin ..	377 418 429	733·5	52¾	11½	53		Wind south-east; fine.
	Portage Lake	456 457 458	725·3	53¾	12	53½		Wind east.
2 P.M.	Lake Etchemin ..	456 457 458	734·5	64½	18	64½		Wind east.
	Portage Lake	456 457 458	724·8	65¼	18½	64½		Wind east.
Aug. 24, 10 A.M.	Lake Etchemin ..	377 418 429	737·3	57	14	59½		Wind west; fine.
	Highest point between Portage Lake and Penobscot Lake on Indian Portage.	456 457 458	726·5	60	15½	60		Wind west; clear.
12	Lake Etchemin ..	377 418 429	737·6	65¼	18½	64½		Wind west; fine.
	Penobscot Lake ..	456 457 458	729·3	64½	18	66		Wind west; fine.
2 P.M.	Lake Etchemin ..	377 418 429	737·5	68	20	69		Wind south-west; clear.
	Top of small hill ..	456 457 458	719·3	69	20½	69		Wind south-west; clear.
Aug. 25, 8 A.M.	Lake Etchemin ..	377 418 429	736·2	46½	8	47		Foggy.
	Top of Hill	456 457 458	721·2	57¾	14¼	55		Wind south-west.
10 A.M.	Lake Etchemin ..	377 418 429	736·9	62	16¾	61½		Wind west.
	Small brook, Metjarmette.	456 457 458	728·3	61½	16½	62		Wind west.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 Aug. 25, 12	Lake Etchemin ..	377 418 429	736·5	66	19	68		Wind south-west.
	Swamp	556 457 458	727·9	73¾	23	71		Wind south-west.
2 P.M.	Lake Etchemin ..	377 418 429	736·1	71	21¾	72		Wind south-west.
	Top of dividing land	456 457 458	720·8	72½	22½	69½		
Aug. 26, 10 A.M.	Lake Etchemin ..	377 418 429	733·0	62½	17	63		Wind south-east.
	Division of south branch of the Metjarmette and Penobscot water.	456 457 458	711·4	66	19	67		
12	Lake Etchemin ..	377 418 429	732·9	68	20	68½		Wind south-west; fine.
	On hill, same as 10 A.M.	456 457 458	711·1	72½	22½	73½		Wind south-west; fine.
	* St. Henri bridge, same as July 24, 8 A.M.	411 443 414	758·2	81½	27½	79	26	Wind south-west; fine.
2 P.M.	Lake Etchemin ..	377 418 429	732·5	71¾	22	73		
	Two miles from St. Henri, on the road to Lake Etchemin.	411 413 414	755·8	83½	28½	81½	27½	
4 P.M.	Lake Etchemin ..	377 418 429	732·0	74¾	23¾	75		Wind south-west.
	Two miles from St. Henri, on the road to Lake Etchemin.	411 413 414	753·3	83½	28½	80¾	27	
Aug. 27, 10 A.M.	Lake Etchemin ..	377 418 429	731·6	61	16	61½		
	Frampton Hill ..	411 413 414	736·5	70¾	21½	70	21	
12	Lake Etchemin ..	377 418 429	731·9	68½	20¼	69½		

* These are three of the Barometers which were in the Observatory at the Custom-house, Quebec.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 Aug. 27, 12	Metjarmette Brook .	456 457 458	720·9	70¾	21½	69½		
	Wilson's house ..	411 413 414	741·1	76¾	24¾	77½	25¼	
4 P.M.	Lake Etchemin ..	377 418 429	732·0	73	22¾	73½		
	* Ridge between Metjarmette and Penobscot waters.	456 457 458	711·8	71¾	22	69½		
Aug. 28, 10 A.M.	Lake Etchemin ..	377 411 413 414 418 429	735·7	67¾	19¾	67½	19	Wind south-east; fine.
	* Small lake, Penobscot.	456 457 458	720·7	73¾	23	73		Wind south-east; fine.
2 P.M.	Lake Etchemin.	377 411 413 414 418 429	736·1	73¾	23	74½		Wind south-east; clear.
	* Small stream of Penobscot.	456 457 458	729·8	80½	27	79½		Wind south-east; clear.
4 P.M.	Lake Etchemin ..	377 411 413 414 418 429	736·0	75¾	24¼		23	
	* On ridge dividing Penobscot waters, 300 feet below top.	456 457 458	723·5	79	26	73½		
Aug. 29, 10 A.M.	Lake Etchemin ..	377 411 413 414 418 429	737·1	69	20½	69		
	* Ridge between two branches of Penobscot.	456 457 458	725·3	71¾	22	68½		

NOTE.—All the observations marked thus, (*) were made to the eastward of the Metjarmette waters.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 Aug. 29, 12	Lake Etchemin ..	377 411 413 414 418 429	738·0	72¾	22½	72½		Wind south-east.
	* Small branch of Penobscot.	456 457 458	730·3	73¾	23	73¾		
Aug. 30, 1 P.M.	Lake Etchemin ..	377 416 418 429	734·3	61	16	61		Wind east; raining.
	† Two and a quarter miles south-east of Lake Etchemin.	411 413 414	737·9	61	16	60		Wind east.
3 P.M.	Lake Etchemin ..	377 416 418 429	733·5	61¾	16½	62		Wind east-south-east; raining.
	† Three and a half miles south of Lake Etchemin.	311 413 414	732·2	63½	17½	60		Wind east-south-east.
4 P.M.	Lake Etchemin ..	377 416 418 429	733·4	61	16	61½		Wind east-south-east; raining.
	† Four miles south, head of Lake Etchemin.	411 413 414	731·4	61	16	69¾		Wind east-south-east; raining.
Aug. 31, 9 A.M.	Lake Etchemin ..	377 416 418 429	730·8	55½	13	56		Wind east-south-east; raining.
	† Small hill in swamp	411 413 414	726·6	56½	13½	54½		Wind east-south-east; raining.
10 A.M.	Lake Etchemin ..	377 416 418 429	730·7	56½	13½	56¾		Wind east-south-east; hazy.
	* Swamp heading small branch of Penobscot.	456 457 458	727·9	59	15	54½		Raining.
	† Branch of La Famine.	411 413 414	730·4	59	15	55½		Raining.
11 A.M.	Lake Etchemin ..	377 416 418 429	730·7	57	14	57½		Wind south-east.

NOTE.—All the observations marked thus, (†) were made between Lake Etchemin and the Metjarmette waters.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 Aug. 31, 11 A.M.	† Caribou Plain, three-quarters of a mile from stream	411 413 414	729·8	59	15	55		Raining.
12	Lake Etchemin ..	377 416 418 429	730·6	57	14	57¾		Wind east; raining.
	† Caribou Plain ..	411 413 414	729·4	60	15½	56		Wind east.
2 P.M.	Lake Etchemin ..	377 416 418 429	730·1	57	14	57¾		Wind south-east; raining.
	† Half a mile south-east of last station.	411 413 414	728·1	58	14½	56½		Wind south-east.
4 P.M.	Lake Etchemin ..	377 416 418 429	729·9	58¾	14¾	59		Wind south-east.
	* Small brook of Penobscot.	456 457 458	723·4	56¼	13½	55½		Cloudy.
	† One mile further on.	414 413 414	727·5	57¾	14¼	55¾		Raining.
Sept. 1, 8 A.M.	Lake Etchemin ..	377 416 418 429	728·1	54½	12½	55		Wind south-east; foggy.
	† Camp	411 413 414	725·1	55½	13	54		Wind south-east; foggy.
9 A.M.	Lake Etchemin ..	377 416 418 429	728·3	55½	13	56		Wind east; raining.
	† Half a mile further on, south-east.	411 413 414	724·5	57	14	55		Wind east; raining.
10 A.M.	Lake Etchemin ..	377 415 418 429	728·4	56½	13½	57		Wind south-east; heavy.
	† Small stream, La Famine waters.	411 413 414	725·9	57	14	54½		Wind south-east; raining.
11 A.M.	Lake Etchemin ..	377 416 418 429	728·3	57	14	57½		Wind south-east; raining.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 Sept. 1, 11 A.M.	† On Burnt Land ..	411 413 414	728·0	59	15	57½		Wind south-east; raining.
12	Lake Etchemin ..	377 416 418 429	728·2	58	14½	58¼		Wind south-east; raining.
	† On stream, La Famine, one mile further on.	411 413 414	727·3	58	14½	57		Wind south-east; raining.
2 P.M.	Lake Etchemin ..	377 416 418 429	728·1	58¾	14¾	59½		Wind south-east; cloudy.
	† On march, half a mile further on.	411 413 414	724·0	61	16	56½		Wind south-east; raining.
3 P.M.	Lake Etchemin ..	377 416 418 429	728·0	59	15	59¾		Wind south-east; raining.
	† Reed Lake	411 413 414	724·9	56¾	13¾	55¾		Wind south-east; raining.
Sept. 2, 9 A.M.	Lake Etchemin ..	377 416 418 429	727·7	56½	13½	56¾		Wind east; hazy.
	† Reed Lake	411 413 414	725·1	55½	13	55		Wind east; hazy.
10 A.M.	Lake Etchemin ..	377 416 418 429	727·7	56¼	13½	57		Wind south-east; dull.
	* Ridge between Penobscot waters.	456 457 458	718·0	56¼	13½	5¼		Wind south; fine.
	† Three-quarters of a mile south-west from last station.	411 413 414	725·0	58	14½	55¼		
11 A.M.	Lake Etchemin ..	377 416 418 429	727·6	57½	14¼	58		Wind south-east; hazy.
	† La Famine Brook	411 413 414	728·6	59	15	57		Heavy.
12	Lake Etchemin ..	377 416 418 429	727·6	58	44½	59		Wind north-west; calm.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 Sept. 2, 12	* Ridge between Penobscot waters and southern sources of the St. John.	456 457 448	706·4	58	14½	55		Wind north-west; calm.
	† On Burnt Land ..	411 413 414	726·6	60	15¾	58½		Wind north-west; calm.
4 P.M.	Lake Etchemin ..	377 416 418 429	727·2	62	16¾	63		Wind west.
	* Lake of the St. John, south lake.	456 457 458	721·9	62¾	17	61		Wind west.
	† Brook Famine, flowing north-west.	411 413 414	729·7	61	16	61		Wind west.
Sept. 3, 9 A.M.	Lake Etchemin ..	377 416 418 429	727·2	60	15½	60¼		Wind north-west.
	* Lake of the St. John, south lake, same as last night.	456 457 458	722·4	59	15		25¼	Heavy.
	† Small stream Famine waters, same as last night.	411 413 414	730·3	59	15	59¼		Heavy.
12	Lake Etchemin ..	377 416 418 429	727·7	68	20	69		Wind west.
	* Small brook of the St. John, east of south lake.	456 457 458	720·2	68	20	69		Wind west.
	† Same stream of the Famine 2 miles higher up.	411 413 414	728·6	71¾	22	70½		Clearing off.
2 P.M.	Lake Etchemin ..	377 416 418 429	727·5	73	22¾	74		Wind north-west; clear.
	* Ridge east of south lake, dividing the St. John and Penobscot waters.	456 457 458	713·9	68	20	67		
	† Rising ground 1 mile south-east of last station.	411 413 414	722·4	69	20½	69		
3 P.M.	Lake Etchemin ..	377 416 418 429	727·4	74¼	23½	76		Wind north-west; clear.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 Sept. 3, 3 P.M.	† Division of the St. John and La Famine waters.	411 413 414	721·9	67	19½	66		Wind north-west; clear.
5 P.M.	Lake Etchemin ..	377 416 418 429	727·1	73½	23	75		Wind west; clear.
	† Stream flowing east St. John's waters.	411 413 414	724·0	68	20	67½		Wind west; clear.
Sept. 4, 4 P.M.	Lake Etchemin ..	377 416 418 429	723·9	56¾	13¾	57¼		Wind east.
	† Source of stream	411 413 414	719·7	58¾	14¾	56		Wind east.
Sept. 5, 10 A.M.	Lake Etchemin ..	377 416 418 429	728·5	61½	16½	63		
	† Rising ground ..	411 413 414	720·6	56¼	13½	54¾		
11 A.M.	Lake Etchemin ..	377 416 418 429	728·7	64	17¾	65		Wind south-east; clear.
	† Small brook of St. John.	411 413 414	722·8	59	15	57		Wind north-east; clear.
12	Lake Etchemin ..	377 416 418 429	728·9	65¾	18¾	66½		Wind east; clear.
	* Top of ridge, same as noon of Sept. 2nd.	456 457 458	706·6	50	10	51		
	† On top of rising ground.	411 413 414	721·1	58	14½	57½		
1 P.M.	Lake Etchemin ..	377 416 418 429	728·9	67	19½	67		Wind east; clear.
	* Same place as 10 A.M. on Sept. 2nd.	456 457 458	719·1	54	12¼	54		
	† At south-east turn on a small stream running south.	411 413 414	722·3	59½	15¼	60		

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 Sept. 5, 2 P.M.	Lake Etchemin ..	377 416 418 429	729·1	67¾	19¼	67¼		Wind east; cloudy.
	* Ridge dividing St. John and Penobscot waters.	456 457 458	722·2	60	15½	56		
	† Quarter of a mile further on.	411 413 414	722·1	59	15	59¼		
3 P.M.	Lake Etchemin ..	377 415 418 429	729·2	65½	18½	66		Wind north-east; cloudy.
	† Half a mile further on.	411 413 414	724·5	61	16	61		
4 P.M.	Lake Etchemin ..	377 416 418 429	729·4	65¾	18¾	66½		Wind north-east; calm and clearer.
	* Ridge quarter of a mile west of small branch of Penobscot.	456 457 458	724·5	61¾	16½	57		
	† Quarter of a mile further on.	411 413 414	723·7	61	16	60		
5 P.M.	Lake Etchemin ..	377 416 418 429	729·7	66	19	66¾		Wind east; clear.
	† On large brook running west.	411 413 414	726·5	60¼	15¾	60		Wind north-east; fine.
Sept. 6, 8 A.M.	Lake Etchemin ..	377 416 418 429	733·4	56¼	13½	57		Wind south-east; clear frost.
	† Three quarters of a mile up stream.	411 413 414	728·9	49½	9¾	51		Wind north-east; fine.
9 A.M.	Lake Etchemin ..	377 416 418 429	733·6	61	16	61		Wind south-east; clear.
	† Half a mile further up.	411 413 414	729·0	56	13¼	55		
10 A.M.	Lake Etchemin ..	377 416 418 429	733·8	64½	18	66		Wind south-east; clear.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 Sept. 6, 10 A.M.	† Half a mile further up.	411 413 414	728·3	63	17¼	65		
11 A.M.	Lake Etchemin ..	377 416 418 429	734·0	68½	20¼	69		Wind south-east; clear.
	† Same place as 11 A.M. of yesterday.	411 413 414	728·0	69	20½	69		
1 P.M.	Lake Etchemin ..	377 416 418 429	734·2	74¾	23¾	75		Wind south-east; clear.
	† Camp	411 413 414	730·3	70½	21½	71		
2 P.M.	Lake Etchemin ..	377 416 418 429	734·1	75	24	76		Wind south-east; clear.
	† Camp same place	411 413 414	730·2	71¾	22	73		
Sept. 7, 8 A.M.	Lake Etchemin ..	377 416 418 429	734·3	55	12¾	56		Wind south-west; clear frost.
	† At the discharge of lake.	411 413 414	732·4	57¾	14¼	59		Wind north-east; fine.
9 A.M.	Lake Etchemin ..	377 416 418 429	734·6	62¾	17	63		Wind south-west; clear.
	† On Caribou Plain, half way between two lakes.	411 413 414	732·4	64½	18	64		Fine.
10 A.M.	Lake Etchemin ..	377 416 418 429	734·9	69	20¾	71		Wind west; clear,
	Ridge between Penobscot waters.	456 457 458	717·9	68	20	64		
	Ridge between Penobscot and Metjarmette.	456 457 458	716·9	65½	18½	64		
	† On rising ground, three quarters of a mile on the march.	411 413 414	728·5	68½	20¼	68¼		

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 Sept. 7, 11 A.M.	Lake Etchemin ..	377 416 418 429	734·8	68½	23¾	75¾		Wind south; clear.
	† Three quarters of a mile further on.	411 413 414	724·0	70	21	70		
12	Lake Etchemin ..	377 416 418 429	734·8	77½	25¼	77¾		Wind south-east; clear.
	† Two miles and a quarter from lakes.	411 413 414	726·2	71	21¾	71		
2 P.M.	Lake Etchemin ..	377 416 418 429	734·8	79½	26½	80½		Wind south-south-east; clear.
	† On side of lake, same place as Sept. 11, 6 A.M.	411 413 414	728·0	75	24	76		
4 P.M.	Lake Etchemin ..	377 416 418 429	734·7	79½	26¼	81¼		Wind south-east.
	† Small lake	411 413 414	727·7	71¾	22	71		Wind south-east.
5 P.M.	Lake Etchemin ..	377 416 418 429	734·4	77	25	80		Wind south-east.
	† Half a mile further on.	411 413 414	726·6	70¼	21¼	68¾		Wind south-east.
Sept. 8, 9 A.M.	Lake Etchemin ..	377 416 418 422	733·7	64½	18	66½		Wind south-east.
	† Rising ground ..	411 413 414	723·8	64½	18	63¼		Wind south-east.
11 A.M.	Lake Etchemin ..	377 416 418 429	734·0	74¾	23¾	76½		Wind south-east; cloudy.
	† Rising ground ..	411 413 414	720·8	70	21	69½		Wind south-east; cloudy.
1 P.M.	Lake Etchemin ..	377 416 418 429	733·5	77	25	79		Wind south-east.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 Sept. 8, 1 P.M.	† Small brook ..	411 413 414	718·9	71¾	22	72½		Wind south-east.
3 P.M.	Lake Etchemin ..	377 416 418 429	732·9	78	25½	79½		Wind west.
	† Two miles further on.	411 413 414	716·6	72½	22½	71½		Wind west.
4 P.M.	Lake Etchemin ..	377 416 418 429	733·0	79	26	80		Wind west.
	North branch of the Metjarmette.	411 413 414 456 457 458	716·7	66	19	65½		Wind west.
Sept. 9, 8 A.M.	Lake Etchemin ..	377 416 418 429	733·3	57	14	58		Wind east; clear.
	Same as last evening.	411 413 414 456 457 458	716·9	58½	14¾	61½		Wind east; clear.
4 P.M.	Lake Etchemin ..	377 416 418 429	734·6	80	26¾	82½		Wind south-east; calm and clear.
	Same as last evening.	456 457 458	718·9	70½	21½	71		Wind south-east; calm and clear.
	† Lake, source of the south-western branch of the St. John.	411 413 414	726·0	72	22¼	75¼		Wind south-east; calm and clear.
Sept. 10, 8 A.M.	Lake Etchemin ..	377 416 418 429	733·9	60	15½	61		Wind south.
	North branch of the Metjarmette.	411 413 414 456 457 458	718·5	59	15	60½		Wind north-west.
12	Lake Etchemin ..	377 416 418 429	734·3	77	25	78½		Wind south.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 Sept. 10, 12	† Returning to Lake Etchemin.	411 413 414 456 457 458	722·8	79	26	74		Wind north-west.
4 P.M.	Lake Etchemin ..	377 416 418 429	733·2	81	27¼	82¼		Wind south-west.
	† On branch of La Famine River.	456 457 458	726·0	79	26	75		Wind south-west.
Sept. 11, 8 A.M.	Lake Etchemin ..	377 416 418 429	730·2	60	15½	59½		Wind south.
	† Small lake, same place as the 7th of Sept., 2 P.M.	411 413 414 456 457 458	723·3	63	17¼	62½		Wind south-west.
3 P.M.	Lake Etchemin ..	377 416 418 429	730·0	70½	21½	71¼		Wind north-west.
	† Between a lake of the St. John and a lake of La Famine, same as Sept. 7th, 9 A.M.	411 413 414 456 457 458	727·1	75	24	73¼		Wind north-west.
Sept. 12, 10 A.M.	Lake Etchemin ..	377 416 418 429	722·4	56¾	13¾	57½		Wind east; cloudy.
	† On march	411 413 414 456 457 458	728·4	55¾	13	54¾		Wind south-west.
11 A.M.	Lake Etchemin ..	377 416 418 429	732·4	58	14½	58½		Wind east; cloudy.
	† On march	411 413 414 456 457 458	726·3	59	15	56		Wind south-west.
12	Lake Etchemin ..	377 416 418 429	732·4	61¼	16¼	62		Wind east.

Record of Barometric Observations.— *Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A. F.	Th. A. C.	Th. D. F.	Th. D. C.	Remarks.
1841 Sept. 12, 12	† Small stream ..	411 413 414 456 457 458	730·7	59	15	56¾		Wind south-west.
1 P.M.	Lake Etchemin ..	377 416 418 429	732·2	61½	16½	62		Wind east; cloudy.
	† Cedar swamp ..	411 413 414 456 457 458	732·0	59½	15¼	57		Wind south-west; fine.
2 P.M.	Lake Etchemin ..	377 416 418 429	732·2	65¾	18¾	67		Wind north.
	† Small stream ..	411 413 414 456 457 458	732·1	60	15½	61		Wind south-west.
4 P.M.	Lake Etchemin ..	377 416 418 429	732·0	65¼	18½	67		Wind north-west.
	† Small stream ..	411 413 414 456 457 458	734·6	62	16¾	60		Wind south-west.
Sept. 13, 9 A.M.	Lake Etchemin ..	377 416 418 429	732·4	54½	12½	55		Wind west.
	† Same as Sept. 3rd, 9 A.M.	411 413 414 456 457 458	735·2	50	10	51		Wind north-west.
11 A.M.	Lake Etchemin ..	377 416 418 419	732·8	65	18¼	66		Wind west.
	† On march	411 413 414 456 457 458	733·8	66¾	19¼	63¼		Wind north-west.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 Sept. 13, 1 P.M.	Lake Etchemin ..	377 416 418 429	732·4	67	19½	68½		Wind west.
	† Branch of La Famine.	411 413 414 456 457 458	735·7	70	21	66½		Wind north-west.
4 P.M.	Lake Etchemin ..	377 416 418 429	732·3	70½	21½	73		Wind west.
	† Burnt land	411 413 414 456 457 458	733·5	66	19	64		Wind north-west.
5 P.M.	Lake Etchemin ..	377 416 418 429	732·1	67¾	19¾	69¾		Wind west.
	† Branch of La Famine.	411 413 414 456 457 458	733·4	65	18¼	61		Wind north-west.
Sept. 14, 8 A.M.	Lake Etchemin ..	377 416 418 429	732·6	45½	7½	46		Wind west.
	Same as last evening	411 413 414 456 457 458	735·3	54	12¼	52		Wind north-west.
10 A.M.	Lake Etchemin ..	377 416 418 429	733·6	60¼	15¾	61¼		Wind west.
	† Three quarters of a mile from last place.	411 413 414 456 457 458	736·0	68½	20¼	64½		Wind north-west.
11 A.M.	Lake Etchemin ..	377 416 416 429	733·8	64	17¾	65		Wind west.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 Sept. 14, 11 A.M.	† Small lake of La Famine.	411 413 414 456 457 458	734·7	69	20½	62¾		Wind north-west.
12	Lake Etchemin ..	377 416 418 429	734·1	65¾	18¾	67		Wind north-west.
	† Rising ground ..	411 413 414 456 457 458	732·2	64¾	18	59¾		Wind north-west.
3 P.M.	Lake Etchemin ..	377 416 418 429	734·3	69	20¾	72		Wind north-west.
	† Small lake	411 413 414 456 457 458	734·9	66	19	63½		Wind north-west.
Sept. 15, 8 A.M.	Lake Etchemin ..	377 416 418 429	738·1	46	7¾	46¾		Wind east; fine.
	† Same lake as last evening.	411 413 414 456 457 458	738·5	52½	11¼	41½		Wind north-east.
11 A.M.	Lake Etchemin ..	377 416 418 429	739·4	65	18¼	65		
	† Same as noon of August 30th.	411 413 414 456 457 458	739·9	62¾	17	61½		

Comparison of Barometers at Lake Etchemin, September 15th.

Th. D. F.	Th. A. C.	Bar.	Height.	Corrected for Temp.	
71	20¾	377	738·80	738·82	
	21¼	416	738·45	738·43	
	20¾	418	738·80	738·82	
	21	429	739·10	739·10	
					2,955·27 ÷ 4 = 738·79.
	21¼	411	739·00	738·98	
	21¼	413	739·00	738·98	
	21½	414	739·20	739·15	
	21½	456	738·60	738·55	
	21½	457	739·40	739·35	
	21¾	458	739·30	739·22	
					4,434·23 ÷ 6 = 739·04.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A. F.	Th. A. C.	Th. D. F.	Th. D. C.	Remarks.
1841 Sept. 26, 2 P.M.	Lake Etchemin ..	416 418 429	717·9	61	16	60½		Wind south-west.
	Lake Archer, 15 feet above water.	456 457 458	715·8	60½	15¾	59¾		Wind south-west.
4 P.M.	Lake Etchemin ..	416 418 429	716·6	59½	15¼	60		Wind south; cloudy.
	One mile and a half north of Lake Archer.	456 457 458	703·3	62	16¾	57½		Wind south; cloudy.
Sept. 27, 8 A.M.	Lake Etchemin ..	416 418 429	724·7	48	9	49		Wind west; cloudy.
	On small stream, Etchemin waters.	456 457 458	722·7	47	8¼	46½		
10 A.M.	Lake Etchemin ..	416 418 429	725·7	48½	9¼	49		Wind west; cloudy.
	Top of hill	456 457 458	708·4	44¾	7	43½		
12	Lake Etchemin ..	416 418 429	726·1	51½	10¾	51½		Wind west.
	Etchemin River ..	456 457 458	724·1	51	10½	49		Wind west.
2 P.M.	Lake Etchemin ..	416 418 429	726·7	53¾	12	53½		Wind west; cloudy.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 Sept. 27, 2 P.M.	Top of hill	456 457 458	712·4	50	10	48¼		Wind north-west.
3 P.M.	Lake Etchemin ..	416 418 429	726·8	54½	12½	54¾		Wind west.
	Small stream	456 457 458	712·2	52¾	11½	50		
4 P.M.	Lake Etchemin ..	416 418 429	727·0	54¾	12½	55		Wind west.
	One mile further on	456 457 458	710·0	51	10½	47¾		
5 P.M.	Lake Etchemin ..	416 418 429	727·0	52	11	52		Wind west.
	Small stream, St. John's waters.	456 457 458	716·8	48½	9¼	48		
Sept. 29, 11 A.M.	Lake Etchemin ..	416 418 429	725·5	44	6¾	44		Wind north-east.
	Quarter of a mile north-west from last station.	456 457 458	714·9	43½	6¼	41½		Wind north-east.
2 P.M.	Lake Etchemin ..	416 418 429	725·8	44¾	7	44½		Wind north-east.
	Small stream ..	456 457 458	719·3	44¾	7	44		Wind north-east.
3 P.M.	Lake Etchemin ..	416 418 429	725·9	44	6¾	44		Wind north-east.
	Hardwood ridge ..	456 457 458	712·4	43¾	6½	41		Wind north-east.
4 P.M.	Lake Etchemin ..	416 418 429	726·1	43½	6½	44		Wind north-east.
	Top of Hardwood Hill.	456 457 458	705·4	43½	6½	39		Wind north-west.
5 P.M.	Lake Etchemin ..	416 418 429	726·1	43½	6½	43¾		Wind north-east.
	Small brook	456 457 458	705·1	40¼	4½	38		

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 Sept. 30, 8 A.M.	Lake Etchemin ..	416 418 429	725·2	38¼	3½	38½		Wind east.
	Same as last night ..	456 457 458	702·3	35	1¾	32½		
9 A.M.	Lake Etchemin ..	416 418 429	724·8	39	4	38¾		Wind east.
	Top of ridge	456 457 458	688·1	34¾	1½	32½		Wind north-west.
3 P.M.	Lake Etchemin ..	416 418 429	723·9	36½	2½	36½		Wind east; snowing.
	Top of ridge, dividing the St. John's waters from those of the Du Sud.	456 457 458	690·1	35¾	2	32¼		Wind east.
Oct. 1, 12	Lake Etchemin ..	416 418 429	726·7	41½	5¼	41		
	On top of same ridge.	456 457 458	697·1	35¾	2	33		
Oct. 2, 10 A.M.	River Ouelle, 46 feet above high tide at its mouth in the St. Lawrence.	377 411 414	772·6	52	11	45½		Wind north-east; fair.
	Lake Etchemin ..	416 418 429	737·1	40½	4¾	40¾		Wind east.
	On same ridge ..	456 457 458	705·5	42	5½	38¾		Wind east.
11 A.M.	Lake Etchemin ..	416 418 429	737·3	43¾	6½	44¼		Wind east.
	Same place on ridge	456 457 458	705·4	40¾	4¾	39		Wind east.
12	Lake Etchemin ..	416 418 429	737·5	44½	7	44¾		Wind east.
	Small stream, Du Sud.	456 457 458	733·2	44½	7	43¾		Wind east.
2 P.M.	Lake Etchemin ..	416 418 429	737·4	47	3¼	47		Wind east.
	Top of ridge	456 457 458	715·9	44	6¾	43		

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 Oct. 2, 3 P.M.	Lake Etchemin ..	416 418 429	737·6	46½	8	46½		Wind east.
	Spur of ridge ..	456 457 458	732·8	46½	8	44		
4 P.M.	Lake Etchemin ..	416 418 429	737·3	46½	8	46¼		Wind east.
	Small stream of the St. John.	456 457 458	738·5	46½	8	42		
Oct. 3, 9 A.M.	Lake Etchemin ..	416 418 429	736·8	39½	4¼	40		Wind east.
	On small hill	456 457 458	733·9	39	4	34		
11 A.M.	Lake Etchemin ..	416 418 429	736·9	44	6¾	44		Wind east.
	In a swamp	456 457 458	729·9	43½	6½	41		
12	River Ouelle	377 411 414	772·2	53¾	12	53¾		Wind north-east; clear.
	Lake Etchemin ..	416 418 429	736·9	46	7¾	45½		Wind east.
	Small stream of Du Sud.	456 457 458	729·6	44¼	7	46		
2 P.M.	Lake Etchemin ..	416 418 429	734·8	47	8¼	48		Wind east.
	Small brook	456 457 458	734·0	51	10½	47		
3 P.M.	Lake Etchemin ..	416 418 429	734·8	46¼	8	47½		Wind east.
	On a gentle rise ..	456 457 458	728·9	50	10	45		
4 P.M.	River Ouelle	377 411 414	769·7	52	11	51¾		Wind north-east.
	Lake Etchemin ..	416 418 429	734·4	50½	8¼	47		Wind east.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 Oct. 4, 8 A.M.	River Ouelle ..	377 411 414	767·5	45½	7½	45½		Wind east.
	Lake Etchemin ..	416 418 429	730·6	36	2¼	36		Wind east.
	Small stream of Du Sud.	456 457 458	726·5	34	1	34¾		
9 A.M.	Lake Etchemin ..	416 418 429	731·1	37½	3	37½		Wind east.
	Top of a hill	456 457 458	721·6	38¼	3½	36½		Wind east.
10 A.M.	Lake Etchemin ..	416 418 429	731·8	41½	4¼	39¾		Wind east.
	Same ridge	456 457 458	714·5	41	4	38		Wind east.
12	Lake Etchemin ..	416 418 429	731·3	44½	5½	42		Wind east.
	Small brook of St. John.	456 457 458	724·3	49	7½	43		Wind east.
2 P.M	Lake Etchemin ..	416 418 429	731·4	46¼	8	46½		Wind east.
	On march	456 457 458	722·7	46¼	8	43		Wind east.
4 P.M.	River Ouelle ..	377 411 414	766·3	48	9	48		Wind north-east.
	Lake Etchemin ..	416 418 429	731·1	45¼	7½	45		Wind east.
	Small lake of the St. John.	456 457 458	723·6	48¾	9¼	44		
Oct. 5, 8 A.M.	River Ouelle ..	377 411 414	768·5	47¾	8¾	47¾		Wind north-east; clear.
	Lake Etchemin ..	416 418 429	731·4	34	1	34½		Wind east.
	Quarter of a mile north of the lake.	456 457 458	721·9	35¾	2	33½		Wind north-east.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 Oct. 5, 9 A.M.	Lake Etchemin ..	416 418 429	731·7	37¼	3	37¾		Wind east.
	Top of ridge	456 457 458	721·8	35	1¾	35		Wind east.
10 A.M.	Lake Etchemin ..	416 418 429	731·8	39¾	4¼	39		Wind east.
	Small stream ..	456 457 458	729·3	43	6	39½		Wind east.
12	Lake Etchemin ..	416 418 429	732·3	44½	7	44¾		Wind east.
	Top of ridge	456 457 458	730·1	46	7¾	42½		Wind east.
1 P.M.	Lake Etchemin ..	416 418 429	732·1	48	9	48½		Wind east.
	Small stream ..	456 457 458	731·6	44½	7	44		Wind east.
2 P.M.	Lake Etchemin ..	416 418 429	732·2	48¾	9¼	48½		Wind north-east.
	Top of ridge	456 457 458	724·9	50½	10¼	46		Wind east.
3 P.M.	Lake Etchemin ..	416 418 429	731·9	48¾	9¼	49		Wind north-east.
	On march	457 458 459	724·3	48	9	46		Wind north-east.
4 P.M.	Lake Etchemin ..	416 418 429	732·0	49½	9¾	49¾		Wind east.
	Small lake of the St. John.	456 457 458	728·9	47½	8½	46½		Wind east.
Oct. 6, 9 A.M.	Lake Etchemin ..	416 418 429	731·7	41	5	41		Wind east; fine.
	Same lake as last night.	456 457 458	729·0	42	5½	44½		Wind north-east; fair.
10 A.M.	River Ouelle	377 411 414	767·7	48	9	49		Wind east; fine.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F,	C.	F.	C.	
1841 Oct. 6, 10 A.M.	Lake Etchemin ..	416 411 429	731·9	43¾	6½	43¾		Wind east; fair.
	On table land ..	456 457 458	726·9	48	9	43		Wind east; fair.
11 A.M.	Lake Etchemin ..	416 418 429	732·0	46½	8	45½		Wind east; fine.
	Same table land ..	456 457 458	728·5	50	10	45		Wind east.
12	Lake Etchemin ..	416 418 429	731·9	49½	9¾	49¾		Wind east; fine.
	On gentle rise ..	456 457 458	721·7	52	11	47¼		Wind east.
1 P.M.	Lake Etchemin ..	416 418 429	732·2	52	11	51½		Wind east; fine.
	Small stream of the St. John.	456 457 458	726·7	51	10½	49½		Wind east.
3 P.M.	Lake Etchemin ..	416 418 429	731·7	51	10½	51		Wind north-east; fine.
	Spruce swamp ..	456 457 458	728·5	51	10½	47		Wind north-east.
4 P.M.	River Ouelle ..	377 411 414	766·0	50½	10¼	50½		Wind north-east.
	Lake Etchemin ..	416 418 429	731·6	52	11	53		Wind north-east.
	Lake, St. John's waters.	456 457 458	729·0	50	10	44¾		Wind east.
Oct. 7, 8 A.M.	River Ouelle ..	377 411 414	764·9	54	12¼	48¾		Wind east.
	Lake Etchemin ..	416 418 429	729·2	31	−¾	31		Wind west.
	Lake same as last night.	456 457 458	726·5	39	4	38		Wind north-east.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 Oct. 7, 9 A.M.	Lake Etchemin ..	416 418 429	730·2	44½	7	44		Wind west.
	Half a mile north of same lake, on hill.	456 457 458	725·1	51	8½	40		Wind north-east.
10 A.M.	River Ouelle ..	377 411 414	764·6	51	10¾	49½		Wind east.
	Spruce swamp ..	456 457 458	723·9	45½	7½	43½		
12	River Ouelle ..	377 411 414	764·1	51	10½	50½		Wind north-east.
	Swamp	456 457 458	729·1	54	12¼	51		Wind east.
3 P.M.	Lake Etchemin ..	416 418 429	727·6	56¾	13¾	57		Wind east.
	Small stream of the St. John, flowing through a swamp.	456 457 458	725·1	57	14	50		Wind east.
4 P.M.	River Ouelle ..	377 411 414	761·8	47¾	8¾	47		Wind north-east.
	Swamp	456 457 458	723·1	52½	11½	47½		Wind north-east.
Oct. 8, 8 A.M.	River Ouelle ..	377 411 414	762·0	46½	8	48½		Wind north-east.
	Lake Etchemin ..	416 418 429	726·9	37½	3	37		Wind east.
	Gentle rise.	456 457 458	719·1	35½	2	35		Wind south-east.
12	River Ouelle ..	377 411 414	761·2	49	9½	49		Wind south-west
	Small stream flowing into Black River.	456 457 458	729·6	43	6	42		Wind east.
2 P.M.	River Ouelle ..	377 411 414	760·4	49½	9¾	49¾		Wind south.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A.		Th. D.		Remarks.
				F.	C.	F.	C.	
1841 Oct. 8, 2 P.M.	Spruce swamp ..	456 457 458	728·1	50	10	44		Wind south-east.
4 P.M.	River Ouelle ..	377 411 414	760·0	48½	9¼	49¾		Wind south-west.
	Lake Etchemin ..	416 418 429	726·3	44	6¾	43½		Wind south-east; rain.
	Spruce swamp ..	456 457 458	726·2	44¾	7	42		
Oct. 9, 9 A.M.	River Ouelle ..	377 411 414	759·5	52½	11¼	54		Wind east; rain.
	Swamp	456 457 458	727·3	46½	8	40½		Wind east; rain.
10 A.M.	River Ouelle ..	377 411 414	759·4	52	11	56¼		Wind east; cloudy.
	Lake Etchemin ..	416 418 429	724·9	42	5½	42		Wind south-east; cloudy.
	Branch of the Black River.	456 457 458	729·5	45	7¼	40½		Wind east; cloudy.
3 P.M.	River Ouelle ..	377 411 414	758·3	48¼	9	48½		Wind east; rainy.
	Lake Etchemin ..	416 418 429	724·2	42	5¾	42		Wind south-east.
	Swamp	456 457 458	730·1	47¼	8½	43½		Wind south-east.
Oct. 10, 8 A.M.	River Ouelle ..	377 411 414	760·7	51	10½	51		Wind south-west; rain.
	Lake Etchemin ..	416 418 429	726·5	39	4	40		Wind west; cloudy.
	Source of the River Ouelle.	456 457 458	734·1	41	5	40		Wind west; cloudy.
4 P.M.	River Ouelle ..	377 411 414	761·7	50¼	10¼	49¾		Wind north-east; rain.

Record of Barometric Observations.—*Continued.*

Date and Time.	Station.	Bar.	Height.	Th. A. F.	Th. A. C.	Th. D. F.	Th. D. C.	Remarks.
1841 Oct. 10, 4 P.M.	Lake Etchemin ..	416 418 429	727·6	54¼	7½	45½		Wind west; rain.
Oct. 11, 8 A.M.	River Ouelle ..	377 411 414	762·5	48¼	9¼	47½		Wind west.
	Lake Etchemin ..	416 418 429	728·6	34¾	1½	35		
	High tide, St. Roc.	456 457 458	764·0	43	6	42		

Comparison of Barometers at Quebec, October 20th.

Th. D. F.	Th. A. C.	Bar.	Height.	Corrected for Temp.	
44	7¼	377	748·55	748·53	
	7¼	411	748·60	748·58	
	7½	414	748·40	748·35	
					2,245·46 ÷ 3 = 748·49.
	7½	416	748·40	748·35	
	7½	418	748·75	748·70	
	7½	429	748·95	748·90	
					2,245·95 ÷ 3 = 748·65.
	7	456	747·95	747·95	
	7	457	749·05	749·05	
	7	458	749·00	749·00	
					2,246·00 ÷ 3 = 748·66.

Comparison of Barometers at Quebec, October 18th.

Th. D. F.	Th. A. C.	Bar.	Height.	Corrected for Temp.	
44	8½	377	766·65	766·60	
	8¼	411	766·85	766·83	
	8	414	766·70	766·70	
					2,300·13 ÷ 3 = 766·71.
	7¾	416	766·60	766·62	
	7¾	418	766·90	766·92	
	8¾	429	766·85	766·77	
					2,300·31 ÷ 3 = 766·77.
	7½	456	766·00	766·05	
	7½	457	767·20	767·25	
	7¾	458	767·20	767·22	
					2,300·52 ÷ 3 = 766·84.

Comparison of Barometers at Quebec, October 19th.

Th. D. F.	Th. A. C.	Bar.	Height.	Corrected for Temp.	
42½	6¼	377	753·95	753·93	
	6¼	411	753·85	753·83	
	6½	414	753·80	753·75	
					2,261·51 ÷ 3 = 753·84.
	6¼	416	753·60	753·58	
	6	418	754·05	754·05	
	6½	429	754·10	754·05	
					2,261·88 ÷ 3 = 753·89.
	6¼	456	753·20	753·18	
	6¼	457	754·20	754·18	
	6¼	458	753·85	753·83	
					2,261·19 ÷ 3 = 753·73.

The mean of seventy-nine observations computed to Quebec, gives the height of the observatory at Lake Etchemin 1,231 feet above the observatory at Quebec.

The mean of thirty observations selected from the above, makes it 1228 feet, to which twenty-five feet (the height of the observatory at Quebec above high tide) is to be added, and the sum, 1,253 feet, is the height of the observatory at Lake Etchemin* above high tide at Quebec.

By a mean of eleven observations, the monument on the Kennebec road is 784 feet above the observatory at Lake Etchemin, to which add 1,253 feet for the height of Lake Etchemin, 784+1,253=2,037 feet above high tide, Quebec.

The same place computed to Quebec by a mean of seven observations, gives 2,007 feet above the observatory at Quebec, to which is to be added twenty-five feet, and the sum is 2,032 feet, not differing materially from the other.

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* The surface of the water in Lake Etchemin, is five feet below the observatory.

Abstract of Heights as deduced from Barometric Observations at the Principal Stations along the lines of Survey.

Date and Time.	Station.	Height.	
1841			
June 3, 8 A. M.	St. Anselme	484	ft. above Queen's Wharf Quebec.
	Queen's Wharf	12	ft. above high tide Quebec.
	St. Anselme	496	ft. above high tide, Quebec.
12	Frampton Hill	1,097	ft. above Queen's Wharf, Quebec.
	Queen's Wharf	12	ft. above high tide, Quebec.
	Frampton Hill	1,109	ft. above high tide, Quebec.
4 P. M.	Bridge on L'Eau Chaude . .	893	ft. above Queen's Wharf, Quebec.
	Queen's Wharf	12	ft. above high tide, Quebec.
	Bridge on L'Eau Chaude . .	905	ft. above high tide, Quebec.
June 5, 8 A. M.	Ridge five miles north of Lake Etchemin	134	ft. above Lake Etchemin.
	Lake Etchemin	1,253	ft. above high tide, Quebec.
	Ridge five miles north of Lake Etchemin	1,387	ft. above high tide, Quebec.
June 22, 8 A. M.	Port St. Francis	11	
		25	
		36	ft. above high tide, Quebec.
2 P. M.	St. Zephyra	107	
		25	
		132	ft. above high tide, Quebec.
4 P. M.	Wendover	170	
		26	
		195	ft. above high tide, Quebec.
June 23, 8 A.M.	Wickham	363	
		25	
		388	ft. above high tide, Quebec.
10, A. M.	Durham	584	
		25	
		609	ft. above high tide, Quebec.
2 P. M.	Melbourne	356	
		25	
		381	ft. above high tide, Quebec.
June 24, 2 P. M.	Sherbrooke	531	ft. above high tide, Quebec.
June 26, 4 P. M.	Compton	835	ft. above high tide, Quebec.
June 27, to June 30, inclusive.	Stanstead	1,025	ft. above high tide, Quebec.
June 29, 2 P. M.	Lake Memphramagog. . . .	379	ft. below Stanstead.
		1,025	
		646	ft. above high tide, Quebec.

Abstract of Barometric Heights.—*Continued.*

Date and Time.	Station.	Height.	
1841 July 1, 8 A. M.	Fourche R. Coaticook . .	1,005	ft. above high tide, Quebec.
2 P. M.	Bassford	987	ft. above high tide, Quebec.
July 3, 2 P. M. to July 4, 8 A.M.	Junction of Leech Stream with Connecticut River, ten feet above water.	941 10	
		931	ft. above high tide, Quebec.
July 6, 8 A. M.	Lake Connecticut . . .	1,780	ft. above high tide, Quebec.
July 7, 8 A. M.	Connecticut River between first and second lakes . . .	1,875	ft. above high tide, Quebec.
July 8, 8 A. M.	First Lake Connecticut . .	2,124	ft. above high tide, Quebec.
12	Ridge dividing the Connecticut and Margalloway waters .	2,904	ft. above high tide, Quebec.
4 P. M.	Ridge dividing the Connecticut and St. Francis waters .	2,581	ft. above high tide, Quebec.
July 9, 8 A. M.	Sources of the St. Francis .	1,762	ft. above high tide, Quebec.
4 P. M.	Swamp—Valley of St. Francis .	1.572	ft. above high tide, Quebec.
July 10, 12 & 2P.M.	Ben D'Urbin	2,527	ft. above high tide, Quebec.
July 11, 10 A. M.	Top of ridge	2,600	ft. above high tide, Quebec.
2 P. M.	Swamp	2,246	ft. above high tide, Quebec.
4 P. M.	Top of ridge	2,753	ft. above high tide, Quebec.
July 12, 8 A. M.	Gipp's Peak, 300 ft. below top .	2,760 300	ft. above high tide, Quebec.
		3,060	
10 A. M.	Small river foot of Gipp's Peak	1,915	ft. above high tide, Quebec.
12	Top of ridge	2,505	ft. above high tide, Quebec.
4 P. M.	Arnold's River . . .	1,924	ft. above high tide, Quebec.
July 13, 10 A. M.	Mount Gosford . . .	3,665	ft. above high tide, Quebec.
12	Top of ridge	2,617	ft. above high tide, Quebec.
5 P. M.	Mountain, six miles south of Lake Macanamac . .	2,633	ft. above high tide, Quebec.
July 14, 8 A. M.	Camp	2,124	ft. above high tide, Quebec.
10 A. M.	Ridge	2,040	ft. above high tide, Quebec.
12	Two miles north-east of last place	2,285	ft. above high tide, Quebec.
2 P. M.	Ridge	1,560	ft. above high tide, Quebec.
3 P. M.	Highest point	1,790	ft. above high tide, Quebec.
4 P. M.	Bottom of hill	1,465	ft. above high tide, Quebec.
July 15, 8 A. M.	On ridge	2,384	ft. above high tide, Quebec.
10 A. M.	Swamp	1,263	ft. above high tide, Quebec.

Abstract of Barometric Heights.—*Continued.*

Date and Time.	Station.	Height.	
1841 July 16, 4 P. M.	Lake Macanamac . . .	1,319	ft. above high tide, Quebec.
,,	Lake Macanamac, calculated to Quebec	1,321	ft. above high tide, Quebec.
July 17, 8 A. M.	Top of mountain . . .	2,588	ft. above high tide, Quebec.
10 A. M.	Summit of ridge . . .	2,851	ft. above high tide, Quebec.
12	Foot of ridge	1,919	ft above high tide, Quebec.
2¼ P. M.	Summit of ridge . . .	2,673	ft. above high tide, Quebec.
4 P. M.	Small rivulet . . .	1,818	ft. above high tide, Quebec.
4¼ P. M.	Highest point of hill . .	2,025	ft. above high tide, Quebec.
July 18, 10 A. M.	Top of ridge	2,302	ft. above high tide, Quebec.
12	Small stream	1,934	ft. above high tide, Quebec.
2 P. M.	On ridge	1,936	ft. above high tide, Quebec.
4 P. M.	On ridge	2,113	ft. above high tide, Quebec.
July 19, 8 A. M.	Small lake	1,560	ft. above high tide, Quebec.
10 A. M.	On ridge	1,967	ft. above high tide, Quebec.
12	Cedar swamp	1,823	ft. above high tide, Quebec.
2 P. M.	Small brook flowing into Chaudière	1,605	ft. above high tide, Quebec.
4 P. M.	Ridge	2,303	ft. above high tide, Quebec.
5½ P. M.	Ridge	2,644	ft. above high tide, Quebec.
July 20, 10 A. M.	Source Du Loup . . .	1,942	ft. above high tide, Quebec.
12	Source Du Loup . . .	1,795	ft. above high tide, Quebec.
2 P. M.	Ridge	2,419	ft. above high tide, Quebec.
4 P. M.	Depression in ridge . .	2,053	ft. above high tide, Quebec.
July 21, 10 A. M.	On ridge	2,421	ft. above high tide, Quebec.
12	Small brook	1,751	ft. above high tide, Quebec.
2 P. M.	Lake Emilie, Du Loup waters .	1,641	ft. above high tide, Quebec.
7 P. M.	Sandy hill	3,113	ft. above high tide, Quebec.
July 22, 8 A. M.	Sandy stream	1,727	ft. above high tide, Quebec.
10 A. M.	Sandy bay settlement, Hilton's	1,637	ft. above high tide, Quebec.
July 23, 4 P. M.	Intersection of Kennebec road and Metjarmette river .	826	ft. above high tide, Quebec.
July 24, 8 A. M.	Bridge at St. Henri, 15 feet above water . . .	243	ft. above high tide, Quebec.
Aug. 6, 4 P. M.	St. Joseph's	463	ft. above high tide, Quebec.
Aug. 10, 10 A.M.	Monument on Kennebec road (mean of eleven observations computed to Lake Etchemin	784 1,253	ft. above observatory at Lake Etchemin.
		2,037	ft. above high tide, Quebec.

Abstract of Barometric Heights.—*Continued.*

Date and Time.	Station.	Height.	
1841 Aug. 10, 10 A. M.	Same place, (mean of seven observations computed to Quebec)	2,007 25	ft. above observatory at Quebec.
		2,032	feet above high tide at Quebec.
Aug. 12, 12 & 2 P.M.	Bald mountain . . .	1,587 2,037	feet above monument.
		3,624	feet above high tide at Quebec.
Aug. 16, 10 A. M.	On ridge two miles north-east of monument . . .	2,551	feet above high tide at Quebec.
4 P. M.	Camp on side of ridge, three miles from monument .	2,347	feet above high tide at Quebec.
Aug. 17, 8 A. M.	Same as last evening . .	2,332	
		2) 4,679	
		2,339	feet above high tide at Quebec.
10 A. M.	On lake, Du Loup water, seven feet above . . .	2,116	feet above high tide at Quebec.
11 A. M.	Top of ridge, one mile north-east of lake	2,333	feet above high tide at Quebec.
12 A. M.	Small brook	2,103	feet above high tide at Quebec.
3 A. M.	Small brook	1,926	feet above high tide at Quebec.
Aug. 18, 8 A. M.	Small brook	1,910	
		2) 3,836	
		1,918	feet above high tide at Quebec.
10 A. M.	One mile north-east of camp .	2,025	feet above high tide at Quebec.
11 A. M.	One mile and a half north-east of camp	2,280	feet above high tide at Quebec.
2 P. M.	Top of ridge	2,188	feet above high tide at Quebec.
3 P. M.	Top of ridge	2,446	feet above high tide at Quebec.
4 P. M.	Lake flowing into Portage R, six feet above water . .	1,955	feet above high tide at Quebec.
Aug. 19, 8 A. M.	Same place	1,912	
		2) 3,867	
		1,933	feet above high tide at Quebec.
10 A. M.	Ridge between the two lakes of Portage River . . .	2,223	feet above high tide at Quebec.
11 A. M.	New Portage Road . . .	1,662	feet above high tide at Quebec.
2 P. M.	Portage Lake	1,604	feet above high tide at Quebec.
Aug. 24, 10 A. M.	Portage between lakes . .	1,690	feet above high tide at Quebec.
	Penobscot Lake . . .	1,586	feet above high tide at Quebec.
2 P. M.	Top of small hill . . .	1,964	feet above high tide at Quebec.
Aug. 25, 8 A. M.	Top of small hill . . .	1,847	feet above high tide at Quebec.

Abstract of Barometric Heights.—*Continued.*

Date and Time.	Station.	Height.	
1841			
Aug. 25, 10 A. M.	Small brook, Metjarmette . .	1,568	feet above high tide, Quebec.
12	Swamp	1,608	feet above high tide, Quebec.
2 P. M.	Dividing Land	1,855	feet above high tide, Quebec.
Aug. 26, 10 A. M.	Between Penobscot and Metjarmette waters . . .	2,104	feet above high tide, Quebec.
Aug. 27, 4 P. M.	Between Penobscot and Metjarmette waters . . .	2,046	feet above high tide, Quebec.
Aug. 28, 10 A. M.	Small lake of Penobscot . .	1,856	feet above high tide, Quebec.
2 P. M.	Small stream of Penobscot .	1,520	feet above high tide, Quebec.
4 P. M.	Ridge dividing Penobscot waters, 300 feet below top . .	1,753 300	
		2,053	feet above high tide, Quebec.
Aug. 29, 10 A. M.	Ridge between two branches of the Penobscot . . .	1,718	feet above high tide, Quebec.
12	Small brook Penobscot . .	1,556	feet above high tide, Quebec.
Aug. 30, 1 P. M.	Two miles and a quarter south-east of Lake Etchemin .	1,389	feet above high tide, Quebec.
3 P. M.	Three miles and a half south of Lake Etchemin . . .	1,305	feet above high tide, Quebec.
4 P. M.	Four miles S. of Lake Etchemin	1,330	feet above high tide, Quebec.
Aug. 31, 9 A. M.	Small hill in swamp . . .	1,415	feet above high tide, Quebec.
10 A. M.	Swamp heading branch of Penobscot	1,368	feet above high tide, Quebec.
	Branch of La Famine . .	1,271	feet above high tide, Quebec.
11 A. M.	Caribou Plain, three-quarters of a mile from the stream . .	1,293	feet above high tide, Quebec.
12	Caribou Plain	1,307	feet above high tide, Quebec.
2 P. M.	Half a mile south-east of last place	1,331	feet above high tide, Quebec.
4 P. M.	Small brook of Penobscot . .	1,494	feet above high tide, Quebec.
	One mile further on . . .	1,341	feet above high tide, Quebec.
Sept. 1, 8 A. M.	Camp	1,369	feet above high tide, Quebec.
9 A. M.	Half a mile south-east . .	1,403	feet above high tide, Quebec.
10 A. M.	Small stream La Famine . .	1,349	feet above high tide, Quebec.
11 A. M.	Burnt Land	1,270	feet above high tide, Quebec.
12	Stream of La Famine . .	1,287	feet above high tide, Quebec.
2 P. M.	Half a mile further on . .	1,416	feet above high tide, Quebec.
3 P. M.	Reed Lake	1,363 1,351	
		2)2,714	feet above high tide, Quebec.
		1,357	

Abstract of Barometric Heights.— *Continued.*

Date and Time.	Station.	Height.	
1841			
Sept. 2, 10 A. M.	Ridge between Penobscot waters	1,624	feet above high tide, Quebec.
	Three-quarters of a mile south-west from lake . . .	1,360	feet above high tide, Quebec.
11 A. M.	Brook of La Famine . .	1,218	feet above high tide, Quebec.
12	Ridge between Penobscot waters and southern sources of the St. John	2,071	feet above high tide, Quebec.
	Burnt Land	1,297	feet above high tide, Quebec.
4 P. M.	Lake of the St. John, South Lake	1,459	feet above high tide, Quebec.
	Brook of La Famine . .	1,155	feet above high tide, Quebec.
Sept. 3, 9 A. M.	Branch of La Famine . .	1,371	feet above high tide, Quebec.
12	Small brook of the St. John, east of South Lake . .	1,547	feet above high tide, Quebec.
	Same brook of La Famine, two miles higher up . . .	1,228	feet above high tide, Quebec.
2 P. M.	Ridge east of South Lake, dividing St. John and Penobscot waters	1,775	feet above high tide, Quebec.
	One mile south-east of last place	1,443	feet above high tide, Quebec.
3 P. M.	Division of St. John and La Famine waters . . .	1,448	feet above high tide, Quebec.
5 P. M.	Small stream, St. John waters	1,359	feet above high tide, Quebec.
Sept. 4, 4 P. M.	Source of same stream . .	1,419	feet above high tide, Quebec.
Sept. 5, 10 A. M.	Rising ground	1,541	feet above high tide, Quebec.
11 A. M.	Small brook of the St. John .	1,466	feet above high tide, Quebec.
12	Ridge, same as noon of Sept. 2	2,053	feet above high tide, Quebec.
	Rising ground . . .	1,532	feet above high tide, Quebec.
1 P. M.	Same as 10 A. M., Sept. 2 .	1,594	feet above high tide, Quebec.
	Small stream flowing south .	1,487	feet above high tide, Quebec.
2 P. M.	Ridge	1,497	feet above high tide, Quebec.
	Quarter of a mile south of small stream	1,499	feet above high tide, Quebec.
3 P. M.	Half a mile further on . .	1,422	feet above high tide, Quebec.
4 P. M.	Ridge, quarter of a mile west of small branch of Penobscot .	1,430	feet above high tide, Quebec.
	Quarter of a mile further on .	1,459	feet above high tide, Quebec.
5 P. M.	Large brook flowing west . .	1,360	feet above high tide, Quebec.
Sept. 7, 8 A. M.	Small lake	1,333	feet above high tide, Quebec.
9 A. M.	Caribou Plain	1,342	feet above high tide, Quebec.
10 A. M.	Ridge between Penobscot waters	1,912	feet above high tide, Quebec.

Abstract of Barometric Heights.—*Continued.*

Date and Time.	Station.	Height.	
1841			
Sept. 7, 10 A. M.	Ridge between Penobscot and Metjarmette . . .	1,944	feet above high tide, Quebec.
	Rising ground	1,500	feet above high tide, Quebec.
11 A. M.	Three quarters of a mile further on	1,680	feet above high tide, Quebec.
12	Two miles and a quarter from lakes	1,572	feet above high tide, Quebec.
2 P. M.	Small lake, same as Sept. 11, 8 A. M.	1,375	feet above high tide, Quebec.
5 P. M.	Half a mile further on . .	1,520	feet above high tide, Quebec.
Sept. 8, 9 A. M.	Rising ground . . . ,	1,635	feet above high tide, Quebec.
11 A. M.	Rising grouud	1,758	feet above high tide, Quebec.
1 P. M.	Brook of Metjarmette . .	1,816	feet above high tide, Quebec.
3 P. M.	Two miles on	1,884	feet above high tide, Quebec.
4 P. M.	North branch of the Metjarmette	1,857	feet above high tide, Quebec.
Sept. 10, 8 A. M.	North branch of the Metjarmette	1,857	feet above high tide, Quebec.
Sept. 9, 4 P. M.	Small lake, source of the south-western branch of the St. John	1,619	feet above high tide, Quebec.
Sept. 11, 8 A. M.	Small lake, same as Sept. 7, 2 P.M.	1,526	feet above high tide, Quebec.
3 P. M.	Between a lake of the St. John and La Famine, same as Sept. 7, 9 A.M.	1,379	feet above high tide, Quebec.
Sept. 13, 9 A. M.	Same as Sept. 8, 9 A.M. . .	1,370	feet above high tide, Quebec.
4 P. M.	Burnt Land	1,194	feet above high tide, Quebec.
Sept. 14, 8 A. M.	Same	1,180	feet above high tide, Quebec.
10 A. M.	Three-quarters of a mile from last station	1,156	feet above high tide, Quebec.
11 A. M.	Small lake of La Famine . .	1,233	feet above high tide, Quebec.
12	Rising ground	1,327	feet above high tide, Quebec.
3 P. M.	Small lake	1,241	feet above high tide, Quebec.
Sept. 15, 11 A. M.	Same as Aug. 30, 12 . .	1,228	feet above high tide, Quebec.
Sept. 26, 2 P. M.	Lake Archer, fifteen feet above water	1,318	feet above high tide, Quebec.
4 P. M.	One mile and a half north of Lake Archer . . .	1,780	feet above high tide, Quebec.
Sept. 27, 8 A. M.	Small stream, Etchemin . .	1,326	feet above high tide, Quebec.
10 A. M.	Top of hill	1,895	feet above high tide, Quebec.
12	River Etchemin . . .	1,327	feet above high tide, Quebec.
2 P. M.	Top of hill	1,786	feet above high tide, Quebec.
3 P. M.	Small stream	1,806	feet above high tide, Quebec.
4 P. M.	One mile further on . . .	1,890	feet above high tide, Quebec.

Abstract of Barometric Heights.—*Continued.*

Date and Time.	Station.	Height.	
1841 Sept. 27, 5 P. M.	Small stream, St. John . .	1,629	feet above high tide, Quebec.
Sept. 29, 4 P. M.	Top of Hard-wood Ridge . .	2,027	feet above high tide, Quebec.
Sept. 30, 9 A. M.	Top of ridge	2,615	feet above high tide, Quebec.
12	Top of same ridge . . .	2,340	feet above high tide, Quebec.
Oct. 2, 12	Small stream Du Sud . .	1,346	feet above high tide, Quebec.
2 P. M.	Top of ridge	2,043	feet above high tide, Quebec.
4 P. M.	Small stream, St. John . .	1,209	feet above high tide, Quebec.
Oct. 3, 11 A. M.	In a swamp	1,507	feet above high tide, Quebec.
12	Small stream, Du Sud . .	1,519	feet above high tide, Quebec.
3 P. M.	Gentle rise	1,481	feet above high tide, Quebec.
Oct. 4, 10 A. M.	On ridge	1,888	feet above high tide, Quebec.
4 P. M.	Small lake of the St. John .	1,543	feet above high tide, Quebec.
Oct. 5, 9 A. M.	Top of ridge	1,607	feet above high tide, Quebec.
10 A. M.	Small stream	1,354	feet above high tide, Quebec.
3 P. M.	On flat	1,434	feet above high tide, Quebec.
4 P. M.	Small lake of the St. John .	1,353	feet above high tide, Quebec.
Oct. 6, 10 A. M.	Table land	1,448	feet above high tide, Quebec.
11 A. M.	Same table land . . .	1,391	feet above high tide, Quebec.
12	Gentle rise	1,641	feet above high tide, Quebec.
1 P. M.	Stream of St. John . .	1,461	feet above high tide, Quebec.
3 P. M.	Spruce Swamp . . .	1,372	feet above high tide, Quebec.
4 P. M.	Small lake of St. John . .	1,344	feet above high tide, Quebec.
Oct. 7, 9 A. M.	Half a mile north of lake . .	1,458	ft. above high tide, River Ouelle.
10 A. M.	Spruce Swamp . . .	1,504	ft. above high tide, River Ouelle.
12	Same swamp	1,334	ft. above high tide, River Ouelle.
3 P. M.	Small stream of the St. John	1,348	ft. above high tide, River Ouelle.
4 P. M.	Swamp	1,470	ft. above high tide, River Ouelle.
Oct. 8, 8 A. M.	Gentle rise	1,568	ft. above high tide, River Ouelle.
12	Stream flowing into Black River	1,174	ft. above high tide, River Ouelle.
2 P. M.	Spruce Swamp . . .	1,223	ft. above high tide, River Ouelle.
4 P. M.	Spruce Swamp . . .	1,266	ft. above high tide, River Ouelle.
Oct. 9, 9 A. M.	Swamp	1,203	ft. above high tide, River Ouelle.
10 A. M.	Branch of Black River . .	1,119	ft. above high tide, River Ouelle.
3 P. M.	Swamp	1,068	ft. above high tide, River Ouelle.
Oct. 10, 8 A. M.	Source of River Ouelle . .	980	ft. above high tide, River Ouelle.

A MAP

of a portion of the Country

IN DISPUTE

WITH THE **UNITED STATES** INCLUDING

THE PLAIN

that separates the Highlands claimed by that Government,

from the Highlands of the Treaty of 1783

in which latter

HIGHLANDS, THE NORTHWESTERNMOST HEAD OF CONNECTICUT RIVER TAKES ITS RISE.

Constructed by

W.E. Delves Broughton

Capt. Royal Engineers

and

James D. Featherstonhaugh

Foreign Office

July 1842.

Scale of Miles.

0 1 2 3 4 5 10 20 30

REDUCED MAP

embracing the Territory

in dispute between the Governments of

GREAT BRITAIN

and the

UNITED STATES

Section continued from Lake Etchemin to the River Ouelle, along the division of Waters claimed by the United States as the line of Boundary

Section continued from the Megarmette to Lake Etchemin exhibiting the nature and elevation of the level Plain that separates the Highlands claimed by the United States from the Highlands of the Treaty of 1783 in which the Northwesternmost Head of Connecticut River takes its rise

Barometrical Section from the Head of Connecticut River to the source of the Megarmette exhibiting the visible elevation of the Highlands along that line as well as their elevation above High Tide at Quebec

Engraved by James Wyld, Geographer to the Queen, Charing Cross East

0162000916823

British Parliamentary Papers

Colonies Canadian Boundary

2

Sessions 1842-51

Tip in after page 120 and before Treaty between Her Majesty

Abstract of....

Date and Time.

1841

Sept. 27, 5 pm

Small Stream St. John

TREATY

BETWEEN

HER MAJESTY

AND

THE UNITED STATES OF AMERICA,

Signed at Washington, August 9, 1842.

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

LONDON:

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

TREATY

BETWEEN

HER MAJESTY

AND

THE UNITED STATES OF AMERICA,

Signed at Washington, August 9, 1842.

[*Ratifications exchanged at London, October* 13, 1842.]

A TREATY to settle and define the Boundaries between the Possessions of Her Britannick Majesty in North America, and the Territories of the United States:—for the final suppression of the African Slave Trade:—and for the giving up of Criminals, fugitive from Justice, in certain cases.

WHEREAS certain portions of the Line of Boundary between the British Dominions in North America and the United States of America, described in the Second Article of the Treaty of Peace of 1783, have not yet been ascertained and determined, notwithstanding the repeated attempts which have been heretofore made for that purpose; and whereas it is now thought to be for the interest of both Parties that, avoiding further discussion of their respective rights, arising in this respect under the said Treaty, they should agree on a Conventional Line in said portions of the said Boundary, such as may be convenient to both Parties, with such equivalents and compensations as are deemed just and reasonable:—And whereas, by the Treaty concluded at Ghent on the 24th day of December, 1814, between His Britannick Majesty and the United States, an Article was agreed to and inserted, of the following tenor, viz.: "Art. X. Whereas the "Traffick in Slaves is irreconcileable with the principles of humanity "and justice; and whereas both His Majesty and the United States "are desirous of continuing their efforts to promote its entire abolition; it "is hereby agreed, that both the Contracting Parties shall use their best "endeavours to accomplish so desirable an object:"—and whereas, notwithstanding the laws which have at various times been passed by the two Governments, and the efforts made to suppress it, that criminal traffick is still prosecuted and carried on; and whereas Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the United States of America, are determined that, so far as may be in their power, it shall be effectually abolished:—And whereas it is found expedient for the better administration of justice, and the prevention of crime within the territories and jurisdiction of the two Parties, respectively, that persons committing the crimes hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up:—Her Britannick Majesty, and the United States of America, having resolved to treat on these several subjects, have for that purpose appointed their respective Plenipotentiaries to negotiate and conclude a Treaty, that is to say: Her Majesty the Queen of the United Kingdom of Great Britain and Ireland has, on Her part, appointed the Right Honourable Alexander Lord Ashburton, a Peer of the said United Kingdom, a Member of Her Majesty's Most Honourable Privy Council, and Her Majesty's Minister Plenipotentiary on a Special Mission to the United States; and the President of the United States has, on his part, furnished

with Full Powers Daniel Webster, Secretary of State of the United States; who, after a reciprocal communication of their respective Full Powers, have agreed to and signed the following Articles:—

ARTICLE I.

It is hereby agreed and declared, that the Line of Boundary shall be as follows:—Beginning at the monument at the source of the River St. Croix, as designated and agreed to by the Commissioners under the Fifth Article of the Treaty of 1794, between the Governments of Great Britain and the United States; thence north, following the exploring line run and marked by the Surveyors of the two Governments in the years 1817 and 1818, under the Fifth Article of the Treaty of Ghent, to its intersection with the River St. John, and to the middle of the channel thereof; thence up the middle of the main channel of the said River St. John to the mouth of the River St. Francis; thence up the middle of the channel of the said River St. Francis, and of the lakes through which it flows, to the outlet of the Lake Pohenagamook; thence south-westerly, in a straight line, to a point on the north-west branch of the River St. John, which point shall be ten miles distant from the main branch of the St. John, in a straight line and in the nearest direction; but if the said point shall be found to be less than seven miles from the nearest point of the summit or crest of the highlands that divide those rivers which empty themselves into the River St. Lawrence from those which fall into the River St. John, then the said point shall be made to recede down the said north-west branch of the River St. John, to a point seven miles in a straight line from the said summit or crest; thence in a straight line, in a course about south, eight degrees west, to the point where the parallel of latitude of 46° 25′ north, intersects the south-west branch of the St. John's; thence southerly by the said branch, to the source thereof in the highlands at the Metjarmette Portage; thence down along the said highlands which divide the waters which empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, to the head of Hall's Stream; thence down the middle of said stream, till the line thus run intersects the old Line of Boundary surveyed and marked by Valentine and Collins previously to the year 1774 as the 45th degree of north latitude, and which has been known and understood to be the line of actual division between the States of New York and Vermont on one side, and the British Province of Canada on the other; and from said point of intersection west along the said dividing line, as heretofore known and understood, to the Iroquois, or St. Lawrence River.

ARTICLE II.

It is moreover agreed, that from the place where the joint Commissioners terminated their labours under the Sixth Article of the Treaty of Ghent, to wit, at a point in the Neebish Channel, near Muddy Lake, the Line shall run into and along the ship channel between St. Joseph's and St. Tammany Islands, to the division of the channel at or near the head of St. Joseph's Island; thence turning eastwardly and northwardly around the lower end of St. George's or Sugar Island, and following the middle of the channel which divides St. George's from St. Joseph's Island; thence up the east Neebish Channel nearest to St. George's Island, through the middle of Lake George; thence west of Jonas' Island into St. Mary's River, to a point in the middle of that river about one mile above St. George's or Sugar Island, so as to appropriate and assign the said island to the United States; thence adopting the line traced on the maps by the Commissioners, through the River St. Mary and Lake Superior, to a point north of Ile Royale in said lake, one hundred yards to the north and east of Ile Chapeau, which last-mentioned island lies near the north-eastern point of Ile Royale, where the line marked by the Commissioners terminates; and from the last-mentioned point south-westerly through

the middle of the sound between Ile Royale and the north-western mainland, to the mouth of Pigeon River, and up the said river to and through the north and south Fowl Lakes, to the lakes of the height of land between Lake Superior and the Lake of the Woods; thence along the water-communication to Lake Saisaginaga and through that lake; thence to and through Cypress Lake, Lac du Bois Blanc, Lac la Croix, Little Vermillion Lake, and Lake Namecan, and through the several smaller lakes, straits, or streams connecting the lakes here mentioned, to that point in Lac la Pluie, or Rainy Lake, at the Chaudière Falls, from which the Commissioners traced the line to the most north-western point of the Lake of the Woods; thence along the said line to the said most north-western point, being in latitude 49° 23′ 55″ north, and in longitude 95° 14′ 38″ west, from the observatory at Greenwich; thence, according to existing Treaties, due south to its intersection with the 49th parallel of north latitude, and along that parallel to the Rocky Mountains. It being understood that all the water-communications, and all the usual portages along the line from Lake Superior to the Lake of the Woods, and also Grand Portage from the shore of Lake Superior to the Pigeon River, as now actually used, shall be free and open to the use of the subjects and citizens of both countries.

ARTICLE III.

In order to promote the interests and encourage the industry of all the inhabitants of the countries watered by the River St. John and its tributaries, whether living within the Province of New Brunswick, or the State of Maine, it is agreed, that where by the provisions of the present Treaty, the River St. John is declared to be the Line of Boundary, the navigation of the said river shall be free and open to both Parties, and shall in no way be obstructed by either; that all the produce of the forest, in logs, lumber, timber, boards, staves, or shingles, or of agriculture, not being manufactured, grown on any of those parts of the State of Maine watered by the River St. John or by its tributaries, of which fact reasonable evidence shall, if required, be produced, shall have free access into and through the said river and its said tributaries, having their source within the State of Maine, to and from the sea-port at the mouth of the said River St. John's, and to and round the falls of the said river, either by boats, rafts, or other conveyance; that when within the Province of New Brunswick, the said produce shall be dealt with as if it were the produce of the said Province; that in like manner the inhabitants of the territory of the upper St. John, determined by this Treaty to belong to Her Britannick Majesty, shall have free access to and through the river for their produce, in those parts where the said river runs wholly through the State of Maine:—provided always that this agreement shall give no right to either Party to interfere with any regulations not inconsistent with the terms of this Treaty, which the Governments, respectively, of New Brunswick or of Maine may make respecting the navigation of the said river, where both banks thereof shall belong to the same Party.

ARTICLE IV.

All grants of land heretofore made by either Party within the limits of the territory which by this Treaty falls within the dominions of the other Party, shall be held valid, ratified, and confirmed to the persons in possession under such grants, to the same extent as if such territory had by this Treaty fallen within the dominions of the Party by whom such grants were made; and all equitable possessory claims, arising from a possession and improvement of any lot or parcel of land by the person actually in possession, or by those under whom such person claims, for more than six years before the date of this Treaty, shall in like manner be deemed valid, and be confirmed and quieted by a release to the person entitled thereto, of the title to such lot or parcel of land, so described as best to include the improvements made thereon; and in all other respects

Frio, in lat. 18° south, longitude 12° east, a space (following the windings of the coast at the distance of three or four miles) of more than 3,600 miles.

There are scattered along the coast five English, four French, five American, six Portuguese, six or eight Dutch, and four or five Danish settlements; besides many which have been abandoned by their respective Governments.

These settlements are generally isolated; many of them only a fortress without any town, while a few are clusters of villages and farms.

The British, French, and particularly the American settlements exercise an important influence in suppressing the Slave Trade.

The influence of the Danes and Dutch is not material.

The Portuguese influence is supposed to favour the continuance of the trade, except the counter influence of the British, through treaty stipulations.

North of the Portuguese cluster of settlements, of which Bissao is the capital, and south of Benguela (also Portuguese), there is believed to be no probability of a revival of the Slave Trade to any extent.

This leaves about 3,000 miles of coast to which the trade (principally with Cuba, Portorico, and Brazil) is limited.

There are hundreds of trading places on the coast, calling themselves "factories," and each claiming the protection of some civilized Power. Some of these were the sites of abandoned colonies, others have been established by trading companies or individuals.

The actual jurisdiction of a tribe on the coast seldom exceeds ten miles, though these small tribes are sometimes more or less perfectly associated for a greater distance.

Of these factories and tribes, a few have never been directly engaged in the Slave Trade, and are opposed to it; but the great preponderance is of the slave-trading interest.

To enumerate the rivers and inlets of the coast, would not convey a just idea of the slave country or practices; as the embarcation often takes place from the beach where there is no inlet, but we will state a few of the most noted.

Commencing at Cape Roxo, in lat. 12°. 30′. north, and running down the coast as far as the River Mellacoree, in lat. 9°. north, the Slave Trade is more or less carried on, but (in consequence of the vigilance of cruizers) not to the same extent it was a few years ago.

Another portion of the coast, from the limits of the Sierra Leone Colony to Cape Mount (a space including the mouths of six or more rivers) the Slave Trade is extensively prosecuted; here commences the jurisdiction of the American Colonization Society, which extends to Grand Bassa; there are several slave stations between Grand Bassa and Cape Palmas; for thence eastwardly to Cape Coast Castle, situated near the meridian of Greenwich, we believe there are no slave stations; but eastward of this, and in the bights of Benin and Biafra, along the whole coast (which includes the mouths of the great rivers Benin or Formosa Nun, Old and New Calabar, Bonny, Camerons, Gaboon and Congo) with few exceptions, down to Benguela, in lat. 13°. south, the Slave Trade is carried on to a very great extent.

2nd. "The space or belt along the shore, within which cruizers may be usefully employed, for the purpose of detecting vessels engaged in the traffic?"

Men-of-war should always cruize as near the shore as the safety of the vessel will admit, in order to take advantage of the land and sea breezes. Twenty or thirty miles from the coast there are continual calms, where vessels are subject to vexatious delays; besides which, ships engaged in the Slave Trade keep close in with the land, in order to reach their places of destination.

3rd. "The general course of proceeding of a slave-ship, after leaving Brazil or the West Indies, on a voyage to the coast of Africa, for Slaves, including her manner of approach to the shore; her previous bargain or

arrangement for the purchase of Slaves; the time of her usual stay on or near the coast, and the means by which she has communication with persons on land?"

Vessels bound from the coast of Brazil or the West Indies, to the coast of Africa, are obliged, in consequence of the trade winds, to run north as far as the latitude of 30 or 35, to get into the variable winds; thence to the eastward, until they reach the longitude of Cape Verd Islands; then steer to the southward to their port of destination; and, if bound as far to the eastward as the Gulf of Guinea, usually make the land near Cape Mount or Cape Palmas. Vessels from Brazil, bound to the southern part of the coast of Africa, run south as far as the latitude of 35°. south, and make up their easting in the southern variables.

Slave vessels are generally owned or chartered by those persons who have an interest in the slave establishments on the coast of Africa, where the Slaves are collected and confined in baracoons, or slave prisons, ready for transhipment the moment the vessel arrives; they are, therefore, detained but a short time after arriving at their place of destination. Instances have come to our notice, of vessels arriving at a slave station in the evening, landing their cargo, taking on board all the Slaves, and sailing with the land-breeze the following morning.

It is not unusual, however, for vessels unconnected with any particular slave establishment, to make their purchases after arrival; if any delay is likely to occur, an agent is landed, and the vessel stands to sea and remains absent, for as long a time as may be thought necessary to complete their arrangements. The slavers communicate with the shore, either with their own boats, or boats and canoes belonging to the stations, assisted by the Kroomen in the employ of those on shore.

4th. "The nature of the stations, or *baracoons*, in which Slaves are collected on shore to be sold to the traders; whether usually on rivers, creeks or inlets, or on or near the open shore?"

The slave-stations are variously situated: some near the mouth, others a considerable distance up the rivers, and many directly on the sea shore. The baracoons are thatched buildings, made sufficiently strong to secure the Slaves; and enough of them to contain, in some instances, several thousand.

The Slaves are collected by the negro chiefs in the vicinity, and sold to the persons in charge of the stations, where they are kept confined until an opportunity offers to ship them off.

Materials of all kinds necessary to convert a common trader into a slave-ship are kept on hand, and the change can be completed in a few hours. A number of Kroomen are employed, and boats and canoes ready for immediate service.

The slave stations are generally fortified with canon and muskets, not only to guard against a rising of the slaves, but to protect them from sudden attacks of the natives in the vicinity, and to command their respect.

5th. "The usual articles of equipment and preparation, and the manner of fitting up, by which a vessel is known to be a slaver, though not caught with Slaves on board?"

Vessels engaged in the Slave Trade are either fitted up with a slave-deck, or have the materials on board prepared to put one up in a few hours. Their hatches, instead of being close, as is usual in merchantmen, have gratings; they are supplied with boilers sufficiently large to cook rice or farhina for the number of Slaves they expect to receive; an extra number of water-casks, many more than are sufficient for a common crew; also a number of shackles to secure their Slaves.

Most of these articles, however, are concealed; and everything is

ARTICLE XII.

The present Treaty shall be duly ratified, and the mutual exchange of Ratifications shall take place in London within six months from the date hereof, or earlier if possible.

In faith whereof we, the respective Plenipotentiaries, have signed this Treaty, and have hereunto affixed our seals.

Done in duplicate at Washington, the ninth day of August, Anno Domini One thousand eight hundred and forty-two.

ASHBURTON. (L.S.)

DAN^{L}. WEBSTER. (L.S.)

CORRESPONDENCE

BETWEEN

GREAT BRITAIN AND THE UNITED STATES

RELATIVE TO

THE TREATY LATELY CONCLUDED AT WASHINGTON;

INCLUDING

INSTRUCTIONS FROM THE EARL OF ABERDEEN TO LORD ASHBURTON.

1842--43.

Presented to the House of Commons, by Her Majesty's Command, April, 1843.

LONDON:
PRINTED BY T. R. HARRISON.

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CORRESPONDENCE

BETWEEN

GREAT BRITAIN AND THE UNITED STATES,

RELATIVE TO

THE TREATY LATELY CONCLUDED AT WASHINGTON; INCLUDING INSTRUCTIONS FROM THE EARL OF ABERDEEN TO LORD ASHBURTON.

1842—1843.

No. 1.

The Earl of Aberdeen to Lord Ashburton.

(Extract.) *Foreign Office, February* 8, 1842.

THE last subject to which I propose to advert is that which, under the designation of the "right of search," has already created so much excitement in the United States.

I am persuaded that this excitement has in great measure been the consequence of misapprehension, and that when the real state of the question at issue shall have been fully explained and understood, it must necessarily subside.

Undoubtedly it would be much more agreeable to Her Majesty's Government, and, I must be permitted to think, more honourable to the United States, if the Cabinet of Washington were now to enter into the league which has been formed by the Great Powers of Europe, and by the mutual concession of a duly regulated right of search, to hold out to humanity the cheering prospect of the final extinction of the odious traffic in slaves. Your Lordship will constantly keep this object in view, and will not omit any seasonable opportunity to renew propositions tending to this result. With the example now happily afforded by all Europe I am unwilling to doubt the ultimate success of our endeavours to include the American Continent in these engagements.

But whatever objections may exist in the United States to the right of search, properly so called, these are not applicable to the present case under discussion between the two Governments. Upon this subject I have really nothing to add to the explanations contained in my notes recently addressed to the Representatives of the United States in this country, with copies of which you have already been furnished. You will there have seen that no such right is asserted by Great Britain. Our object is exclusively limited, where reasonable ground of suspicion shall exist, to ascertain the genuineness of the flag which any vessel may display. Her Majesty's Government have given ample proof of their desire to make these inquiries, when necessary, with every possible precaution, and with the least inconvenience to those concerned. They are ready to adopt additional provisions, if such can be pointed out, which may be still further calculated to prevent the possibility of abuse; but the right itself, being manifestly founded on justice and common sense, they are determined to maintain.

No. 2.

Lord Ashburton to the Earl of Aberdeen.—(*Received May* 11.)

(Extract.) *Washington, April* 25, 1842.

I BEGIN with our relations with this country with regard to the Slave Trade, and the so-called Right of Search or Visit; and I do so because I have a communication to make on this subject which I am sure will give your Lordship great satisfaction.

Your Lordship's last letter to Mr. Everett, which has been published here only since the arrival of the "Great Western," has with all reasonable persons settled this controversy. But still there remains the clamour about the right of search, liberty of the seas, &c., which has been sounded through the country: and many who are better informed, entertain the idea that the French Chambers have made their opposition in support of America, and that therefore it does not become this country to abandon the cause. Any efficient right of search would, however, with difficulty be conceded; and I need not add that the practice of visitation, limited as it now is, would give little practical remedy against the tricks of the slave traders. Considering this state of things, I put it to several persons of influence, what remedy they could suggest, and whether America could remain in the position of refusing all remedy against crimes which they had been the most vehement to denounce, and of the existence of which they could not doubt. This view of the case has brought Mr. Webster to the consideration of a scheme for joint cruizing on the coast of Africa, on the plan suggested by the Commissioners at Sierra Leone in their Report to Lord Palmerston, of the 31st of January, 1839, and by his Lordship's order communicated by Mr. Fox to Mr. Forsyth in his note of the 29th of October of the same year.

It is proposed that each country shall engage to maintain at least cruizers on the coast of Africa, one of each nation to cruize constantly together, or, to use the expression of the Commissioners, to hunt in couples.

This plan would be executing on a larger scale the arrangement made between Captain Tucker and the American Lieutenant Payne, which was afterwards disavowed; and I have the satisfaction of adding, that this same Lieutenant Payne has been ordered here with a view to a consultation with the Navy Department as to the best scheme for executing this arrangement.

If this arrangement can be brought to execution by treaty I shall consider it to be the very best fruit of this mission. The vexed question of the Right of Visit will settle itself under this arrangement; and if any formal assurance becomes necessary from me in consequence of my special mission, I shall strictly take for my guide your Lordship's last despatch to Mr. Everett, which leaves nothing to be desired or altered.

No. 3.

The Earl of Aberdeen to Lord Ashburton.

(Extract.) *Foreign Office, May* 26, 1842

WITH reference to that portion of your Lordship's despatch of the 25th of April, which relates to the Right of Search, and to a scheme of joint cruizing on the coast of Africa for the suppression of the Slave Trade carried on in American vessels, I have to inform you, that if you should not find it possible to induce the Government of the United States to become a party to any Convention conferring a mutual Right of Search, Her Majesty's Government would willingly accede to an arrangement of the nature described in your Lordship's despatch.

Your Lordship has already been furnished with a return, showing the amount of the British naval force on the African coast. In the event

of such an arrangement taking place, it is not to be expected that the American cruizers will be made equal to the whole number of the British; but it will be very desirable that they should be as nearly so as possible; and you will use your utmost endeavours to induce the Government of Washington to employ such a force in this service as may effectually and at once put down the trade in slaves, wherever carried on by citizens or vessels of the United States, or by natives of other countries fraudulently sheltering themselves under the Flag of the Union.

Whatever may be the amount of force employed, it will be essentially necessary that the officers in command of the cruizers of the United States should act under instructions of the same nature as those which, in the British service, are founded upon the equipment articles contained in all Treaties lately concluded between Great Britain and Foreign Powers for the suppression of Slave Trade; so that an American cruizer shall have authority to detain and carry to trial, vessels of its own nation, as well for slave equipment, as for the actual presence of slaves on board.

Further than this, Her Majesty's Government do not consider it necessary to lay down any rule for your Lordship's guidance in the details of the Treaty. It will be a source of sincere satisfaction to them if, in default of a more extended Convention, you should be able to bring the proposed arrangement to a successful conclusion.

No. 4.

Lord Ashburton to the Earl of Aberdeen.—(Received May 30.)

(Extract.) *Washington, May* 12, 1842.

ON the important subject of effectually suppressing the Slave Trade by cooperation, I hope I am making very valuable progress. Your Lordship will find herewith the report of the two American naval officers in reply to certain queries put to them by the Secretary of State on the subject of the African Slave Trade, and the best means of suppressing it. This is a most valuable document. It is written by men of honour, impartiality, and experience, and will show, I believe, that they agree with the general view of the best informed persons of our own country on this subject. With this business I trust your Lordship's instructions in reply to my last despatches will enable me to proceed. Nothing has been done towards framing the Article for cooperation, but it is intended to engage for the employment of a given joint force, leaving to the commanders of it the settlement of their plans of acting. Mr. Webster seemed to think the amount of force to be employed rather large, but has no objection to the United States supporting their half of it. I apprehend that, with respect to the amount of this force, I may safely leave them to please themselves.

Inclosure in No. 4.

Report of Naval Officers to the Government of the United States respecting Slave Trade.

Sir, *Washington City, May* 10, 1842.

IN accordance with the wishes expressed in your communication of the 30th ultimo, we have the honour to submit the following statement:

In reply to the first particular, viz.:—

"The extent of the western coast of Africa, along which the Slave Trade is supposed to be carried on, with the rivers, creeks, inlets, bays, harbours, or ports of the coast to which it is understood slave-ships most frequently resort."

The Slave Trade, from Western Africa to America, is carried on wholly between Senegal, lat. 16° north, longitude 16½° west; and Cape

the two Contracting Parties agree to deal upon the most liberal principles of equity with the settlers actually dwelling upon the territory falling to them respectively, which has heretofore been in dispute between them.

ARTICLE V.

Whereas, in the course of the controversy respecting the disputed territory on the north-eastern Boundary, some monies have been received by the authorities of Her Britannick Majesty's Province of New Brunswick, with the intention of preventing depredations on the forests of the said territory, which monies were to be carried to a fund called the "Disputed Territory Fund," the proceeds whereof it was agreed should be hereafter paid over to the parties interested, in the proportions to be determined by a final settlement of Boundaries; it is hereby agreed that a correct account of all receipts and payments on the said fund shall be delivered to the Government of the United States within six months after the ratification of this Treaty; and the proportion of the amount due thereon to the States of Maine and Massachusetts, and any bonds or securities appertaining thereto, shall be paid and delivered over to the Government of the United States; and the Government of the United States agrees to receive for the use of, and pay over to the States of Maine and Massachusetts their respective portions of said fund; and further, to pay and satisfy said States, respectively, for all claims for expenses incurred by them in protecting the said heretofore disputed territory, and making a survey thereof in 1838: the Government of the United States agreeing with the States of Maine and Massachusetts to pay them the further sum of three hundred thousand dollars, in equal moieties, on account of their assent to the Line of Boundary described in this Treaty, and in consideration of the conditions and equivalents received therefor from the Government of Her Britannick Majesty.

ARTICLE VI.

It is furthermore understood and agreed, that for the purpose of running and tracing those parts of the line between the source of the St. Croix and the St. Lawrence River, which will require to be run and ascertained, and for marking the residue of said line by proper monuments on the land, two Commissioners shall be appointed, one by Her Britannick Majesty, and one by the President of the United States, by and with the advice and consent of the Senate thereof; and the said Commissioners shall meet at Bangor, in the State of Maine, on the 1st day of May next, or as soon thereafter as may be, and shall proceed to mark the line above described from the source of the St. Croix to the River St. John, and shall trace on proper maps the dividing line along said river, and along the River St. Francis to the outlet of the Lake Pohenagamook; and from the outlet of the said lake they shall ascertain, fix, and mark by proper and durable monuments on the land, the line described in the First Article of this Treaty; and the said Commissioners shall make to each of their respective Governments a joint report or declaration, under their hands and seals, designating such Line of Boundary, and shall accompany such report or declaration with maps, certified by them to be true maps of the new Boundary.

ARTICLE VII.

It is further agreed, that the channels in the River St. Lawrence on both sides of the Long Sault Islands and of Barnhart Island, the channels in the River Detroit, on both sides of the Island Bois Blanc, and between that island and both the Canadian and American shores, and all the several channels and passages between the various islands lying near the junction of the River St. Clair with the lake of that name, shall be qually free and open to the ships, vessels, and boats of both Parties.

ARTICLE VIII.

The Parties mutually stipulate, that each shall prepare, equip, and maintain in service on the coast of Africa, a sufficient and adequate squadron, or naval force of vessels, of suitable numbers and descriptions, to carry in all not less than eighty guns, to enforce, separately and respectively, the laws, rights, and obligations of each of the two countries for the suppression of the Slave Trade; the said squadrons to be independent of each other, but the two Governments stipulating nevertheless to give such orders to the officers commanding their respective forces, as shall enable them most effectually to act in concert and co-operation, upon mutual consultation, as exigencies may arise, for the attainment of the true object of this Article; copies of all such orders to be communicated by each Government to the other respectively.

ARTICLE IX.

Whereas, notwithstanding all efforts which may be made on the coast of Africa for suppressing the Slave Trade, the facilities for carrying on that traffick, and avoiding the vigilance of cruizers, by the fraudulent use of flags and other means, are so great, and the temptations for pursuing it, while a market can be found for slaves, so strong, as that the desired result may be long delayed, unless all markets be shut against the purchase of African negroes;—the Parties to this Treaty agree, that they will unite in all becoming representations and remonstrances with any and all Powers within whose dominions such markets are allowed to exist; and that they will urge upon all such Powers the propriety and duty of closing such markets effectually, at once and for ever.

ARTICLE X.

It is agreed that Her Britannick Majesty and the United States shall, upon mutual requisitions by them or their ministers, officers, or authorities, respectively made, deliver up to justice all persons who, being charged with the crime of murder, or assault with intent to commit murder, or piracy, or arson, or robbery, or forgery, or the utterance of forged paper, committed within the jurisdiction of either, shall seek an asylum, or shall be found within the territories of the other:—provided that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the crime or offence had there been committed; and the respective Judges and other Magistrates of the two Governments shall have power, jurisdiction, and authority, upon complaint made under oath, to issue a warrant for the apprehension of the fugitive or person so charged, that he may be brought before such Judges or other Magistrates, respectively, to the end that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining Judge or Magistrate to certify the same to the proper executive authority, that a warrant may issue for the surrender of such fugitive. The expense of such apprehension and delivery shall be borne and defrayed by the Party who makes the requisition and receives the fugitive.

ARTICLE XI.

The Eighth Article of this Treaty shall be in force for five years from the date of the exchange of the Ratifications, and afterwards, until one or the other Party shall signify a wish to terminate it. The Tenth Article shall continue in force until one or the other of the Parties shall signify its wish to terminate it, and no longer.

done to disguise the vessel. It is not unusual for them to have several sets of papers, two or more persons representing themselves as captains or masters of the vessel, and flags of all nations. Every devise is resorted to, to deceive, should they encounter a cruizer.

Some are armed with only a few muskets, others have a number of heavy guns, according to the size of the vessel; and they range from sixty to four hundred tons burden, with crews from ten to upwards of one hundred men.

6th. "The utility of employing vessels of different nations to cruize together, so that one or the other might have a right to visit and search every vessel, which might be met with under suspicious circumstances, either as belonging to the country of the vessel visiting or searching, or to some other country which has, by treaty, conceded such right of visitation and search?"

We are of opinion, that a squadron should be kept on the coast of Africa, to co-operate with the British, or other nations interested in stopping the Slave Trade; and that the most efficient mode would be, for vessels to cruize in couples, one of each nation.

7th. "To what places Slaves, taken from slave-ships on the coast, could be most conveniently taken?"

If captured under the American flag, send them to Cape Mesurado, Liberia; or, if convenient, to such other of the American settlements as the agent for the United States there may wish.

8th. "Finally, what number of vessels, and of what size and description, it would be necessary to employ on the western coast of Africa, in order to put an entire end to the traffic in Slaves; and for what number of years it would probably be necessary to maintain such force to accomplish that purpose; adding such observations as the state of your knowledge may allow, relative to the Slave Trade on the eastern coast of Africa?"

As our personal knowledge of the coast extends to only that part of it comprised between Cape Verd and Cape Palmas, it is difficult to state the exact force required for this service; not less, however, than the following, we think necessary:—

One first-class sloop-of-war.
One steamer, from 200 to 300 tons burden.
Two (eight or ten gun) brigs or schooners.
Ten schooners of about 100 tons, each with four guns.
One store-ship of from 250 to 350 tons.

All the vessels to have one-tenth less than their complements of men, to be filled up with Kroomen on their arrival on the coast.

A steamer (to be fitted up, if possible, to burn either wood or coal, as circumstances require) will be essentially necessary.

That part of the coast of Africa from which Slaves are exported, is subject to light winds and calms; a steamer propelled at the rate of six miles an hour, could easily overtake the fastest sailing vessels; and would be a great auxiliary in ascending rivers and towing boats, in order to attack slave stations. Less duty is performed by sailing cruizers on this coast than on any other we are acquainted with, from the reasons just stated; and the importance of steam-vessels is much increased by this difficulty.

We cannot state confidently how long such force would be necessary, but we are of opinion that in three years the trade would be so far destroyed, as to enable the United States to withdraw a greater part, while a small force of observation would be necessary, until the natives had become accustomed to other occupations, and lost all hope of again engaging in the traffic.

In connection with this subject, we beg leave to remark, that the American fair trader is sometimes obstructed in the most vexatious manner by armed British merchantmen, sustained by British cruizers.

This arises from the practice which exists with the commanders of single cruizers, the agents of trading companies, the masters of merchantmen, and others, making agreements, treaties, or, as the expression there is, "books," securing to themselves the exclusive trade with the tribe or district. A late instance of this unreasonable, and probably unauthorised, spirit of monopoly, has come to our notice near Cape Mount, where the native chief was induced to believe that he could not make a treaty with the American colonists, because he had made one with the commander of a British cruizer.

The same commander, it is asserted, has also threatened the Governor of the Colony at Monrovia, that he will make reprisals on the commerce of the colony, for exercising the usual jurisdiction at Bassa Cove, only two or three miles from their towns of Bassa and Edina.

Our knowledge of the commanders of British cruizers authorizes us to say, that their conduct is not usually thus unfriendly; but many instances show the propriety of guarding the interests of the fair dealer, who is generally opposed to the Slave Trade.

Respecting these treaties or agreements with the tribes, we think that only the commanders of squadrons, or governors of colonies, should be permitted to make them. And with those over whom their Government cannot reasonably claim jurisdiction, treaties should not be made to the exclusion of other mercantile Powers trading on the coast, as has sometimes been done; and all treaties should contain a prohibition of the Slave Trade.

Commanders of squadrons and governors of colonies should be authorized and directed to seize every opportunity, and make use of all honourable means of inducing the native tribes, and particularly the Emperor of Ashantee, the Empress or Potentate at Loango, and other powerful nations, to enter into agreements to put a stop, as far as their influence extends, to the traffic; to seize and send home for trial all foreigners found on the coast engaged in the Slave Trade, whether belonging to vessels or residing on the coast (for should these persons be permitted to remain, even after their stations are destroyed, they will erect others at points probably less assailable), and they should be enjoined to extend their protection to fair traders, though not of their own nation.

Commanders of squadrons and governors should be authorized and directed to destroy all slave factories within the reach of the force employed; and to proclaim to the tribes in the vicinity, that they must not be renewed, on pain of having their villages also destroyed.

We have little knowledge of the details respecting the Slave Trade on the eastern coast of Africa; no instance has come to our knowledge of the use of the American flag there. From the best information we can obtain, it seems that a large trade is carried on by Portuguese colonies, the Arab chiefs, and negro tribes. Their greatest markets are the Mahometan countries bordering on the Red Sea and Persian Gulf, the Portuguese East India Colonies, Bombay, and perhaps other British possessions in the East Indies; this part of the trade is probably in the hands of the Arabian vessels.

Many are also shipped to Brazil, and some, perhaps, find their way to Cuba and Porto Rico.

In concluding this subject, we beg leave to remark that the field of operations to carry on the Slave Trade is so extensive, the profits so great, and the obstacles in the path so many, so various, so difficult, that every means should be used by civilized nations, and particularly by the United States and Great Britain, to effect the object; and we do not believe that any material good can result without an earnest and cordial co-operation.

We have, &c.,

(Signed) CHAS. H. BELL,
JAS. PAINE,
Commanders U. S. Navy.

No. 5.

The Earl of Aberdeen to Mr. Fox.

(Extract.) *Foreign Office, January* 18, 1843.

THE statement in the President's late Message to Congress relative to what is called the Right of Search, is of serious import: because to persons unacquainted with the facts, it would tend to convey the supposition, not only that the question of the right of search had been discussed by the Plenipotentiaries at Washington, but that Great Britain had made concessions on that point.

The President must well know that the right of search never formed the subject of discussion during the late negotiations, and that neither was any concession required by the United States Government, nor made by Great Britain.

The engagement entered into by the Parties, as inserted in the Treaty of Washington, for the suppression of the Slave Trade, was unconditionally proposed and agreed to.

Her Majesty's Government saw in it an attempt on the part of the Government of the United States, to give a practical effect to their repeated declarations against the African Slave Trade; and they recognised with satisfaction an advance towards the humane and enlightened policy of all Christian States, from which they could not but anticipate much good.

Great Britain will scrupulously fulfil the conditions of this engagement; but from the principles which she has constantly asserted, and which are recorded in the correspondence between the Ministers of the United States in this country and myself, which took place in 1841, she has never receded, and will not recede. I have no intention to renew at present the discussion upon this subject. It is the less necessary to do so, because my last note has remained for more than a year without having received any answer; and because the Secretary of State has declared, more than once, to the British Plenipotentiary at Washington, that the explanations contained in it were entirely satisfactory.

The President may be assured that Great Britain will always respect the just claims of the United States. We make no pretension to interfere in any manner whatever, either by detention, visit or search, with vessels of the United States, known or believed to be such. But we still maintain, and will exercise when necessary, our right to ascertain the genuineness of any flag which a suspected vessel may bear. If in the exercise of this right, either from involuntary error, or in spite of every precaution, loss or injury should be sustained, a prompt reparation will be afforded; but that we should entertain for a single instant the notion of abandoning the right itself, would be quite impossible.

These observations have been rendered necessary by the late Message to Congress. The President is undoubtedly at liberty to address that Assembly in any terms which he may think proper; but if the Queen's servants should not deem it expedient to advise Her Majesty also to advert to these topics in her Speech from the Throne, they desire, nevertheless, to hold themselves perfectly free, when questioned in Parliament, to give all such explanations as they may feel to be consistent with their duty, and necessary for the elucidation of the truth.

You will read this despatch to the United States Secretary of State, and should he desire it, you will furnish him with a copy.

No. 6.

Mr. Fox to the Earl of Aberdeen.—(Received April 2.)

(Extract.) *Washington, March* 4, 1843.

THE Session of Congress closed last night.

On the 28th ultimo the President transmitted a Special Message to the House of Representatives, upon the subject of the interpretation of the 8th

Article of the Treaty of the 9th of August, with respect to the disputed Right of Visit of American vessels.

Annexed to the President's Message are the following documents:—first, a Report from Mr. Webster, reciting the substance of a part of your Lordship's despatch to me of the 18th of January of this year, which, according to your Lordship's directions, I had read to Mr. Webster: secondly, extracts of correspondence between Mr. Everett and Mr. Webster; and thirdly, a copy of your Lordship's official note to Mr. Everett, of the 20th of December, 1841, together with his brief acknowledgment of the receipt of the same. Your Lordship's note to Mr. Everett, though long since published in the newspapers of this country, had not before been officially communicated to Congress.

I have the honour herewith to inclose a printed copy of the above Message, with the documents annexed.

Inclosure in No. 6.

No. 1.—*Message from the President of the United States, transmitting a report from the Secretary of State in answer to the resolution of the House of the 22nd of February,* 1843.

[February 28, 1843. Read, and laid upon the table.]

To the House of Representatives:

IN compliance with the resolution of the House of Representatives of the 22d instant, requesting me to communicate to the House "whatever correspondence or communication may have been received from the British Government respecting the President's construction of the late British Treaty concluded at Washington, as it concerns an alleged right to visit American vessels," I herewith transmit a report made to me by the Secretary of State.

I have also thought proper to communicate copies of Lord Aberdeen's letter of the 20th December, 1841, to Mr. Everett; Mr. Everett's letter of the 23d December in reply thereto; and extracts from several letters of Mr. Everett to the Secretary of State.

I cannot forego the expression of my regret at the apparent purport of a part of Lord Aberdeen's despatch to Mr. Fox. I had cherished the hope that all possibility of misunderstanding as to the true construction of the 8th article of the Treaty lately concluded between Great Britain and the United States was precluded by the plain and well-weighed language in which it is expressed The desire of both Governments is to put an end as speedily as possible to the slave trade; and that desire, I need scarcely add, is as strongly and as sincerely felt by the United States as it can be by Great Britain. Yet it must not be forgotten that the trade, though now universally reprobated, was, up to a late period, prosecuted by all who chose to engage in it; and there were unfortunately but very few Christian powers whose subjects were not permitted, and even encouraged to share in the profits of what was regarded as a perfectly legitimate commerce. It originated at a period long before the United States had become independent, and was carried on within our borders, in opposition to the most earnest remonstrances and expostulations of some of the colonies in which it was most actively prosecuted. Those engaged in it were as little liable to inquiry or interruption as any others. Its character, thus fixed by common consent and general practice, could only be changed by the positive assent of each and every nation, expressed either in the form of municipal law or conventional arrangement. The United States led the way in efforts to suppress it. They claimed no right to dictate to others, but they resolved, without waiting for the co-operation of other powers, to prohibit it to their own citizens, and to visit its perpetration by them with condign punishment. I may safely affirm that it never occurred to this Government that any new maritime right accrued to it from the position it had thus assumed in regard to the Slave Trade. If, before our laws for its suppression, the flag of every nation might traverse the ocean unquestioned by our cruisers, this freedom was not, in our opinion, in the least abridged by our municipal legislation.

Any other doctrine, it is plain, would subject to an arbitrary and ever-varying

system of maritime police, adopted at will by the great naval Power for the time. being, the trade of the world in any places or in any articles which such Power might see fit to prohibit to its own subjects or citizens. A principle of this kind could scarcely be acknowledged, without subjecting commerce to the risk of constant and harassing vexations.

The attempt to justify such a pretension from the right to visit and detain ships upon reasonable suspicion of piracy, would deservedly be exposed to universal condemnation, since it would be an attempt to convert an established rule of maritime law, incorporated as a principle into the international code by the consent of all nations, into a rule and principle adopted by a single nation, and enforced only by its assumed authority. To seize and detain a ship upon suspicion of piracy, with probable cause and in good faith, affords no just ground either for complaint on the part of the nation whose flag she bears, or claim of indemnity on the part of the owner. The universal law sanctions, and the common good requires, the existence of such a rule. The right, under such circumstances, not only to visit and detain, but to search a ship, is a perfect right, and involves neither responsibility nor indemnity. But, with this single exception, no nation has, in time of peace, any authority to detain the ships of another upon the high seas, on any pretext whatever, beyond the limits of her territorial jurisdiction. And such, I am happy to find, is substantially the doctrine of Great Britain herself, in her most recent official declarations, and even in those now communicated to the House. These declarations may well lead us to doubt whether the apparent difference between the two Governments is not rather one of definition than of principle. Not only is the right of search, properly so called, disclaimed by Great Britain, but even that of mere visit and inquiry is asserted with qualifications inconsistent with the idea of a perfect right.

In the despatch of Lord Aberdeen to Mr. Everett of the 20th of December, 1841, as also in that just received by the British Minister in this country, made to Mr. Fox, his Lordship declares that if, in spite of all the precaution which shall be used to prevent such occurrences, an American ship, by reason of any visit or detention by a British cruizer, "should suffer loss and injury, it would be followed by prompt and ample remuneration;" and in order to make more manifest her intentions in this respect, Lord Aberdeen, in the despatch of the 20th of December, makes known to Mr. Everett the nature of the instructions given to the British cruisers. These are such as, if faithfully observed, would enable the British Government to approximate the standard of a fair indemnity. That Government has in several cases fulfilled her promises in this particular, by making adequate reparation for damage done to our commerce. It seems obvious to remark, that a right which is only to be exercised under such restrictions and precautions, and risk, in case of any assignable damage, to be followed by the consequences of a tresspass, can scarcely be considered anything more than a privilege asked for, and either conceded or withheld on the usual principles of international comity.

The principles laid down in Lord Aberdeen's despatches, and the assurances of indemnity therein held out, although the utmost reliance was placed on the good faith of the British Government, were not regarded by the Executive as a sufficient security against the abuses which Lord Aberdeen admitted might arise in even the most cautious and moderate exercise of their new maritime police; and therefore, in my Message at the opening of the last session, I set forth the views entertained by the Executive on this subject, and substantially affirmed both our inclination and ability to enforce our own laws, protect our flag from abuse, and acquit ourselves of all our duties and obligations on the high seas. In view of these assertions, the Treaty of Washington was negotiated, and, upon consultation with the British negotiator as to the quantum of force necessary to be employed in order to attain these objects, the result to which the most deliberate estimate led was embodied in the eighth article of the Treaty.

Such were my views at the time of negotiating that Treaty, and such, in my opinion, is its plain and fair interpretation. I regarded the eighth article as removing all possible pretext, on the ground of mere necessity, to visit and detain our ships upon the African coast because of any alleged abuse of our flag by slave traders of other nations. We had taken upon ourselves the burden of preventing any such abuse, by stipulating to furnish an armed force regarded by both the high contracting parties as sufficient to accomplish that object.

Denying, as we did and do, all color of right to exercise any such general police over the flags of independent nations, we did not demand of Great Britain any formal renunciation of her pretension; still less had we the idea of yielding anything ourselves in that respect. We chose to make a practical settlement of the question. This we owed to what we had already done upon this subject. The honor of the country called for it; the honor of its flag demanded that it should not be used by others to cover an iniquitous traffic. This Government, I am very sure, has both the inclination and the ability to do this; and, if need be, it will not content itself with a fleet of eighty guns, but sooner than any foreign Government shall exercise the province of executing its laws and fulfilling its obligations, the highest of which is to protect its flag alike from abuse or insult, it would, I doubt not, put in requisition for that purpose its whole naval power. The purpose of this Government is faithfully to fulfil the Treaty on its part, and it will not permit itself to doubt that Great Britain will comply with it on hers. In this way, peace will best be preserved, and the most amicable relations maintained between the two Countries.

Washington, February 27, 1843. JOHN TYLER.

No. 2.—*Mr. Webster to the President of the United States.*

Department of State,
Washington, February, 1843.

THE Secretary of State, to whom has been referred a resolution of the House of Representatives of the 22d instant, requesting that the President of the United States "be requested to communicate to that House, if not in his opinion improper, whatever correspondence or communication may have been received from the British Government, respecting the President's construction of the late British Treaty, concluded at Washington, as it concerns an alleged right to visit American vessels," has the honor to report to the President that Mr. Fox, Her Britannic Majesty's envoy extraordinary and minister plenipotentiary, came to the Department of State on the 24th instant, and informed the Secretary that he had received from Lord Aberdeen, Her Majesty's Principal Secretary of State for Foreign Affairs, a despatch, under date of the 18th of January, which he was directed to read to the Secretary of State of the United States. The substance of the despatch was, that there was a statement in a paragraph of the President's message to Congress, at the opening of the present session, of serious import, because, to persons unacquainted with the facts, it would tend to convey the supposition, not only that the question of the right of search had been disavowed by the plenipotentiary at Washington, but that Great Britain had made concessions on that point.

That the President knew that the right of search never formed the subject of discussion during the late negotiation, and that neither was any concession required by the United States Government, nor made by Great Britain.

That the engagement entered into by the parties to the Treaty of Washington, for suppressing the African slave trade, was unconditionally proposed and agreed to.

That the British Government saw in it an attempt, on the part of the Government of the United States, to give a practical effect to their repeated declarations against that trade, and recognised with satisfaction an advance towards the humane and enlightened policy of all Christian states, from which they anticipated much good. That Great Britain would scrupulously fulfil the conditions of this engagement; but that from the principles which she has constantly asserted, and which are recorded in the correspondence between the Ministers of the United States in England and herself, in 1841, England has not receded and would not recede. That he had no intention to renew, at present, the discussion upon the subject. That his last note was yet unanswered. That the President might be assured that Great Britain would always respect the just claims of the United States. That the British Government made no pretension to interfere, in any manner whatever, either by detention, visit, or search, with vessels of the United States, known or believed to be such; but that it still maintained, and would exercise when necessary, its own right to ascertain the

genuineness of any flag which a suspected vessel might bear; that if in the exercise of this right, either from involuntary error, or in spite of every precaution, loss or injury should be sustained, a prompt reparation would be afforded; but that it should entertain, for a single instant, the notion of abandoning the right itself, would be quite impossible.

That these observations had been rendered necessary by the Message to Congress. That the President is undoubtedly at liberty to address that assembly in any terms which he may think proper; but if the Queen's servants should not deem it expedient to advise Her Majesty also to advert to these topics in her speech from the throne, they desired, nevertheless, to hold themselves perfectly free, when questioned in Parliament, to give all such explanations as they might feel to be consistent with their duty, and necessary for the elucidation of the truth.

The paper having been read, and its contents understood, Mr. Fox was told, in reply, that the subject would be taken into consideration, and that a despatch relative to it would be sent, at an early day, to the American minister in London, who would have instructions to read it to Her Majesty's Principal Secretary of State for Foreign Affairs.

DANIEL WEBSTER.

No. 3.—*Mr. Everett to Mr. Webster.*

Legation of the United States,
(Extract.) *London, December* 28, 1841.

I RECEIVED on the 23rd instant a note from Lord Aberdeen, on the African seizures, in reply to one addressed to him by Mr. Stevenson, in the last hours of his residence in London, and which, as it appears, did not reach Lord Aberdeen's hands till Mr. Stevenson had left London. As some time must elapse before I could give a detailed answer to this communication, I thought it best at once to acknowledge its receipt, to express my satisfaction at its dispassionate tone, and to announce the purpose of replying to it at some future period. The President, I think, will be struck with the marked change in the tone of the present Ministry, as manifested in this note and a former one addressed by Lord Aberdeen to Mr. Stevenson, contrasted with the last communication from Lord Palmerston, on the same subject. The difference is particularly apparent in Lord Aberdeen's letter to me of the 20th instant. Not only is the claim of Great Britain relative to the right of detaining suspicious vessels stated in a far less exceptionable manner than it had been done by Lord Palmerston, but Lord Aberdeen expressly declines being responsible for the language used by his predecessor.

You will observe that Lord Aberdeen disclaims, in a more distinct manner than it has ever been done, all right to search, detain, or in any manner interfere with American vessels, whether engaged in the Slave Trade or not; that he limits the pretensions of this Government to boarding vessels strongly suspected of being those of other nations unwarrantably assuming the American flag; and promises, where this right has been abused to the injury of American vessels, that full and ample reparation shall be made. As the United States have never claimed that their flag should furnish protection to any vessels but their own, and as very strict injunctions have been forwarded to the cruisers on the coast of Africa, not to interfere with American vessels, I am inclined to think that cases of interruption will become much less frequent; and, if this Government should redeem in good faith Lord Aberdeen's promise of reparation where injury has been done, I am disposed to hope that this subject of irritation will in a great measure cease to exist. I shall not engage in the discussion of the general principles as now avowed and explained by this Government, till I hear from you on the subject, and know what the President's views are; but I shall confine myself chiefly to urging the claim for redress in the cases of the *Tigris*, *Sea Mew*, *Jones*, and *William and Francis*, which were the last submitted to my predecessor, and on which no answer has been received from this Government.

Among the reasons for supposing that fewer causes of complaint will hereafter arise, is the circumstance that the seizures of last year took place under the agreement of Commodore Tucker, the British commander on the African station

and the officer in command of the American cruiser. I find nothing on the files of the Legation showing what order, if any, has been taken by our Government on the subject of this arrangement. It is taken for granted by this Government, that this agreement is disavowed by that of the United States; and since February last, positive orders have been given to the British cruisers in the African seas not to interfere with American ships, even though known to be engaged in the Slave Trade. I shall await with much anxiety the instructions of the President on this important subject.

No. 4.—*Mr. Everett to Mr. Webster.*

Legation of the United States,
(Extracts.) *London, December* 31, 1841.

AT a late hour on the evening of the 26th, I received a note from the Earl of Aberdeen, requesting an interview for the following day, when I met him at the Foreign Office, agreeably to the appointment. After one or two general remarks upon the difficulty of bringing about an adjustment of the points of controversy between the Governments, by a continuance of the discussions hitherto carried on, he said that Her Majesty's Government had determined to take a decisive step towards that end, by sending a special minister to the United States, with a full power to make a final settlement of all matters in dispute. * * * This step was determined on from a sincere and earnest desire to bring the matter so long in controversy to an amicable settlement; and if, as he did not doubt, the same disposition existed at Washington, he thought this step afforded the most favorable, and, indeed, the only means of carrying it into effect. In the choice of the individual for the mission, Lord Aberdeen added, that he had been mainly influenced by a desire to select a person who would be peculiarly acceptable in the United States, as well as eminently qualified for the trust, and that he persuaded himself he had found one who, in both respects, was all that could be wished. He then named Lord Ashburton, who had consented to undertake the mission.

Although this communication was of course wholly unexpected to me, I felt no hesitation in expressing the great satisfaction with which I received it. I assured Lord Aberdeen, that the President had nothing more at heart than an honorable adjustment of the matters in discussion between the two countries; that I was persuaded a more acceptable selection of a person for the important mission proposed could not have been made; and that I anticipated the happiest results from this overture.

Lord Aberdeen rejoined, that it was more than an *overture;* that Lord Ashburton would go with full powers to make a definitive arrangement on every point in discussion between the two countries. He was aware of the difficulty of some of them, particularly what had incorrectly been called the right of search, which he deemed the most important of all; but he was willing to confide this and all other matters in controversy to Lord Ashburton's discretion. He added, that they should have been quite willing to come to a general arrangement here, but they supposed I had not full powers for such a purpose.

This measure being determined on, Lord Aberdeen said he presumed it would be hardly worth while for us to continue the correspondence here, on matters in dispute between the Governments. He, of course, was quite willing to consider and reply to any statement I might think proper to make on any subject; but, pending the negotiations that might take place at Washington, he supposed no benefit could result from a simultaneous discussion here.

No. 5.—*Lord Aberdeen to Mr. Everett.*

Foreign Office, December 20, 1841.

THE Undersigned, Her Majesty's Principal Secretary of State for Foreign Affairs, has the honour of addressing to Mr. Everett, Envoy Extraordinary and Minister Plenipotentiary of the United States, the observations which he feels called upon to make, in answer to the note of Mr. Stevenson, dated on the 21st of October.

As that communication only reached the hands of the Undersigned on the

day after the departure of Mr. Stevenson from London, on his return to America, and as there has since been no Minister or Chargé d'Affaires from the United States resident in this country, the Undersigned has looked with some anxiety for the arrival of Mr. Everett, in order that he might be enabled to renew his diplomatic intercourse with an accredited representative of the Republic. Had the Undersigned entertained no other purpose than to controvert the arguments of Mr. Stevenson, or to fortify his own in treating of the matter which has formed the subject of their correspondence, he would have experienced little impatience; but, as it is his desire to clear up all doubt and to remove misapprehension, he feels that he cannot too early avail himself of the presence of Mr. Everett at his post to bring to his knowledge the true state of the question at issue.

The Undersigned agrees with Mr. Stevenson in the importance of arriving at a clear understanding of the matter really in dispute. This ought to be the first object in the differences of States as well as of individuals; and, happily, it is often the first step to the reconciliation of the parties. In the present case this understanding is doubly essential, because a continuance of mistake and error may be productive of the most serious consequences.

Mr. Stevenson persists in contending that the British Government assert a right which is equivalent to the claim of searching American vessels in time of peace. In proof of this, Mr. Stevenson refers to a passage in a former note of Viscount Palmerston, addressed to himself, against which he strongly protests, and the doctrine contained in which he says that the Undersigned is understood to affirm.

Now, it is not the intention of the Undersigned to inquire into the precise import and force of the expressions of Viscount Palmerston. These might have been easily explained to Mr. Stevenson by their author, at the time they were written; but the Undersigned must request that his doctrines upon this subject, and those of the Government of which he is the organ, may be judged of exclusively from his own declarations.

The Undersigned again renounces, as he has already done in the most explicit terms, any right on the part of the British Government, to search American vessels in time of peace. The right of search, except when specially conceded by Treaty, is a purely belligerent right, and can have no existence on the high seas during peace. The Undersigned apprehends, however, that the right of search is not confined to the verification of the nationality of the vessel, but also extends to the object of the voyage and the nature of the cargo. The sole purpose of the British cruisers is to ascertain whether the vessels they meet with are really American or not. The right asserted has, in truth, no resemblance to the right of search, either in principle or in practice. It is simply a right to satisfy the party who has a legitimate interest in knowing the truth, that the vessel actually is what her colours announce. This right we concede as freely as we exercise. The British cruisers are not instructed to detain American vessels, under any circumstances whatever; on the contrary, they are ordered to abstain from all interference with them, be they slavers or otherwise. But where reasonable suspicion exists that the American flag has been abused, for the purpose of covering the vessel of another nation, it would appear scarcely credible, had it not been made manifest by the repeated protestations of their representative, that the Government of the United States, which has stigmatized and abolished the trade itself, should object to the adoption of such means as are indispensably necessary for ascertaining the truth.

The Undersigned had contended, in his former note, that the legitimate inference from the arguments of Mr. Stevenson would practically extend even to the sanction of piracy, when the persons engaged in it should think fit to shelter themselves under the flag of the United States. Mr. Stevenson observes, that this is a misapprehension on the part of the Undersigned; and he declares that, in denying the right of interfering with vessels under the American flag, he intended to limit his objection to vessels *bonâ fide* American, and not to those belonging to nations who might fraudulently have assumed the flag of the United States. But it appears to the Undersigned that his former statement is by no means satisfactorily controverted by the declaration of Mr. Stevenson. How is this *bonâ fide* to be proved? Must not Mr. Stevenson either be prepared to maintain that the flag alone is sufficient evidence of the nationality of the vessel, which, in the face of his own repeated admissions, he cannot do; or must

he not confess that the application of his arguments would really afford protection to every lawless and piratical enterprise?

The Undersigeed had also expressed his belief, that the practice was general, of ascertaining by visit the real character of any vessel on the high seas, against which there should exist reasonable ground of suspicion. Mr. Stevenson denies this; and he asks what other nation than Great Britain had ever asserted, or attempted to exercise, such a right? In answer to this question, the Undersigned can at once refer to the avowed and constant practice of the United States, whose cruisers, especially in the Gulf of Mexico, by the admission of their public journals, are notoriously in the habit of examining all suspicious vessels, whether sailing under the English flag, or any other. In whose eyes are these vessels suspicious? Doubtless in those of the commanders of the American cruisers. But, in truth, this right is quite as important to the United States as to Great Britain; nor is it easy to conceive how the maritime intercourse of mankind could safely be carried on without such a check.

It can scarcely be necessary to remind Mr. Everett that the right thus claimed by Great Britain is not exercised for any selfish purpose. It is asserted in the interest of humanity, and in mitigation of the sufferings of our fellow-men. The object has met with the concurrence of the whole civilised world, including the United States of America; and it ought to receive universal assistance and support.

The Undersigned cannot abstain here from referring to the conduct of an honourable and zealous officer, commanding the naval force of the United States on the coast of Africa, who, relying on the sincere desire of his Government for the suppression of the Slave Trade, and sensible of the abuse of the American flag, entered into an engagement, on the 11th of March, 1840, with the officer in command of Her Majesty's cruisers on the same station, by which they mutually requested each other, and agreed to detain all vessels under American colours employed in the traffic. If found to be American property, such vessels were to be delivered over to the commander of any American cruiser on the station; or, if belonging to other nations, they were to be dealt with according to the treaties contracted by Her Majesty with the respective States. The Undersigned believes, and, indeed, after the statements of Mr. Stevenson, he regrets to be unable to doubt, that the conduct of this gallant officer, however natural and laudable in its object, has been disavowed by his Government.

It is not the intention of the Undersigned, at present, to advocate the justice and propriety of the mutual right of search, as conceded and regulated by treaty, or to weigh the reasons on account of which this proposal has been rejected by the Government of the United States. He took occasion, in a former note, to observe that concessions sanctioned by Great Britain and France were not likely to be incompatible with the dignity and independence of any other State which should be disposed to follow their example. But the Undersigned begs now to inform Mr. Everett, that he has this day concluded a joint treaty with France, Austria, Russia, and Prussia, by which the mutual right of search, within certain latitudes, is fully and effectually established for ever. This is, in truth, a holy alliance, in which the Undersigned would have rejoiced to see the United States assume their proper place among the great Powers of Christendom—foremost in power, wealth, and civilization, and connected together in the cause of mercy and justice.

It is undoubtedly true, that this right may be abused, like every other which is delegated to many and different hands. It is possible that it may be exercised wantonly and vexatiously; and, should this be the case, it would not only call for remonstrance, but would justify resentment. This, however, is in the highest degree improbable; and if, in spite of the utmost caution, an error should be committed, and any American vessel should suffer loss and injury, it would be followed by prompt and ample reparation. The Undersigned begs to repeat, that with American vessels, whatever be their destination, British cruisers have no pretension, in any manner, to interfere. Such vessels must be permitted, if engaged in it, to enjoy a monopoly of this unhallowed trade; but the British Government will never endure that the fraudulent use of the American flag shall extend the iniquity to other nations by whom it is abhorred, and who have entered into solemn treaties with this country for its entire suppression.

In order to prove to Mr. Everett the anxiety of Her Majesty's Government to prevent all reasonable grounds of complaint, the Undersigned believes that he

cannot do better than to communicate to him the substance of those instructions under which the British cruisers act, in relation to American vessels, when employed on this service.

If, from the intelligence which the officer commanding Her Majesty's cruiser may have received, or from the manœuvres of the vessel, or from other sufficient cause, he shall have reason to believe that, although bearing the American flag, the vessel does not belong to the United States, he is ordered, if the state of the wind and weather shall admit of it, to go a-head of the suspected vessel, after communicating his intention by hailing, and to drop a boat on board of her, to ascertain her nationality, without detaining her, if she shall prove to be really an American vessel. But, should this mode of visiting the vessel be impracticable, he is to require her to be brought to, for this purpose. The officer who boards the vessel is merely to satisfy himself of her nationality, by her papers or other proofs; and should she really be an American vessel, he will immediately quit her, offering, with the consent of her commander, to note on her papers the cause of suspecting her nationality, and the number of minutes she was detained (if detained at all) for the object in question. All the particulars are to be immediately entered on the log books of the cruiser, and a full statement of them is to be sent, by the first opportunity, direct to England.

These are the precautions taken by Her Majesty's Government against the occurrence of abuse in the performance of this service; and they are ready to adopt any others which they may think more effectual for the purpose, and which shall, at the same time, be consistent with the attainment of the main object in view.

Mr. Stevenson has said that he had no wish to exempt the fraudulent use of the American flag from detection; and this being the case, the Undersigned is unwilling to believe that a Government like that of the United States, professing the same object and animated by the same motives as Great Britain, should seriously oppose themselves to every possible mode by which their own desire could be really accomplished.

The Undersigned avails himself of this occasion to convey to Mr. Everett the assurances of his distinguished consideration.

ABERDEEN.

No. 6.—*Mr. Everett to Lord Aberdeen.*

Legation of the United States,
December 23, 1841.

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, has the honor to acknowledge the reception of a communication from Lord Aberdeen, Her Majesty's Principal Secretary of State for Foreign Affairs, bearing date the 20th instant, in reply to a note of Mr. Stevenson's of the 21st October.

The Undersigned will avail himself of an early opportunity of addressing some remarks to the Earl of Aberdeen on the very important topics treated in his note. In the mean time, the Undersigned begs leave to express his great satisfaction at the conciliatory and dispassionate tone of Lord Aberdeen's communication; from which the Undersigned augurs the happiest influence on the renewed discussion of the subject.

The Undersigned begs leave to renew to Lord Aberdeen the assurance of his distinguished consideration.

EDWARD EVERETT.

No. 7.—*Mr. Webster to Mr. Everett.*

Department of State,
(Extract.) *Washington, January* 29, 1842.

BY the *Britannia*, arrrived at Boston, I have received your despatch of the 28th December, (No. 4,) and your other despatch of the 31st of the same month, (No. 5,) with a postscript of the 3rd of January.

The necessity of returning an early answer to these communications (as the

Britannia is expected to leave Boston the 1st of February) obliges me to postpone a reply to those parts of them which are not of considerable and immediate importance.

The President expresses himself gratified with the manner in which the Queen received you, to present your letter of credence, and with the civility and respect which appear to characterize the deportment of Lord Aberdeen in his intercourse with you; and you will please signify to Lord Aberdeen the President's sincere disposition to bring all matters in discussion between the two Governments to a speedy as well as an amicable adjustment.

The President has read Lord Aberdeen's note to you of the 20th of December, in reply to Mr. Stevenson's note to Lord Palmerston of the 21st of October, and thinks you were quite right in acknowledging the dispassionate tone of that paper. It is only by the exercise of calm reason that truth can be arrived at in questions of a complicated nature; and between States, each of which understands and respects the intelligence and the power of the other, there ought to be no unwillingness to follow its guidance. At the present day, no State is so high as that the principles of its intercourse with other nations are above question or its conduct above scrutiny. On the contrary, the whole civilized world, now vastly better informed on such subjects than in former ages, and alive and sensible to the principles adopted, and the purposes avowed by the leading States, necessarily constitutes a tribunal, august in character and formidable in its decisions. And it is before this tribunal, and upon the rules of natural justice, moral propriety, the usages of modern times, and the prescriptions of public law, that Governments which respect themselves, and respect their neighbours must be prepared to discuss, with candour, and with dignity, any topics which may have caused differences to spring up between them.

Your despatch of the 31st December announces the important intelligence of a Special Minister from England to the United States, with full powers to settle every matter in dispute between the two Governments; and the President directs me to say, that he regards this proceeding as originating in an entirely amicable spirit, and that it will be met on his part with perfectly corresponding sentiments. The high character of Lord Ashburton is well known to this Government; and it is not doubted that he will enter on the duties assigned him, not only with the advantages of much knowledge and experience in public affairs, but with a true desire to signalize his mission by assisting to place the peace of the two countries on a permanent basis. He will be received with the respect due to his own character, the character of the Government which sends him, and the high importance to both countries of the subjects intrusted to his negotiation.

The President approves your conduct, in not pursuing, in England, the discussion of questions which are now to become the subjects of negotiation here.

PAPERS

RELATIVE TO THE

SPECIAL MISSION OF LORD ASHBURTON

TO THE

UNITED STATES OF AMERICA

IN

1842.

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

LONDON:
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CORRESPONDENCE

BETWEEN

LORD ASHBURTON AND MR. WEBSTER,

RESPECTING

BOUNDARIES.

No. 1.

Lord Ashburton to Mr. Webster.

Sir, *Washington, June* 13, 1842.

ON considering the most effectual mode of proceeding to arrive at an amicable and satisfactory termination of the long-continued controversy respecting the North-Eastern Boundary, between the British Colony of New Brunswick and the State of Maine, I believe that I may confidently conclude from what passed in the preliminary conferences, which I have had the honour of holding with you, that we concur in the opinion that no advantage would be gained by reverting to the interminable discussion on the general grounds on which each party considers their claims respectively to rest. In the course of the many years that this discussion has lasted every argument on either side is apparently exhausted, and that without any approach to an agreement. The present attempt, therefore, of a settlement must rest for its success, not on the renewal of a controversy, but on proceeding on the presumption that all means of reciprocal conviction having failed, as also the experiment of calling in the aid of a friendly arbiter and umpire, there remains only the alternative of a compromise for the solution of this otherwise apparently insurmountable difficulty, unless, indeed, it were determined to try a second arbitration attended with its delay, trouble, and expense, in defiance of past experience as to the probability of any more satisfactory result.

It is, undoubtedly, true that should our present attempt unfortunately fail, there might remain no other alternative but a second reference, yet, when I consider all the difficulty and uncertainty attending it, I trust that all parties interested will come to the conclusion that the very intricate details connected with the case must be better known and judged by our two Governments than any diligence can make them to be by any third party, and that a sincere candid disposition to give reciprocally fair weight to the arguments on either side is likely to lead us to a more satisfactory settlement, than an engagement to abide by the uncertain award of a less competent tribunal. The very friendly and cordial reception given by you, Sir, as well as by all the authorities of your Government to the assurance that my mission here by my Sovereign has been determined by an unfeigned desire to settle this and all other questions of difference between us, on principles of conciliation and justice, forbid me to anticipate the possibility of the failure of our endeavours applied with sincerity to this purpose.

With this view of the case, therefore, although not unprepared to enter into the general argument, I abstain from so doing from the conviction that an amicable settlement of this vexed question, so generally desired, will be thereby best promoted. But, at the same time, some

opinions have been industriously emitted throughout this controversy, and, in some instances, by persons in authority, of a description so much calculated to mislead the public mind that I think it may be of service to offer a few observations.

I do not of course complain of the earnest adherence of partisans on either side to the general arguments upon which their case is supposed to rest; but a position has been taken, and facts have been repeatedly stated, which I am sure the authorities of the Federal Government will be abundantly able to contradict, but which have evidently given rise to much public misapprehension. It is maintained that the whole of this controversy about the Boundary began in 1814; that up to that period the line as claimed by Maine was undisputed by Great Britain; and that the claim was avowedly founded on motives of interest to obtain the means of conveniently connecting the British Provinces. I confine these remarks to the refuting this imputation, and I should indeed not have entered upon controversy, even on this, if it did not appear to me to involve, in some degree, a question of national sincerity and good faith.

The assertion is founded on the discussions which preceded the Treaty of Peace signed at Ghent, in 1814. It is perfectly true that a proposal was submitted by the British Plenipotentiaries for the revision of the Boundary Line on the north-eastern frontier, and that it was founded on the position that it was desired to secure the communication between the provinces, the precise delimitation of which was at that time imperfectly known. The American Plenipotentiaries in their first communication from Ghent to the Secretary of State, admit that the British Ministers expressly disclaimed any intention of acquiring an increase of territory, and that they proposed the revision for the purpose of preventing uncertainty and dispute—a purpose sufficiently justified by subsequent events. Again, in their note of the 4th of September, 1814, the British Ministers remind those from America, that the boundary had never been ascertained, and that the line claimed by America, which interrupted the communication between Halifax and Quebec, never could have been in the contemplation of the parties to the Treaty of Peace of 1783. The same view of the case will be found to pervade all the communications between the plenipotentiaries of the two countries at Ghent. There was no attempt to press any cession of territory on the ground of policy or expedience, but, although the precise geography of the country was then imperfectly known, it was notorious at the time that different opinions existed as to the boundary likely to result from continuing the North Line from the head of the River St. Croix. This appears to have been so clearly known and admitted by the American Plenipotentiaries, that they, in submitting to the conference the project of a treaty, offer a preamble to their 4th Article in these words:—

"Whereas, neither that part of the highlands lying due north from the source of the River St. Croix, and designated in the former Treaty of Peace between the two Powers, as the north-west angle of Nova Scotia, nor the north-westernmost head of the Connecticut River has yet been ascertained, &c."

It should here be observed that these are the words proposed, not by the British but by the American negotiators, and that they were finally adopted by both in the 5th Article of the Treaty.

To close my observations upon what passed on this subject at Ghent I would draw your attention to the letter of Mr. Gallatin, one of the American Plenipotentiaries, to Mr. Secretary Monroe, of the 25th December, 1814. He offers the following conjecture as to what might probably be the arguments of Great Britain, against the line set up by America: "They hope that the river which empties into the Bay des Chaleurs, in the Gulf of St. Lawrence, has its source so far west as to intervene between the head waters of the River St. Johns, and those of the streams emptying into the River St. Lawrence; so that the line north from the source of the River St. Croix will first strike the heights of land which divide the waters emptying into the Atlantic Ocean (River St. Johns), from those emptying into the Gulf of St. Lawrence (River des Chaleurs), and afterwards the heights of land which divide the waters emptying into the Gulf of St.

Lawrence (River des Chaleurs), from those emptying into the River St. Lawrence; but that the said line never can, in the words of the Treaty, strike any spot of land actually dividing the waters emptying into the Atlantic Ocean, from those which fall into the River St. Lawrence."

So obvious an argument in opposition to the line claimed by America could not escape the known sagacity of Mr. Gallatin. I state it not for the purpose of discussing its merit, but to show that at Ghent not only the fact was well known that this Boundary Question was a matter in dispute, but that the arguments respecting it had then been weighed by the gentleman so eminent in its subsequent discussion. Indeed, the fact that the American Ministers made this disputed question a matter for reference by a Treaty, afterwards ratified by the President and Senate, must to every candid mind be sufficient proof that it was generally considered to be involved in sufficient doubt to entitle it to such a mode of solution. It cannot possibly be supposed that the President and Senate would have admitted by treaty doubts respecting this boundary, if they had been heard of for the first time through the pretensions of the British Plenipotentiaries at Ghent.

If the argument or assertions, which I am now noticing, and to which I studiously confine myself, had not come from authority, I should owe some apology for these observations. The history of this unfortunate controversy is too well known to you, Sir, and stands but too voluminously recorded in your department, to make them necessary for your own information.

The repeated discussions between the two countries, and the repeated projects for settlement, which have occupied every successive Administration of the United States, sufficiently prove how unfounded is the assertion that doubts and difficulties respecting this boundary had their first origin in the year 1814. It is true that down to that time, and, indeed, to a later period, the local features of the country were little known, and the different arguments had, in consequence, not assumed any definite form; but sufficient was known to both parties to satisfy them of the impossibility of tracing strictly the boundary prescribed by the Treaty of Peace of 1783.

I would refer in proof of this simply to American authorities, and those of the very first order.

In the year 1802, Mr. Madison, at that time Secretary of State for the United States, in his instructions to Mr. Rufus King, observed that the difficulty in fixing the north-west angle of Nova Scotia "arises from a reference in the Treaty of 1783 to highlands, which it is now found have no definite existence;" and he suggests the appointment of a commission to be jointly appointed "to determine on a point most proper to be substituted for the description in Article II. of the Treaty of 1783."

Again, Mr. Jefferson, in a message to Congress, on the 17th October, 1803, stated that "a further knowledge of the ground in the north-eastern and north-western angles of the United States has evinced that the boundaries established by the Treaty of Paris, between the British territories and ours, in those points, were too imperfectly described to be susceptible of execution."

These opinions of two most distinguished American statesmen gave rise to a convention of boundary made in London by Mr. Rufus King and Lord Hawkesbury, which, from other circumstances which it is not necessary to refer to, was not ratified by the Senate.

I might further refer you on this subject to the report of Judge Sullivan, who acted as Commissioner of the United States, for settling the controversy with Great Britain respecting the true River St. Croix, who says, "The boundary between Nova Scotia and Canada was described by the King's proclamation in the same mode of expression as that used in the Treaty of Peace. Commissioners who were appointed to settle that line have traversed the country in vain to find the highlands, designated as a boundary."

With these known facts how can it possibly be maintained that doubts about the boundary arose for the first time in the year 1814?

I need not pursue this subject further. Indeed, it would have been

useless to treat of it at all with any person having before him the records of the diplomatic history of the two countries for the last half a century. My object in adverting to it is to correct an error, arising, I am ready to believe, not from any intention to misrepresent, but from want of information, and which seemed to be sufficiently circulated to make some refutation useful towards promoting the desired friendly and equitable settlement of this question.

We believe the position maintained by us on the subject of this boundary to be founded in justice and equity; and we deny that we have been determined in our pretensions by policy and expedience. I might, perhaps, fairly admit that those last-mentioned considerations have prompted, in some measure, our perseverence in maintaining them. The territory in controversy is, for that portion of it at least which is likely to come to Great Britain by any amicable settlement, as worthless for any purposes of habitation or cultivation as probably any tract of equal size on the habitable globe; and if it were not for the obvious circumstance of its connecting the British North American Provinces, I believe I might venture to say that, whatever might have been the merit of our case, we should long since have given up the controversy and willingly have made the sacrifice to the wishes of a country with which it is so much our interest, as it is our desire, to maintain the most perfect harmony and good will.

I trust that this sentiment must be manifest in my unreserved communication with you on this and all other subjects connected with my mission. If I have failed in this respect, I shall have ill obeyed the instructions of my Government, and the earnest dictates of my personal inclinations.

Permit me, &c., (Signed) ASHBURTON.

No. 2.

Mr. Webster to Lord Ashburton.

Department of State,
Washington, June 17, 1842.

LORD ASHBURTON having been charged by the Queen's Government with full powers to negotiate and settle all matters in discussion between the United States and England, and having on his arrival at Washington announced that in relation to the question of the North-eastern Boundary of the United States, he was authorized to treat for a conventional line, or line by agreement, on such terms and conditions and with such mutual considerations and equivalents as might be thought just and equitable, and that he was ready to enter upon a negotiation for such conventional line so soon as this Government should say that it was authorized and ready on its part to commence such negotiation, the Undersigned, Secretary of State of the United States, has now the honour to acquaint his Lordship, by direction of the President, that the Undersigned is ready, on behalf of the Government of the United States, and duly authorized to proceed to the consideration of such conventional line, or line by agreement, and will be happy to have an interview on that subject, at his Lordship's convenience.

The Undersigned &c.,

(Signed) DANIEL WEBSTER.

No. 3.

Lord Ashburton to Mr. Webster.

Washington, June 17, 1842.

THE Undersigned, Plenipotentiary of Her Britannic Majesty on an extraordinary and special mission to the United States of America, has the honour of acknowledging, with much satisfaction, the communication received this day from Mr. Webster, Secretary of State of the United States, that he is ready, on behalf of the United States, and duly authorized, in relation to the question of the North-eastern Boundary of the United States, to proceed to the consideration of a conventional line, or line by agreement, on such terms and conditions, and with such mutual considerations and equivalents, as might be thought just and equitable. And in reply to Mr. Webster's invitation to the Undersigned to fix some time for their first conference upon this subject, he begs to propose to call on Mr. Webster at the Department of State to-morrow at 12 o'clock for this purpose, should that time be perfectly convenient to Mr. Webster.

The Undersigned, &c.,

(Signed) ASHBURTON.

No. 4.

Mr. Webster to Lord Ashburton.

Department of State,
Washington, June 17, 1842.

THE Secretary of State will have great pleasure in seeing Lord Ashburton at twelve o'clock to-morrow, as proposed by him.

No. 5.

Lord Ashburton to Mr. Webster.

Sir, *Washington, June* 21, 1842.

THE letter you did me the honour of addressing me on the 17th instant, informed me that you were now prepared and authorized to enter with me into the discussion of that portion of the differences between our two countries, which relates to the North-Eastern Boundary, and we had the following day our first formal conference for that purpose, with a view to consider, in the first instance, the best mode of proceeding to arrive at what is so much desired by all parties, an amicable, and, at the same time, equitable settlement of a controversy, which, with the best intentions, the authorities of the two countries for nearly half a century have in vain endeavoured to effect.

The result of this conference has been, that I have been invited by you to state generally my view of this case, and of the expectations of my Government; and although I am aware that, in the ordinary practice of diplomatic intercourse I should expose myself to some disadvantage by so doing, I nevertheless do not hesitate to comply, premising only that the following observations are to be considered merely as memoranda for discussion, and not as formal propositions to have any binding effect, should our negotiation have the unfortunate fate of the many which have preceded it, of ending in disappointment.

I believe you are sufficiently aware of the circumstances which induced me personally to undertake this mission. If the part which during a long life I have taken in public affairs is marked by any particular character, it has been by an earnest persevering desire to maintain peace and to

promote harmony between our two countries. My exertions were unavailingly employed to prevent the last unfortunate war, and have since been unremitting in watching any passing clouds which might at any time forebode its renewal. On the accession to power of the present Ministers in England, perceiving the same wise and honourable spirit to prevail with them, I could not resist the temptation and the hope of being of some service to my country and to our common race, at a time of life when no other cause could have had sufficient interest to draw me from a retirement better suited to my age and to my inclinations.

I trust, Sir, that you will have perceived in the course of my hitherto informal communications with you, that I approach my duties generally without any of those devices and manœuvres which are supposed, I believe ignorantly, to be the useful tools of ordinary diplomacy. With a person of your penetration they would avail as little as they would with the intelligent public of the two great enlightened countries of whose interests we are treating. I know no other mode of acting than open plain dealing, and I therefore disregard willingly all the disadvantage of complying with the invitation given me to be the first to speak on this question of the Eastern Boundary. It is already agreed that we abstain from a continued discussion of the arguments by which the lines of the two countries are reciprocally maintained, and I have so well observed this rule that I have not even communicated to you a volume of additional controversial matter which I brought with me, and much of which would, if controversy were our object, be of no inconsiderable weight and importance. It would be in the event only of the failure of this negotiation, which I will not anticipate, that we should be again driven into the labyrinth from which it is our purpose to escape, and that failing to interpret strictly the words of the Treaty, we should be obliged to search again into contemporaneous occurrences and opinions for principles of construction which might shed light on the actual intentions of the parties.

Our success must, on the contrary, depend on the reciprocal admission or presumption that the Royal Arbiter was so far right, when he came to the conclusion, which others had come to before him, that the Treaty of 1783 was not executable according to its strict expression, and that the case was therefore one for agreement by compromise. The only point upon which I thought it my duty to enter upon anything like controversy is that referred to in my letter of the 13th instant, and I did so to rescue my Government and myself from an imputation of unworthy motives, and the charge that they set up a claim which they knew to be unfounded from mere considerations of policy or convenience. The assertions of persons in my position on subjects connected with their diplomatic duties are naturally received by the world with some caution, but I trust you will believe me when I assure you that I should not be the person to come here on any such errand. I do not pretend, nor have I ever thought the claim of Great Britain, with respect to this Boundary, any more than the claim of America, to be unattended with difficulties. Those claims have been considered by impartial men of high authority and unquestioned ability to be equally so attended; and, therefore, it is that this is a question for a compromise, and it is this compromise which it has become our duty to endeavour to accomplish. I will only here add the most solemn assurance, which I would not lightly make, that after a long and careful consideration of all the arguments and inferences, direct and circumstantial, bearing on the whole of this truly difficult question, it is my settled conviction that it was the intentions of the parties to the Treaty of Peace of 1783, however imperfectly those intentions may have been executed, to leave to Great Britain, by their description of boundaries, the whole of the waters of the River St. John.

The length of these preliminary observations, requires, perhaps, some apology, but I now proceed to comply with your application to me to state the principles and conditions on which it appears to me that this compromise, which it is agreed we should attempt, should be founded.

A new boundary is, in fact, to be traced between the State of Maine

and the Province of New Brunswick. In doing this, reference must be had to the extent and value of the Territory in dispute, but, as a general principle, we cannot do better than keep in mind the intention of the framers of the first Treaty of Peace in 1783, as expressed in the preamble to the provisional Articles in the following words:—"Whereas reciprocal advantages and mutual convenience are found by experience to form the only permanent foundation of peace and friendship between States," &c.

I have on a former occasion explained the reasons which have induced the British Government to maintain their rights in this controversy beyond any apparent value in the object in dispute, to be the establishing a good boundary between our two countries, so as to prevent collision and dispute, and an unobstructed communication and connexion of our colonies with each other. Further, it is desired to retain under the jurisdiction of each Government respectively such inhabitants as have been for a length of time so living, and to whom a transfer of allegiance might be painful or distressing.

These are shortly the objects we have in view, and which we must now see to reconcile to a practical division of the Territory in dispute. Great Britain has no wish of aggrandizement for any general purpose of increased dominion, as you must be satisfied by the liberality with which I have professed myself ready to treat questions of boundaries in other quarters, where no considerations of particular convenience or fitness occur. I might further prove this by calling your attention to the fact, that of the land likely to come to us by any practical settlement, nine tenth parts of it are, from its position and quality, wholly worthless. It can support no population, it grows even little timber of value, and can be of no service but as a boundary, though from its desert nature an useful boundary, for two distinct Governments.

In considering on the map a division of the territory in question, this remarkable circumstance must be kept in mind, that a division of acres by their number would be a very unequal division of their value. The southern portion of this territory, the valley of the Aroostook, is represented to be one of the most beautiful and most fertile tracts of land in this part of the continent, capable of the highest state of cultivation and covered with fine timber, while the northern portion, with the exception of that small part comprised within the Madawaska settlement, is of the miserable description I have stated. It would be no exaggeration to say that one acre on the Aroostook would be of much more value than ten acres north of the St. John. There would be, therefore, no equality in making a division of acre for acre.

But although I remind you of this circumstance, I do not call on you to act on it. On the contrary, I am willing that you should have the advantage in this settlement, both in the quantity and the quality of this land; all I wish, is to call this fact in proof of my assertion that the object of Great Britain was simply to claim that which was essential to her, and would form a convenient boundary, and to leave all the more material advantages of this bargain to the State of Maine.

I now come to the more immediate application of these principles to a definite line of boundary, and looking at the map with reference to the sole object of Great Britain as already described, the line of the St. John from where the north line from the St. Croix strikes it, up to some one of its sources, seems evidently to suit both parties, with the exception which I shall presently mention. This line throws the waste and barren tract to Great Britain and the rich and valuable lands to Maine, but it makes a good boundary, one which avoids collision and probable dispute, and, for the reasons stated, we should be satisfied with it if it were not for the peculiar circumstance of a settlement formed on both sides of the St. John, from the mouth of the Madawaska up to that of the Fish River.

The history and circumstances of this settlement are well known to you. It was originally formed from the French establishments in Acadie, and has been uninterruptedly under French or British dominion, and never under any other laws. The inhabitants have professed great apprehensions of being surrendered by Great Britain, and have lately sent an earnest petition to the Queen deprecating that being done.

Further, this settlement forms one united community, all connected together and living some on one and some on the other side of the river, which forms a sort of high road between them. It seems self-evident that no more inconvenient line of boundary could well be drawn than one which divides in two an existing municipality; inconvenient as well to the inhabitants themselves as to the authorities under which they are to live. There would be evident hardship, I might say cruelty, in separating this now happy and contented village, to say nothing of the bickerings and probable collisions likely to arise from taking in this spot the precise line of the river which would, under other circumstances, satisfy us. Indeed, I should consider that such a separation of these industrious settlers, by placing them under separate laws and Governments, a most harsh proceeding, and that we should thereby abandon the great object we should have in view of the happiness and convenience of the people, and the fixing a boundary the least likely to occasion future strife. I dwell on this circumstance at some length, in justification of the necessity I am under of departing to this inconsiderable extent from the marked line of the River St. John. What line should be taken to cover this difficulty I shall have to consider with you, but I cannot in any case abandon the obvious interests of these people. It will be seen by an inspection of the map that it is not possible to meet this difficulty by making over to Maine the northern portion of this settlement, as that would be giving up by Great Britain the immediately adjoining communication with Canada, which it is her principal object to preserve.

These observations dispose of those parts of this question which immediately concern the State of Maine, but it may be well at the same time to state my views respecting the adjoining boundary of the States of New Hampshire, Vermont, and New York, because they made part of the reference to the King of the Netherlands, and were, indeed, the only part of the subject in dispute upon which a distinct decision was given. The question here at issue between the two countries was as to the correct determination of the parallel of latitude and the true source of the Connecticut River. Upon both these points decisions were pronounced in favour of Great Britain, and I might add, that the case of America, as matter of right, was but feebly and doubtingly supported by her own authorities. I am nevertheless disposed to surrender the whole of this case, if we should succeed in settling, as proposed, the boundary of Maine. There is a point or two in this line of boundary where I may have to consider with you, with the assistance of the surveyors acquainted with the localities, the convenience of the resident settlers; as also what line may best suit the immediate country at the head of Connecticut River, but substantially the Government of America shall be satisfied, and this point be yielded to them.

This concession, considered with reference to the value of the land ceded, which is generally reported to be fertile, and contains a position at Rouse's Point much coveted in the course of the controversy, would, under ordinary circumstances, be considered of considerable importance. The concession will, however, be made by Great Britain without reluctance, not only to mark the liberal and conciliatory spirit by which it is desired to distinguish these negotiations, but because the case is in some respects analogous to that of the Madawaska settlement before considered. It is believed that the settlers on the narrow strip which would be transferred to Great Britain by rectifying the 45th parallel of latitude, which was formerly incorrectly laid down, are principally from the United States, and that their opinions and habits incline them to give a preference to that form of Government under which, before the discovery of the error in question, they supposed themselves to be living. It cannot be desired by Her Majesty to acquire any addition of territory under such circumstances, whatever may be the weight of her rights; but it will be observed that the same argument applies almost exactly to the Madawaska settlement, and justifies the reservation I am there obliged to make. In these days the convenience and happiness of the people to be governed will ever be the chief guide in transactions of this description between such Governments as those of Great Britain and the United States.

Before quitting this subject I would observe, that it is rumoured that Major Graham, in his late survey in Maine, reports some deviation from the true north of the line from the head of the St. Croix towards the St. John. I would here propose also to abide by the old line long established, and from which the deviation by Major Graham is, I am told, inconsiderable, without at all doubting the accuracy and good faith of that very distinguished officer.

In stating the important concessions I am prepared to make, on a final settlement of these boundaries, I am sensible, that concessions to one state of this Union are not always to be made available for the satisfaction of any other; but you are aware that I am treating with the United States, and that for a long line of important boundaries, and that I could not presume to enter on the question, how this settlement might operate on, or be in any way compensated to, the different States of the confederacy. I should, however, add my unfeigned belief, that what I have proposed will appear reasonable with reference to the interests of the State of Maine, considered singly; that the proposition, taken as a whole, will be satisfactory to the country at large I can entertain no doubt.

I abstain from noticing here the boundaries further west which I am prepared to consider and to settle, because they seem to form part of a case which it will be more convenient to treat separately.

In the course of these discussions much anxiety has been expressed, that Maine should be assured of some means of communication by the St. John, more especially for the conveyance of her lumber. This subject I am very willing to consider, being sensible of the great importance of it to that State, and that the friendly and peaceful relations between neighbouring countries cannot be better secured than by reciprocally providing for all their wants and interests. Lumber must, for many years, be the principal produce of the extensive valley of the Aroostook, and of the southern borders of the St. John; and it is evident, that this article of trade being worth anything must mainly depend upon its having access to the sea through that river. It is further evident, that there can be no such access under any arrangement, otherwise than by the consent of the Province of New Brunswick. It is my wish to seek an early opportunity of considering with some person well acquainted with the commerce of that country, what can be done to give it the greatest possible freedom and extent, without trenching too much on the fiscal regulations of the two countries.

But in the meantime, in order to meet at once the urgent wants and wishes of Maine in this respect, I would engage that, on the final settlement of these differences, all lumber and produce of the forest of the tributary waters of the St. John, shall be received freely without duty, and dealt with in every respect, like the same articles of New Brunswick. I cannot now say, positively, whether I may be able to go further, but this seems to me what is principally required. Suggestions have at times been thrown out of making the Port and River of St. John free to the two countries, but I think you will be sensible that this could not be done without some reciprocity for the trade of St. John's in ports of the United States, and that in endeavouring to regulate this we should be embarking in an intricate question, much and often discussed between the two countries. It cannot also fail to occur to you, that joint rights in the same harbours and waters must be a fruitful source of dissension, and that it behoves us to be careful not to sow the seeds of future differences in the settlements of those of our own day.

I have now stated, as I was desired to do, my views of the terms upon which it appears to me that this settlement may be made. It must be sufficiently evident, that I have not treated the subject in the ordinary form of a bargain, where the party making the proposal leaves himself something to give up. The case would not admit of this, even if I could bring myself so to act. It would have been useless for me to ask what I know could not be yielded; and I can unfeignedly say that, even if your vigilance did not forbid me to expect to gain any undue advantage over you, I should have no wish to do so. The Treaty we have to make will be subjected to the scrutiny of a jealous and criticising public; and it

would ill answer its main purpose of producing and perpetuating future harmony and good will, if its provisions were not considered by good and reasonable men to make a just and equitable settlement of this long-continued controversy.

Permit me, Sir, &c.,

(Signed) ASHBURTON.

No. 6.

Mr. Webster to Lord Ashburton.

Department of State,
Washington, July 8, 1842.

My Lord,

YOUR notes of the 13th and the 21st of June were duly received.

In the first of these, you correctly say, that in our conferences on the Boundary Question, we have both been of opinion, that no advantage would be gained, by resorting at this time, to the discussion at length of the grounds on which each party considers its claim of right to rest. At the same time you deem it expedient, nevertheless, to offer some observations calculated, in your judgment, to repel a supposed allegation or suggestion, that this controversy began only in 1814; that, up to that period, the American claim was undisputed; and that the English claim, as now set forth, is founded merely on motives of interests. Nothing is more natural, than that your Lordship should desire to repel an imputation which would impeach the sincerity and good faith of your Government, and all the weight which justice and candour require is given to your Lordship's observations in this respect. It is not my purpose, nor do I conceive it pertinent to the occasion, to go into any consideration of the facts and reasonings presented by you, to show the good faith and sincerity of England in the claim asserted by her. Any such discussion would be a departure from the question of right now subsisting between the two Governments, and would be, more especially, unfit for an occasion, in which the parties are approaching each other in a friendly spirit, with the hope of terminating the controversy by agreement. Following your Lordship's example, however, I must be permitted to say, that few questions have ever arisen under this Government, in regard to which a stronger or more general conviction was felt, that the country was in the right, than this question of the North-Eastern Boundary. To say nothing of the sentiments of the Governments and people of the States more directly interested, whose opinions may be supposed capable of bias, both houses of Congress, after full and repeated consideration, have affirmed the validity of the American claim, by a unanimity experienced on very few other subjects; and the general judgment of the whole people seems to be the same way. Abstaining from all historical facts, all contemporaneous expositions, and all external arguments and circumstances, I will venture to present to your Lordship a very condensed view of the reasons which produce, in this country, the conviction, that a boundary line may be ascertained, run, and delineated with precision, under, and according to the words of the stipulations in the Treaty of 1783; that no doubt can be raised by any part of that stipulation which other parts of it do not remove or explain; and that a line, so run, would include all that the United States claim. This view is presented by a series of short propositions.

1. The north-west angle of Nova Scotia is the thing to be sought for and found.

2. That angle is to be ascertained by running a line due north from the source of the St. Croix River, till that line reaches the highlands; and when such north line intersects the highlands there is the angle; and thence the line is to run along the said highlands, which said highlands divide those rivers which empty themselves into the River St. Lawrence, from those that fall into the Atlantic Ocean. The angle required,

therefore, is an angle made by the intersection of a due north line with highlands, from one slope of which the rivers empty themselves into the River St. Lawrence and from the other into the Atlantic Ocean.

3. Supposing it to be matter of doubt, whether the St. John and the Restigouche are rivers falling into the Atlantic Ocean, in the sense of the Treaty, then the rule of just interpretation is, that if one element or one part in the description be uncertain, it is to be explained by others which are certain, if there be such others. Now there is no doubt as to the rivers which fall into the St. Lawrence; they are certain, and to their sources the north line is to run, since, at their sources, the highlands required by the Treaty, do certainly exist; and departing for a moment from the rule just prescribed to myself, I will remind your Lordship, that the joint commissioners and the agents of the two Governments in 1817, in giving the surveyors instructions for finding these highlands, directed them, in terms, to proceed upon a due north line, "until they should arrive at some one of the streams connected with the River St. Lawrence," and then to explore the highlands from that point to the north-western-most head of Connecticut River. It is indisputable that a line run according to these instructions thus given by the commissioners and agents of both Governments, would give to the United States all that they have at any time claimed.

4. It is certain, that by the Treaty the Eastern Boundary of the United States, from the head of the St. Croix, is to be a due north and south line; and it is equally certain, that this line is to run north till it reaches highlands from whose northern water-shed the rivers flow into the St. Lawrence.

5. These two things being, one mathematically, and the other physically, certain in themselves, and capable of being precisely marked and delineated, explain or control the uncertainty, if there be uncertainty, in the other part or element of the description.

6. The British argument, assuming that the Bay of Fundy, and more especially the Bay of Chaleur, are not the Atlantic Ocean within the meaning of the Treaty, insists, that the rivers flowing into these bays, are not, therefore, in the sense of the Treaty, rivers falling into the Atlantic; and, therefore, the highlands to which the United States claim, have not that southern or eastern water-shed which the Treaty calls for; and, as it is agreed, nevertheless, that we must somewhere find highlands and go to them, whose northern waters run into the St. Lawrence, the conclusion is, that the different parts of the description in the Treaty do not cohere, and that, therefore, the Treaty cannot be executed.

7. Our answer to this, as is obvious from what has already been said, is twofold.

1. What may be doubtful in itself, may be made certain by other things which are certain; and, inasmuch as the Treaty does certainly demand a due north line and does certainly demand the extension of that line to highlands, from whose northern sides the rivers flow into the River St. Lawrence, these two clear requirements make it plain, that the parties to the Treaty considered, in fact, the rivers flowing from the south or east of the said highlands to be rivers falling into the Atlantic Ocean; because they have placed St. Lawrence rivers, and the Atlantic rivers, in contradistinction to each other, as rivers running in opposite directions, but with their sources in the same highlands. Rivers fed from these highland fountains running north, or north-west, are rivers emptying themselves into the St. Lawrence; and rivers arising from the same fountains and running in an opposite direction, seem to be as clearly meant to be designated by the character of Atlantic rivers. And as, strongly corroborating this view of the subject, allow me to call your Lordship's attention to two facts.

1. The coast of the Atlantic Ocean from Penobscot River, north-easterly, and the western shore of the Bay of Fundy, which is but a continuation of the coast, and is in a line with it, is very nearly parallel to the course of the River St. Lawrence through the same latitudes. This is obvious from the map.

2. The rivers which, from their sources in the same ridge, flow

respectively into the St. Lawrence and into the Bay of Fundy, and even into the Bay of Chaleur, run with remarkable uniformity in directions almost exactly opposite, as if hastening away from a common origin, to their different destinations, by the shortest course. The only considerable exception to this is the northern sweep of the upper part of the St. John; but the smaller streams flowing into this part of that river from the west, still strictly obey the general rule. Now if from a certain general line on the face of the country, or as delineated on the map, rivers are found flowing away in opposite directions, however strongly it may be asserted that the mountains or eminences are but isolated elevations, it is, nevertheless, absolutely certain, that such a line does, in fact, define a ridge of highlands which turns the waters both ways.

And as the commissioners in 1783 had the map before them; as they saw the parallelism of the sea-coast, and the course of the St. Lawrence; as they saw rivers rising from a common line, and running, some north or north-west, the others south or south-east; and as they speak of some of those rivers as emptying themselves into the River St. Lawrence, and of the others as falling into the Atlantic Ocean; and, as they make no third class, is there a reasonable doubt in which class they intended to comprehend all the rivers, running in a direction from the St. Lawrence, whether falling immediately or only ultimately, into the Atlantic Ocean?

If there be nothing incoherent, or inconsequential, in this chain of remarks, it will satisfy your Lordship, I trust, that it is not without reason, that American opinion has settled firmly in the conviction of the rights of the American side of the question; and I forbear from going into the consideration of the mass of other arguments and proofs, for the same reasons which restrain your Lordship from entering into an extended discussion of the question, as well as because your Lordship will have an opportunity of perusing a paper, addressed to me by the Commissioners of Maine, which strongly presents the subject, on other grounds, and in other lights.

I am now to consider your Lordship's note of the 21st June. Before entering upon this, I have the President's instructions to say, that he fully appreciates the motives which induced your Lordship personally to undertake your present mission; that he is quite aware that your public life has been distinguished by efforts to maintain peace and harmony between the two countries; that he quite well recollects that your exertions were employed to prevent the late war; and that he doubts not the sincerity of your declaration that nothing could have drawn you from your retirement and induced you to engage in your present undertaking but the hope of being of service to your country and to our common race. And I have the utmost pleasure, my Lord, in acknowledging the frankness, candour, aad plain dealing which have characterized your official intercourse with this Government; nor am I permitted or inclined to entertain any doubt of your Lordship's entire conviction, as expressed by yourself, as to the merits of this controversy and the difficulties of the case.

The question before us is, whether these confident opinions on both sides of the rightful nature and just strength of our respective claims will permit us, while a desire to preserve harmony and a disposition to yield liberally to mutual convenience so strongly invite us, to come together and to unite on a line by agreement.

It appears to be your Lordship's opinion that the line of the St. John, from the point where the north line from the St. Croix strikes that river, up to some one of its sources, evidently suits both parties; with an exception, however, of that part of the Madawaska settlements which is on the south side of the St. John, which you proposed should be included within the British territory. That, as a line by agreement, the St. John, for some distance upward from its intersection by the line running north from the St. Croix, would be a very convenient boundary for the two parties, is readily admitted; but it is a very important question how far up, and to which of the sources of this river, this line should extend. Above Madawaska, the course of the river turns to the south, and stretching away towards the sources of the Penobscot, leaves far to the north the line of communication between New Brunswick and Canada. That line departs

from the St. John altogether, near Madawaska, and keeping principally upon the left or north bank of the Madawaska, and proceeding by way of the Temiscouata Lake, reaches the St. Lawrence at the mouth of the River du Loup.

There are, then, two important subjects for consideration.

First, whether the United States can agree to cede, relinquish, or cease to claim any part of the territory west of the north line from St. Croix, and south of the St. John; and I think it but candid to say at once that we see insurmountable objections to admitting the line to come south of the river. Your Lordship's observations upon the propriety of preserving the unity of the Madawaska settlement, are in a great measure just, and altogether founded, I doubt not, in entirely good motives. They savour of humanity, and a kind regard to the interests and feelings of individuals. But the difficulties seem insuperable. The river, as your Lordship remarks, seems a natural boundary; and in this part of it, to run in a convenient direction. It is a line always clear and indisputable. If we depart from it, where shall we find another boundary equally natural, equally clear, and conforming to the same general course? A departure from the line of the river, moreover, would open new questions about equivalents, which it would probably be found impracticable to settle. If your Lordship was at liberty, as I understand you not to be, to cede the whole or a part of the territory commonly called the Strip, lying east of the north line, and west of the St. John, considerations might be found in such a cession, possibly, for some new demarcation west of the north line and south of the river. But, in the present posture of things, I cannot hold out the expectation to your Lordship that any thing south of the river can be yielded.

And, perhaps, the inconveniences to the settlers on the southern bank, of making the river the boundary, are less considerable than your Lordship supposes. These settlers are scattered along a considerable extent, very likely soon to connect themselves with whomsoever may come to live near them, and though of different origin, and some difference of religion, not likely on the whole to be greatly dissimilar from other borderers occupying the neighbouring territory. Their rights of property would of course be all preserved, both of inheritance and alienation; and if some of them should choose to retain the social and political relations under which they now are, their removal for that purpose to the north bank, drawing after it no loss of property or of means of subsistence, would not be a great hardship. Your Lordship suggests the inconvenience of dividing a municipality by a line of national boundary; and certainly there is force in the observation; but if, departing from the river, we were to establish to the south of it an artificial line, upon the land, there might be points upon such land at which people would live in numbers on both sides, and a mere mathematical line might thus divide villages while it divided nations. The experience of the world, and our own experience, shows the propriety of making rivers boundaries, wherever their courses suit the general objects; for the same reason that, in other cases to which they are applicable, mountain ranges or ridges of highlands are adopted for the same purpose; these last being, perhaps still more convenient lines of division than rivers, being equally clear and prominent objects; and the population of neighbouring countries bordering on a mountain line of separation, being usually thin and inconsiderable on either side. Rivers and inland waters constitute the boundary between the United States, and the territories of Her Majesty for some thousands of miles westward from the place where the 45° of north latitude intersects the St. Lawrence, and along this line, though occasional irregularities and outbreaks have taken place, always by the agency and instigation of agitators and lawless men, friends of neither country, yet it is clear that no better demarcation of limits could be made. And at the north-east, along the space through which the St. Croix constitutes the line of separation, controversies and conflicts are not heard of; but similarity of language, character, and pursuits, and mutual respect for the rights of each other, preserve the general peace.

Upon the whole, my Lord, feeling that there may be inconvenience,

and perhaps a small degree of hardship, I cannot admit that there is any cruelty in separating the Madawaska settlers south of the St. John, so far as political relations are concerned, from their neighbours on the north of that river. In the present state of society and of peace which exists between the two countries, the severance of political relations needs not to disturb social and family intercourse; while high considerations, affecting both the present and the future, seem to me to require that following natural indications we adhere to the St. John in this part of its course, as the line of division.

The next question is, how far upward this boundary ought to be observed, and along which of its branches. This question would be easily settled, if what may be called the main branch of the river in this part of it, differing from the general character of the rivers in this region of country, did not make a sudden turn. But if we consider the main branch of the St. John's that which has been recently usually so denominated, your Lordship observes that near the mouth of the Madawaska it turns almost at right angles, and pushes its sources towards those of the Penobscot. Contiguity and compactness of territory can hardly be preserved by following a stream which makes, not occasional windings, but at once so great a deflection from its previous course. The Madawaska is one of its branches or principal sources, and, as the map shows, is very much a continuance of the line of the principal river from the Great Falls upwards. The natural course would, therefore, seem to be to continue along this branch.

We understand, and indeed collect from your Lordship's note, that with whatever opinion of her right to the Disputed Territory, England in asserting it has principally in view to maintain, on her own soil, her accustomed line of communication between Canada and New Brunswick. We acknowledge the general justice and propriety of this object, and agree at once that, with suitable equivalents, a conventional line ought to be such as to secure it to England. The question, therefore, simply is, what line will secure it? The common communication between the provinces follows the course of the St. John, from the Great Falls to the mouth of the Madawaska, and then, not turning away to the south with the course of the main stream, identifies itself with that of the Madawaska, going along with it to the Temiscouata Lakes, thence along those lakes, and so across the highlands, to streams running into the St. Lawrence. And this line of communication we are willing to agree shall hereafter be within acknowledged British territory, upon such conditions and considerations as may be assented to. The Madawaska and the fore-mentioned lakes might conveniently constitute the boundary. But I believe it is true that in some part of the distance above the mouth of the Madawaska, it has been found convenient to establish the course of communication on the south bank of that river. This consideration may be important enough to justify a departure from what would otherwise be desirable, and the running of the line at some distance south of the Madawaska, observing natural monuments where it may be practicable, and thus leaving the whole valley of the Madawaska on the British side.

The United States, therefore, upon the adjustment of proper equivalents, would not object to a line of boundary which should begin at the middle of the main channel of the River St. John where that river is intersected by a due north line, extended from the source of the St. Croix, thence proceeding westerly by the middle of the main channel of that river, to a point three miles westerly of the mouth of the Madawaska; thence by a straight line to the outlet of Long Lake: thence westerly by a direct line to the point where the River St. Francis empties itself into the lake called Pohenagamook; thence continuing in the same direct line to the highlands which divide the waters falling into the River Du Loup from those which fall into the River St. Francis. Having thus arrived at the highlands I shall be ready to confer on the correct manner of following them to the north-westernmost head of the Connecticut River.

Such a line as has been now described would secure to England a free intercourse between Canada and New Brunswick; and, with the navi-

gation of the St. John yielded to the United States, would appear to meet the wants of all parties.

Your Lordship's proposition in regard to the navigation is received as just, and as constituting, so far as it may go, a natural equivalent. Probably the use of the river for the transportation of the products of the forest grown on the American side of the line, would be equally advantageous to both parties, and therefore, in granting it, no sacrifice of British interest would be incurred. A conviction of this, together with their confidence in the validity of their own claim, is very likely to lead the two States immediately concerned, to consider their relinquishment of the lands north of the line, much in the light of a mere cession. It needs not to be denied, that to secure this privilege, and to have a right to enjoy it free from tax, toll, or other liability, or inability, is an object of considerable importance to the people of Maine.

Your Lordship intimates that as a part of the general arrangement of boundaries, England would be willing to surrender to the United States Rouse's Point, and all the territory heretofore supposed to be within the boundaries of New Hampshire, Vermont, and New York, but which a correct ascertainment of the 45th parallel of north latitude shows to be included within the British line. This concession is, no doubt, of some value. If made, its benefit would enure, partly to these three States and partly to the United States, and none of it to the particular interests of Maine and Massachusetts. If regarded, therefore, as a part of the equivalent for the manner of adjusting the North-Eastern Boundary, these two last-mentioned States, would, perhaps, expect that the value, if it could be ascertained, should be paid to them. On this point further consideration may be necessary.

If, in other respects, we should be able to agree on a boundary, the points which you refer to, connected with the ascertainment of the head of the Connecticut, will be attended to, and Captain Talcott who made the exploration in that quarter will be ready to communicate the result of his observations.

I have, &c.,
(Signed) DANL. WEBSTER.

Inclosure in No. 6.

The Commissioners from Maine to Mr. Webster.

Sir, *Washington, June* 29, 1842

THE Undersigned, Commissioners of Maine, have given to the letter of Lord Ashburton, addressed to you under date of the 21st instant, and by you communicated to them, all the consideration which the importance of the subject of which it treats, the views it expresses, and the propositions it submits to you, demand.

There are passages in his Lordship's communication, the exact extent of the meaning of which the Undersigned are not quite sure that they fully understand.

In speaking of the inhabitants on the south side of the St. John, in the Madawaska settlement, he says, " I cannot in any case abandon the obvious interest of these people." Again, in speaking of the proposition submitted by him, he remarks, " I have not treated the subject in the ordinary form of a bargain, where the party making the proposal leaves himself something to give up. The case would not admit of this, even if I could bring myself so to act."

If his Lordship's meaning is that the proposed boundary by agreement, or conventional line, between the State of Maine and the Province of New Brunswick must at all events be established on the south side of the St. John, extending from the due north line to Fish River and at a distance back from the river, so as to include the Madawaska settlement, and that the adoption of such a line is a *sine quâ non* on the part of the British Government, the Commissioners on the part of the State of Maine feel it their duty as distinctly to say, that any attempt at an amicable

adjustment of the controversy respecting the North-Eastern Boundary on that basis with the consent of Maine would be entirely fruitless.

The people of Maine have a deep-settled conviction and the fullest confidence in the justice of their claim to its utmost extent; yet being appealed to, as a constituent member of the American Union, and called upon as such to yield something in a spirit of patriotism for the common good, and to listen in a spirit of peace, of accommodation and good neighbourhood to propositions for an amicable settlement of the existing controversy, they have cheerfully and promptly responded to the appeal. Her Governor and Legislature in good faith immediately adopted the measures necessary on her part, with a view to relinquish to Great Britain such portion of territory and jurisdiction as might be neded by her for her accommodation, on such terms and for such equivalents as might be mutually satisfactory. Beyond this nothing more was supposed to be expected or desired. During the negotiations at Ghent the British Commissioners in a communication to the American Commissioners, dated October 8, 1814, distinctly avow that "the British Government never required all that portion of Massachusetts intervening between the Province of New Brunswick and Quebec, should be ceded to Great Britain; but only that small portion of unsettled country which intercepts the communication between Halifax and Quebec." So his Lordship in his communication admits that "the reasons which have induced the British Government to maintain their rights" (claim) "in this controversy" are, "the establishing a good boundary between our two countries so as to prevent collisions and dispute, and an unobstructed communication and connexion of our colonies with each other." Again, looking, as he says, on the map for such a boundary, "with reference to the sole object of Great Britain, as already described, the line of the St. John's from where the north line from the St. Croix strikes it up to some one of its sources, seems evidently to suit both Parties," &c. Indeed the portion of territory which Great Britain needs for her accommodation is so perfectly obvious, that no material difference of opinion, it is believed, has ever been expressed on the subject. It is that portion which lies north of the St. John and east of the Madawaska rivers, with a strip of convenient width on the west side of the latter river and the lake from which it issues.

Sent here, then, under this state of things, and with these views, by the Legislature of Maine, in a spirit of peace and conciliation, her Commissioners were surprized and pained to be repelled, as it were, in the outset, by such a proposition as his Lordship has submitted to you. On carefully analyzing it, it will be seen that in addition to all the territory needed by Great Britain for her accommodation, as stated and admitted by her own authorities and agents, it requires that Maine should further yield a valuable territory of more than fifty miles in extent, lying along the sonth side of the St. John, extending from the due north line westerly to Fish River, and so back from the River St. John, as it is understood, to the Eagle Lakes, and probably to the Little Madawaska and Aroostook. Speaking of this branch of his proposition, his Lordship treats it merely as "departing to this inconsiderable extent from the marked line of the River St. John." His Lordship does not state how much further up the river he contemplates going. His language implies that the distance to Fish River, although over fifty miles, is an inconsiderable part of the whole extent contemplated. This part of the proposition then, would seem to imply a relinquishment also on the part of Maine of a large portion of her territory north of the St. John and west of the Madawaska Rivers. In this view of the case it is due to the Governor and Legislature, and people of Maine, to say that they had not expected such a proposition. If they had, nothing is hazarded in saying no Commissioners would have been sent here to receive and consider it. And in this state of things it becomes a bounden duty on the part of the Undersigned to say to you that, if the yielding and relinquishing on the part of the State of Maine of any portion of territory, however small, on the south side of the St. John, be with Her Britannic Majesty's Government a *sine quâ non* to an amicable settlement of the boundary of Maine, the mission of the Commissioners of Maine is ended. They came not to throw obstacles in the way to the successful

accomplishment of the great work you have on hand,—that of consolidating an honourable peace between two great nations,—but, on the contrary, they came prepared to yield much, to sacrifice much on the part of Maine to the peace of the Union, and the interest of her sister States. If the hopes of the people of Maine and of the United States are to be disappointed, it is believed the fault lies not at the door of the Governor or Legislature of Maine or of her Commissioners.

At the date of the earliest maps of that country, the river now called the Madawaska, had not acquired a distinctive name, and consequently the source of that river was regarded as one of the sources, if not the principal source, of the St. John. On looking at the map, it will at once be seen that the general course of the St. John and Madawaska, from the mouth of the former to the source of the latter, are one and the same. As connected with this fact, we find that, at least, five different maps published in London, in the years 1765, 1769, 1771, 1774, 1775, place the north-west angle of Nova Scotia on the Highlands at the source of that branch of the St. John, then without distinctive appellation, but now known as the Madawaska. One of these five is specially quoted in the Report of the Committee of Congress, of the 16th August, 1782, so often referred to in this controversy. In no map of a date prior to the Treaty of 1783, it is believed, is the north-west angle of Nova Scotia placed on the highlands at the source of any branch whatever of the St. John, but the Madawaska. Hence the proposition of the American Commissioners, in 1782, in discussing the subject of the Boundaries of the United States, to begin at the north-west angle of Nova Scotia, on the highlands at the source of the St. John. Respect for the distinguished men who negotiated the Treaty of Peace of 1783, would induce the Undersigned to renew the proposition, so far as regards adopting the Madawaska as a boundary, were it not that, being prepared to yield all that is needed for the accommodation of Great Britain, they are aware that a strip on the west side of that river is necessary to that object. The particular map quoted in the report above-mentioned, is that of Emanuel Bowen, Geographer to the King, published in 1775, in which the Penobscot, and a line drawn from one of its sources, crossing the St. John, to the source of that branch now called the Madawaska, are distinctly laid down as the western boundary of Nova Scotia. So in all the maps which place the north-west angle of Nova Scotia on the highlands at the source of the St. John, those highlands and that source are on the north side of the Walloostook, which is now known to be the main branch of the St. John. The inference or assumption, then, that it was not the intention of the Commissioners who negotiated the Treaty of Peace, that any portion of the valley or waters of the St. John should be included within the limits of the United States, because the American negotiators of that Treaty proposed the north-west angle of Nova Scotia on the highlands at the source of the St. John, as the place of beginning, in establishing the boundaries of the United States, is, it is believed, wholly unwarranted. The fact, on the contrary, as it seems to the Undersigned, disproves any such intention or supposition on the part of the American Commissioners.

The British Commissaries, Messrs. Mildmay and Dr. Cosne, in their reply of the 23rd of January, 1753, to the French Commissaries, say, "We have sufficiently proved, first, that Acadia (Nova Scotia) has had an inland limit from the earliest times; and secondly, that that limit has ever been the River St. Lawrence." At that time, then, the British Government contended that the north-west angle of Nova Scotia was formed by the River St. Lawrence as one line, and a line drawn north from the St. Croix to the St. Lawrence as the other; and this is in conformity with the position assigned to it in Mitchell's Map, and some others. By the grant to Sir William Alexander, the north-west angle of Nova Scotia was also placed at the River St. Lawrence, although its precise locality on that river is not determined by the language of the grant. The French Commissaries, on their part, contended that the limits of Canada extended on the south side of the St. Lawrence, so as to embrace the territory watered by the rivers that empty themselves into the River St. Lawrence, "Les pays dont les eaux vont se rendre dans le

fleuve Saint Laurent." The Commissions granted to the Governors of Canada, and all the public documents issued by the authority of the French Government, fully sustain their position.

There is no ground, say they, for entertaining a doubt that all the Commissions granted by the King, for the Government of Canada, were conceived in the same terms. In the splendid Universal Atlas published at Paris by De Vaugondy and Son, in 1757, there is a map dated 1755, and referred to expressly by the author, who was Geographer to the King, as illustrating the dispute between France and Great Britain in regard to the boundaries of their respective territories. On this map, the dividing ridge or highland is placed where the United States have ever contended it is only to be found; and what is deserving of notice is, that the north-west angle of Nova Scotia is there placed on these highlands at the head of the lake there called Metavasta; the line separating Nova Scotia from New England, being drawn through the centre of that lake to the source of the St. Croix. The disputes above referred to having led to a war between France and Great Britain, France finally ceded to Great Britain, in February, 1763, Canada, and abandoned all claim to Nova Scotia and the whole territory in controversy between the two Powers. On the 7th October, 1763, His Britannic Majesty issued his Proclamation, defining the southern boundary of Canada, or the Province of Quebec, and establishing it where the French Government always contended that it was. Immediately afterwards, he also defined and established the western limit of Nova Scotia, alleging by way of justification of certain pretensions which had been put forward in opposition to Massachusetts in regard to the Penobscot as a boundary, that although he might have removed the line as far west as the Penobscot, yet he would limit himself to the St. Croix. Accordingly, the western boundary of Nova Scotia was in November, 1763, defined and established as follows: "By a line," &c., "across the entrance of the Bay of Fundy to the mouth of the River St. Croix, by the said river to its source, and by a line drawn due north from thence to the southern boundary of our Province of Quebec." The north-west angle of Nova Scotia was, by these two documents, established in November, 1763, and defined to be the angle formed by the line last described, and the line which "passes along the highlands which divide the rivers that empty themselves into the said River St. Lawrence from those which fall into the sea, and along the north coast of the Bay des Chaleurs." We now see wherefore it was that the distinguished men who negotiated the Treaty of Peace were so particular in describing the precise position and giving so exact a definition of the north-west angle of Nova Scotia mentioned in the Treaty. They distinctly and explicitly state that motive to be that "all disputes which might arise in future on the subject of the boundaries of the United States, may be prevented." Their starting bounds, or point of departure, is the north-west angle of Nova Scotia. Here the question presents itself, what north-west angle? They describe it:—not that north-west angle which in several maps is laid down on the highlands, at the Madawaska source of the St. John's;—not that north-west angle on the southern bank of the River St. Lawrence, laid down on Mitchell's Map, and so strenuously contended for by the British Government and British Commissaries in their dispute with France;—not that north-west angle on the River St. Lawrence, described in the charter or grant by King James to Sir William Alexander; but the north-west angle of Nova Scotia, defined and established in November, 1763, "to wit: that angle which is formed by a line drawn due north from the source of the St. Croix river to the highlands," &c.; and further, that there might be no ground for reviving the old pretension in regard to the Penobscot, or any other western river being intended as the St. Croix, the River St. Croix intended in the Treaty is declared to have its mouth in the Bay of Fundy. Nor is there any pretence of any doubt or question having been raised, until long after the Treaty of Peace, as to what highlands were intended in the Proclamation of 1763, as constituting the southern boundary of Quebec. So far from it, the Parliament of Great Britain, in 1774, passed the Quebec Act, which was one of the grievances complained of by the Colonies, and which

confirmed the boundaries, so far as the matter under consideration is concerned, defined and established by that proclamation. Of these two public acts the American Commissioners were not ignorant nor misinformed. They are both expressly referred to and mentioned in the Report of August 16, 1782, already mentioned. To find these highlands the statesman and jurist, who has no other object in view than to expound the Treaty according to its terms and provisions, uninfluenced by any secret bias or preconceived theory, will, it is believed, begin, not at the mouth or source of the St. Croix, but on the bank of the River St. Lawrence, at a point north of the source of the River St. Croix, and following the due north line so called southward, he will find no difficulty in discovering the line of the "*versants*," from which issue the rivers that empty themselves into the River St. Lawrence. The whole and exclusive object and intent of the Proclamation of 1763, so far as relates to this matter of boundary, in that section of country, was not in any way to affect or alter the limits of jurisdiction over the territory lying south of that line of "*versants*," but only to cut off from Nova Scotia and Massachusetts, that portion of territory which was watered by the rivers which empty themselves into the River St. Lawrence. Accordingly the due north line, or boundary between Nova Scotia and Massachusetts, is described as extending "from the source of the St. Croix to the southern boundary of our Province of Quebec."

The Commissioners of Maine do not consider themselves as sent here to argue the question of right in regard to the conflicting claims to the Disputed Territory, nor to listen to an argument in opposition to the claim of Maine. Their mission contemplated a far different and more conciliatory object. They have, however, felt themselves compelled, in justice to Maine, to reply to two positions assumed by Lord Ashburton, the soundness of which, with great deference and respect for his Lordship, they cannot admit;—first, that "it was the intention of the parties to the Treaty of Peace of 1783, to leave to Great Britain, by their description of boundaries, the whole waters of the River St. John;" secondly, "that the Treaty of 1783 was not executable according to its strict expression." His Lordship also speaks of "a volume of additional controversial matter which he has not communicated, but which he has brought with him, and much of which would be of no inconsiderable weight and importance if controversy were our object." Among the matter referred to in that volume, the Undersigned believe they have reason to conjecture, will be found a map entitled "North America with the new Discoveries," by William Faden, Geographer to the King, published in the year 1785. That map, a copy of which is now before the Undersigned, communicated by you, extends the British possessions so as to include the waters of the St. John, and dispenses with the due north line of the Treaty altogether. The map referred to is a small one of small pretensions. It is, however, somewhat remarkable, that the same William Faden published in 1783, a map, prepared with great care, entitled "The United States of North America, with the British and Spanish territories according to the Treaty," in which he lays down the boundary of Quebec according to the Act of 1774, and the boundary of the United States in precise accordance with the American claim. He was not at that time Geographer to the King. It is well known that difficulties, very soon after the Treaty of Peace, began to spring up between the United States and Great Britain, which became more and more exasperated until the conclusion of the Treaty negotiated by Mr. Jay. During that period, the boundaries of the United States became more restricted on more British maps than the one published by Mr. Faden. How far the new light let in upon him by the feeling of the times, and his new position enlighten the mind of Mr. Faden, in making his new discoveries, it is neither our duty nor our disposition to discuss. Mr. Faden and others were only imitating, in this particular, what had been done some thirty years before, during the controversy between France and Great Britain; and again in the subsequent one, between the Crown and Massachusetts, when the officers of the Crown were endeavouring to reclaim the territory east of the Penobscot.

As they have been assured that Lord Ashburton is restrained by his

instructions from yielding the Island of Grand Manan, or any of the islands in Passamaquoddy Bay, or even any portion of the narrow strip of territory which lies between the due north line from the source of the St. Croix and the St. John River, above Eel River, so called, as an equivalent for any portion of the territory claimed by Maine as within her boundaries, her commissioners, on their part, feel themselves constrained to say, that the portion of territory within the limits of Maine as claimed by her, which they are prepared, in a spirit of peace and good neighbourhood, to yield for the accommodation of Great Britain, must be restrained and confined to such portion only, and in such reasonable extent as is necessary to secure to Great Britain "an unobstructed communication and connection of her colonies with each other." It appears by his communication to you that his Lordship proposes to yield the Disputed Territory claimed by New Hampshire at the sources of the Connecticut River, the strip of Disputed Territory at the head of Vermont, in the possession of that State, north of the 45th parallel of latitude, and the strip of Disputed Territory, embracing Rouse's Point, on Lake Champlain, north of the same parallel, in the possession of the State of New York, notwithstanding these have been decided by the arbiter to belong of right to Great Britain. Now the Undersigned are fully aware of the importance of having all these difficulties with regard to boundaries amicably adjusted, and that it is highly desirable to the United States to have them so adjusted, and to the particular States interested, to be confirmed and quieted in their respective limits and possessions. But it cannot have escaped your attention that all this is proposed to be done, partly at the expense of Massachusetts, but principally at the expense of Maine. The only thing in the nature of an equivalent offered to Maine and Massachusetts relates to a concession by Great Britain of the right of transporting the produce of the forests, without duty, down the St. John. It is not the intention of the Undersigned to depreciate or underrate the value of such a concession; but it is contended that it is a privilege as desirable to New Brunswick as it is to Maine and Massachusetts. It is to the territory of Maine, watered by the St. John and its tributary streams, that the city of St. John must look for the principal material to sustain her external commerce, for her means to pay for the supplies she receives from the mother-country. The unobstructed navigation of the St. John's for the transportation of the products of the forest, free of toll or duty of any kind whatever, would be a concession mutually advantageous to Maine and Massachusetts on the one part, and to Great Britain and New Brunswick on the other; but being mutually advantageous, it ought not, perhaps, to be treated exactly in the character of an equivalent. Yielding, however, to the force of the considerations which have been referred to,—considerations which affect materially the interests of Maine and Massachusetts as members of the Union,—and assuming it for granted, and as a ocndition that the United States themselves will furnish to the two States such an equivalent as in justice and equity they ought to do, the Undersigned, with the consent and concurrence of the Commissioners of Massachusetts, propose the following as a conventional line, or line by agreement, between the United States and the State of Maine on the one part, and Great Britain and the territories of Her Britannic Majesty on the other, viz.: beginning at the middle of the main channel of the River St. John. where the due north line from the source of the River St. Croix crosses the St. John; thence westerly by the middle of the main channel of the St. John, to a point three miles westerly of the mouth of the River Madawaska; thence by a straight line to the outlet of Long Lake; thence westerly by a direct line to the point where the River St. Francis empties itself into Lake Pohenagamook; thence continuing in the same direct line to the highlands which divide the waters emptying themselves into the River Du Loup, from those which empty themselves into the River St. Francis.

In proposing this line the following reasons have presented themselves to the Undersigned, for adopting it as a conventional line, or line by agreement, in preference to any other.

1st. It yields to Great Britain all she needs to secure to her "an unobtructed communication and connection of the colonies with each other,"

and, connected with the unobstructed and free navigation of the St. John, seems to meet the legitimate wants of all parties.

2nd. The most natural boundary from the due north line to the highlands of the treaty would be the St. John and the Madawaska to its source as first proposed by the American Commissioners who negotiated the Peace of 1783. But as that boundary, taken in its whole extent, would cut off the communication between the British Colonies at the Grand Portage, the line here proposed removes that difficulty. At or near the point where the proposed line leaves the St. John, which, from the due north line to the St. Croix, pursues a north-westerly course upward, the river suddenly turns and trends for a distance of about five miles nearly south, and thence for its whole course upward to its source trends southerly of west. To pursue the line of the St. John further west than the point indicated, which is about three miles above the mouth of the Madawaska, would be to adopt an angular line projecting itself into the American territory.

The outlet of Long Lake is proposed as a natural and permanent bound which cannot be mistaken. And for the same reason the inlet of Lake Pohenagamook is also proposed; and the line being continued to the highlands removes all possible ground of misapprehension and controversy.

3rd. As Great Britain has restrained her Minister Plenipotentiary from granting any territorial equivalent to be incorporated into the territorial limits of Maine, any further concession of territory on the part of Maine could hardly, it is apprehended, be expected from her.

In making the proposition above submitted on their part, in connection with a concession on the part of Great Britain of the unobstructed navigation of the St. John and all its branches and tributaries, which, in any part, flow from the territory of the United States, for the transportation of the timber and products of the forest, free of toll or duty, the Undersigned had supposed it quite possible that they had misapprehended the meaning intended to be conveyed by the expression of Lord Ashburton, where he speaks of "some one of the sources of the St. John." But they have now just learned informally, that the expression was used by him advisedly, meaning thereby some one of the sources of that river situated in the vicinity of the sources of the Penobscot and Chaudière. His proposition, therefore, extends to a yielding, on the part of Maine, of the whole territory on the north side of the St. John, from the due north line to its source; and this, too, without any territorial equivalent to Maine. With this explanation the language of Lord Ashburton in calling the southern border of the St. John, from the due north line to the mouth of Fish River, an "inconsiderable extent" is more readily understood. To this part of the proposition there is only one reply. Whatever may be the solicitude of the Undersigned that the difficulties which have arisen in regard to the boundaries of Maine may be amicably and definitively arranged, the proposition as now explained and understood cannot be acceded to.

In making the offer they have submitted the Undersigned are sensible their proposition involves a sacrifice of no inconsiderable portion of the just claims and expectations of Maine. It is made in the spirit of peace,—of conciliation. It is made to satisfy her sister States that Maine is not pertinacious or unreasonable, but is desirous of peace, and ready to make large sacrifices for the general good.

Before closing this communication the Undersigned feel it their duty to say something by way of explanation of their views, in regard to the French settlers at Madawaska. In any treaty which may be made with Great Britain affecting these people, the grants which have been made to them by New Brunswick, may and ought to be confirmed to them in fee simple, with such provision in regard to the possessory rights acquired by other actual settlers there as may be just and equitable, and also the right may be reserved to the settlers on both banks of the river, to elect, within some reasonable period, and determine of which Government the individuals, signifying their election, will remain or become citizens or subjects. If, then, they should have any preference they will have it in

their power, on mature consideration and reflection, to decide for themselves and act accordingly. The hard lot and sufferings of these people and of their fathers, give them a claim to our sympathies. The atrocious cruelties practised upon their ancestors are matters of history. The appalling details of them are among their traditions. The fathers and mothers have taught them to their children. When fleeing from their oppressors in 1785 they settled down in the wilderness of Madawaska; they believed and understood themselves to be within the limits and jurisdiction of the United States, a people of whom France had been the friend and ally in the war which had just terminated in their independence, and who was still the friend and ally of France in peace. Their history since that period has lost little of its interest. Too few in number, too weak in resources, too remote to expect or receive aid, they submitted to whatever master assumed authority over them. With a knowledge of their history, and the wrongs they and their ancestors have suffered, it will be difficult for the people of Maine to bring themselves into the belief that these people are opposed to living under the mild and gentle sway of our free institutions. It will be equally difficult for the people of Maine to satisfy themselves that it is only from a lively and disinterested sympathy for these poor Frenchmen that the Government of Great Britain is so solicitous to retain possession of the south bank of the St. John, extending from the due north line more than fifty miles up to Fish River. On the best consideration they have been able to give to this subject the Undersigned can see nothing in the condition or circumstances of these settlers, which would justify them in abandoning the very obvious and only natural boundary, to adopt one that must be altogether arbitrary.

The Undersigned avail themselves, &c.,

(Signed) WM. P. PREBLE.
EDWARD KAVANAGH.
EDWARD KENT.
JOHN OTIS.

No. 7.

Lord Ashburton to Mr. Webster.

Sir, *Washington, July* 11, 1842.

I LOSE no time in ackowledging the receipt of the note you did me the honour of addressing me on the 8th instant; and I beg in the first place to say that I am duly sensible of the assurance you give me that the President has been pleased to appreciate the motives which induced my present mission, and much flattered by your recognition of the candour and frankness which have hitherto marked our intercourse.

I had hoped that we had escaped by mutual consent from a return to the endless and fruitless argument on the general question of the rights of our respective Governments in the matter of the North-Eastern Boundary. It seemed to have been decided by so many high and competent authorities, that the precise geographical point so long looked for was not to be found, that it necessarily followed that any hope of settlement must rest upon an amicable compromise. The arrival here of Commissioners from Maine and Massachusetts, and the admitted disposition of the two Governments have given the public a very general expectation that this compromise might at last be effected, and I hope you will excuse my expressing my regret, that the note now before me, and the paper from the gentlemen from Maine addressed to you which accompanied it, should have contained so much of a renewal of the old controversy, and should not have been confined to the simple question, whether we could or could not agree to terms of settlement. If the observations contained in my note of the 13th ultimo, have given rise to these consequences I much regret it; and I would now pass over all these more than useless discussions, and proceed at once to notice the proposals you

make, if I were not apprehensive, that my so doing might be construed into some want of respect for the parties from whom these observations have proceeded.

I will, however, endeavour to bring within a narrow compass what I have to say on the subject, and the more so, because with all deference to you, Sir, I may add that there is little in these arguments that is new, or that has not been often advanced and refuted during the many past years of controversy.

I should except from this want of novelty the position, to me entirely new, advanced by the Commissioners from Maine, that the north-west angle of Nova Scotia, which is, as you express it, "the thing to be sought for and found," was at the head of the Madawaska River: which river, it is maintained by a long argument, supported by authorities and maps, was always considered as the real St. John's; and this is stated to justify the opinion expressed by the old Congress in 1779, that this north-west angle was at the source of the St. John's.

Giving all possible consideration to this apparently new discovery, I cannot say that it appears well founded. Looking at Mitchell's Map, the use of which by the negotiators of the Peace of 1783, has been always so much relied upon on the part of America, there is nothing more clearly mar ed than the great distinct channel of the Upper St. John, and it seems hardly possible that the negotiators or the Congress should have made the supposed mistake. But supposing the hypothesis were well founded, the Temiscouata Lake is then now to be this long-lost angle of Nova Scotia. What becomes then of the point so long contended for by Maine between the Metis and one of the tributaries of the Restigouche? These points must be about fifty miles apart. Both cannot be true; and if it be maintained, as I rather collect it to be, from the paper of the Maine Commissioners, that the point at the Metis is the true boundary, as being the point stricken by the north line, though the other be the true north-west angle of Nova Scotia, there is at least an end of the whole argument resting upon this north-west angle being, as stated by you, "the thing to be sought for, and found."

If this new diccovery leads us to no other inference, we can hardly fail to derive from it the conviction that all the ingenuity applied to unravel this mystery leaves us equally in the dark, and that it is not without reason that it has been decided by so many persons, after careful examination, that this boundary is not susceptible of settlement according to the precise words of the Treaty.

This decision has been come to by Mr. Madison in 1802, by Mr. Jefferson in 1803, by Judge Sullivan about the same time, by the arbiter in 1831, and it has been acted upon by nearly every Secretary of State of the United States during the controversy from that time to this; for although in a case in dispute each party during the dispute endeavours to hold his own, I am not aware that any Secretary of State or any President of the United States has ever treated this subject otherwise than as one attended by that degree of uncertainty, that it could only be solved by an arbiter or by a compromise, I would appeal to your candour, Sir, to say, whether at this time, and under these circumstances, it is fair to speak of this Disputed Territory as belonging indisputably to one party, and to be yielded by way of concession, and for equivalents to the other. Any convention I may sign, must be for a division of that which is in doubt and dispute. With any arrangements between the State of Maine and the General Government I have nothing to do, and if, which God forbid, our endeavours at an amicable compromise should at last fail, I must hold that Great Britain retains her right at least equal to that of the United States, to every part of the Territory in dispute, until by a renewed reference, or by the skill of some more fortunate negotiator this difference may be brought to a close. I have now only to add a few observations upon the arguments contained in your own note.

Some stress is laid upon the fact that the joint commissioners of the two Governments in 1817, directed the surveyors to run the north line from the St. Croix until it met waters running into the St. Lawrence. The lines to be run were to ascertain the geographical facts of the case.

No proceeding could be more proper. The claims of the two parties varied, and it was natural that in the first instance, a line should be run north to the extent claimed by either party. Where that line would reach, and what highlands or streams it might strike was unknown; so much so that Mr. Gallatin in his letter from Ghent, mentioned in my note of the 13th ultimo, expressed his doubts on this subject. His prediction turned out to be true. The point where the line strikes the Metis, was a point not fulfilling the words of the Treaty. It did not divide the waters as desired, unless the Bay of Chaleurs, and the Gulf of St. Lawrence are considered to answer the description of the Atlantic Ocean. Mr. Gallatin was sensible of this, and intimates that if this fact created doubt, the lands about the Restigouche might be given up, but he forgets that in giving up this territory he gives up his argument, for he maintains in opposition to the British line of boundary, that it does not continuously and in all its parts divide the waters as required by the Treaty. The American line was in this respect equally deficient, and it is useless therefore here to consider whether it would have been preferable to the British line, if it had divided the waters of the St. Lawrence from those of the St. John. To make even a plausible case for the American line, both the St. John and the Restigouche must be held to be rivers emptying into the Atlantic Ocean. The Royal Arbiter says it would be hazardous so to class them. I believe that whatever argument might be made in the case of the St. John connected with the distinctions with which it was mentioned in the Treaty, to consider the Restigouche as flowing into the Atlantic Ocean, would be more than hazardous,—it would be most absurd.

At all events I would submit to you, that no inference could be drawn from the commissioners in 1817, having ordered a north line to be run, the same commissioners after drawing the line having disagreed as to any conclusions from it.

I am rather surprised that an inspection of the map should lead us to such different views of the course of the rivers, and of the coast, as stated by you. I find that the upper St. John and the Restigouche, so far from cutting at right angles the parallel lines of the coast and the St. Lawrence as you say, run in their main course nearly parallel with them. I am not aware that the fact is important, although it seems connected with your argument.

My inspection of these maps, and my examination of the documents, lead me to a very strong conviction that the highlands, contemplated by the negotiators of the Treaty, were the only highlands then known to them at the head of the Penobscot, Kennebec, and the rivers west of the St. Croix; and that they did not precisely know how the north line from the St. Croix would strike them; and if it were not my wish to shorten this discussion, I believe a very good argument might be drawn from the words of the Treaty in proof of this. In the negotiations with Mr. Livingston, and afterwards with Mr. McLane, this view seemed to prevail, and, as you are aware, there were proposals to search for these highlands to the west, where alone, I believe, they will be found to answer perfectly the description of the Treaty. If this question should, unfortunately, go to a further reference, I should by no means despair of finding some confirmation of this view of the case. I shall now, Sir, close what I have to say on the controversial part of this question. I should not have treated of it at all, but from respect to the gentlemen from Maine, whose arguments you conveyed to me; and I shall certainly not renew it, unless called upon by you to do so. Our immediate business is with the compromise of what is not otherwise to be settled, and argument and controversy far from assisting to that end, have more generally a tendency to irritate and excite.

Referring, then, to our more immediate subject of a line by agreement, I deeply regret, on reading your observations and proposals, that we are yet so far asunder. I always thought this part of our duty better performed by conference than by correspondence, unless, indeed, we had the misfortune not to be able ultimately to agree, in which case it would certainly be necessary, that our countries should see clearly on paper how

nearly we had approached to each other, and on whom the blame at last rested of leaving unsettled a question involving such serious consequences. I would still recommend this course of personal discussion and conference, but, in the mean time, I proceed to notice the proposals and observations contained in your note.

It is sufficiently explained in my plan for a settlement, why I was anxious not to divide, in two parts, by our new line of boundary, the Madawaska settlements; and I am sorry to say, that the information I have since received, both as to local circumstances and the anxiety of the people themselves, tends strongly to confirm my impressions. At the same time you will have seen, that I was sensible that some good reason should be assigned, why we should not be satisfied with what you justly term, the otherwise perfect boundary of the St. John. In your reply you recognize the difficulties of the case and do justice to our motives; but you state distinctly, on the part of your Government, that you can consent to no line which should bring us over the St. John, without some equivalent of territory to be found out of the limits of that part which is in dispute, and you refer, more particularly, to a certain strip lying between the north line and the river. This strip I have no power to give up, and I beg to add, that the refusal of my Government is founded simply on their objection to dispose arbitrarily of the persons and property of Her Majesty's subjects living by preference under her authority, an objection which you are sensible applies with peculiar force to the inhabitants of this part of New Brunswick.

I had hoped that the other equivalents which I had offered, combined with the sense entertained by the Government of the United States, of the pressing importance of the case, on the ground of humanity, would have been sufficient for the purpose I so anxiously desired; but perceiving from your note, as well as from personal conversation, that concession on this point is insisted upon, I might be disposed to consider, whether my anxious desire to arrive at a friendly settlement would not justify me in yielding, however reluctantly, if the latter part of your proposals did not, if finally persevered in, forbid all hope of any settlement whatever.

The boundary you propose, supposing the British territory not to come over the St. John, is to run from the north side of that river three miles above its junction with the Madawaska, over an arbitrary line, which my map does not exactly permit me to follow, until it reaches somewhere the St. Francis. I need not examine this line in its precise details, because I am obliged frankly to state, that it is inadmissible. I think I might, Sir, fairly appeal to your candid judgment to say, whether this is a proposition of conciliation; whether, after all antecedent discussions on this subject, it could reasonably be expected that, whatever might be the anxiety of my Government for a friendly settlement, I could be found with power to accede to such terms. I need not observe to you, that this would give to Great Britain less than the award of the Arbiter, while at the same time she should be called upon to give up what that Arbiter awarded to her, and if I do not mistake you, the floatage of the lumber of Maine down the St. John is also expected to be surrendered.

I must beg to say, that I am quite at a loss to account for such a proposal. Your own principle of maintaining the Great River, as the best boundary is abandoned, an arbitrary line is drawn which nobody ever suggested before, and I can only suppose this course to be dictated by that general assumption, that notwithstanding all former admissions and decisions to the contrary, this Territory said to be in dispute, in truth belongs to one party to be doled out as a favour to the other, an assumption which cannot for a moment be admitted, and which you, Sir, with the records of your office before you will hardly maintain.

The position in which this negotiation now stands, seems to prove what I have before ventured to advance, that it would have a better chance of success by conference than by correspondence; at all events, that we should sooner arrive at ascertaining what we can, or what we cannot do. Slow, unnecessarily slow, our progress has hitherto been, and the public seem, somehow or other, to have become informed that there are differences. I hope when we come to discuss them, that they will prove less serious than

they are supposed to be; but it is very desirable that doubts and distrusts should be set at rest, and that public credit and the transactions of commerce should suffer the least possible disturbance. For although, should this negotiation unfortunately fail, it will be our duty immediately to place it in some new course of further reference, it is not to be disguised that such a result must be productive of considerable public anxiety and disappointment. What I have said with respect to the case of the Madawaska settlements will, I trust, sufficiently prove my disposition to approach such a discussion with the true spirit of conciliation; and I trust you will permit me to express a hope that it will be met with a corresponding feeling.

Before concluding, I wish to add a few words respecting the line of the St. John to one of its sources, and the navigation, for certain purposes, of that river. It may be true that the district between the St. John west of the St. Francis and the highlands, may be of some extent; but your own surveyors will confirm to you that it is of very little value, either for cultivation or timber. Is it reasonable that in the division of an object in dispute, its intrinsic value should be wholly disregarded, and its size or extent be alone considered? I would further suggest for your consideration, whether, supposing the division by the King of the Netherlands to be admitted to satisfy fairly the equity of the case between the parties, what is proposed to be added by Great Britain, viz.: the Strip, on the 45th parallel of latitude, and the use of the navigation of the St. John, be not an ample compensation for what we ask in return, viz.: that barren strip above the Upper St. John, which is wanted for no other purpose than as a boundary, for which purpose it is admitted on all sides to be most convenient.

The right to use the St. John for floating down the lumber of Maine, on the same terms as the river is used by the Queen's subjects, is now treated as a matter of light importance. This is not uncommon when a concession of any kind is about to be yielded, but I beg to remind you that this was not formerly so considered. It has been repeatedly solicited and invariably refused; and no Minister of Great Britain has before been permitted to connect this concession with the settlement of the boundary. It is considered by my Government as a very important concession. I am sure that it must be considered by all persons in Maine connected with the lumber trade, as not only valuable but indispensable; and I am compelled to add, that I am empowered to allow this privilege only in the event of a settlement of the Boundary on satisfactory terms. It is said in the memorandum of the Maine Commissioners, that this conceded navigation will be as useful to the town of St. John as to the lumberers of Maine; but it will not escape you that even if this be so, it is a concession necessary to give any value whatever to so bulky an article as lumber, which, being not otherwise disposable, would bear any reasonable toll which the provincial authorities of New Brunswick might think it expedient to levy upon it. Further, it should not be forgotten, that the timber, once at the mouth of the St. John, will have the privilege of reaching the British as well as other markets; and lastly, that it is a very different thing to hold a privilege of this important description by right, or by mere sufferance, to be granted or withheld at pleasure.

I have to apologize for entering into these details in treating of the great question with which we are occupied; but they seemed called for by observations contained in the paper you send me.

I beg, Sir, you will be assured, &c.,

(Signed) ASHBURTON.

No. 8.

Lord Ashburton to Mr. Webster.

Sir, *Washington, July* 16, 1842.

THERE is a further question of disputed boundary between Great Britain and the United States, called the North-west Boundary, about which we have had some conferences; and I now proceed to state the terms which I am ready to agree to for the settlement of this difference. As the principal object in dispute is to be given up by Great Britain, I trust, Sir, that you will here again recognise the spirit of friendly conciliation which has guided my Government in disposing of these questions.

I have already sufficiently discussed with you the boundaries between Her Majesty's provinces and the United States, from the monument at the head of the River St. Croix, to the monument on the River St. Lawrence, near the village of St. Regis.

The commissioners under the Sixth Article of the Treaty of Ghent, succeeded in continuing this boundary from St. Regis, through the St. Lawrence and the great northern lakes, up to a point in the channel between Lake Huron and Lake Superior.

A further continuation of this boundary, from this point through Lake Superior to the Lake of the Woods, was confided to the same commissioners under the Seventh Article of the Treaty of Ghent, but they were unfortunately unable to agree, and have consequently left this portion of the boundary undetermined. Its final settlement has been much desired by both Governments, and urgently pressed by communications from Mr. Secretary Forsyth to Mr. Fox, in 1839 and 1840.

What I have now to propose cannot, I feel assured, be otherwise than satisfactory for this purpose.

The commissioners who failed in their endeavours to make this settlement, differed on two points:

First, as to the appropriation of an island called St. George's Island, lying in the water communication between Lake Huron and Lake Superior; and

Secondly, as to the boundary through the water communications from Lake Superior to the Lake of the Woods.

The first point I am ready to give up to you, and you are no doubt aware that it is the only object of any real value in this controversy. The Island of St. George's is reported to contain 25,920 acres of very fertile land, but the other things connected with these boundaries being satisfactorily arranged, a line shall be drawn so as to throw this island within the limits of the United States.

In considering the second point, it really appears of little importance to either party how the line be determined through the wild country between Lake Superior and the Lake of the Woods, but it is important that some line should be fixed and known.

The American Commissioner asked for the line from Lake Superior up the River Kamanistiguia to the lake called Dog Lake, which he supposed to be the same as that called Long Lake in the treaties, thence through Sturgeon Lake to the Lac la Pluie, to that point where the two lines assumed by the commissioners again meet.

The British Commissioner, on the other hand, contended for a line from the south-western extremity, at a point called le Fond du Lac to the middle of the mouth of the estuary or Lake of St. Louis River, thence up that river through Vermilion River to Lac la Pluie.

Attempts were made to compromise these differences, but they failed, apparently more from neither party being willing to give up the Island of St. George's, than from much importance being attached to any other part of the case.

Upon the line from Lake Superior to the Lake of the Woods, both Commissioners agreed to abandon their respective claims, and to adopt a middle course, for which the American Commissioner admitted that there

was some ground of preference. This was from Pigeon River, a point between Kamanistiguia and the Fond du Lac; and although there were differences as to the precise point near the mouth of Pigeon River, where the line should begin, neither party seem to have attached much importance to this part of the subject.

I would propose that the line be taken from a point about six miles south of Pigeon River, where the Grand Portage commences on the lake, and continued along the line of the said portage, alternately by land and water, to Lac la Pluie—the existing route by land and by water remaining common to both parties. This line has the advantage of being known, and attended with no doubt or uncertainty in running it.

In making the important concession on this boundary, of the Isle St. George, I must attach a condition to it of accommodation, which experience has proved to be necessary in the navigation of the great waters which bound the two countries—an accommodation which can, I apprehend, be no possible inconvenience to either. This was asked by the British Commissioner, in the course of the attempts at compromise above alluded to; but nothing was done because he was not then prepared, as I am now, to yield the property and sovereignty of St. George's Island.

The first of these two cases is at the head of Lake St. Clair, where the river of that name empties into it from Lake Huron. It is represented that the channel bordering the United States coast in this part, is not only the best for navigation, but, with some winds, is the only serviceable passage. I do not know that under such circumstances the passage of a British vessel would be refused; but on a final settlement of boundaries, it is desirable to stipulate for what the commissioners would probably have settled had the facts been known to them.

The other case, of nearly the same description, occurs on the St. Lawrence, some miles above the boundary of St. Regis. In distributing the islands of the river by the commissioners, Barnhart's Island and the Long Sault Islands were assigned to America. This part of the river has very formidable rapids, and the only safe passage is on the southern or American side, between those islands and the main land. We want a clause in our present treaty to say that for a short distance, viz.: from the upper end of Upper Long Sault Island to the lower end of Barnhart's Island, the several channels of the river shall be used in common by the boatmen of the two countries.

I am not aware that these very reasonable demands are likely to meet with any objection, especially when the United States will have surrendered to them all that is essential in the boundary I have now to propose to you.

I beg you will be assured, sir, of my unfeigned and distinguished consideration.

(Signed) ASHBURTON.

No. 9.

Mr. Webster to Lord Ashburton.

Department of State,
Washington, July 27, 1842.

M Lord,

I HAVE now to propose to your Lordship a line of division embracing the disputed portions of the boundary between the United States and the British Provinces of New Brunswick and the Canadas, with its considerations and equivalents, such as conforms, I believe, in substance to the result of the many conferences and discussions which have taken place between us.

The acknowledged territories of the United States and England join upon each other from the Atlantic Ocean to the eastern foot of the Rocky Mountain, a distance of more than 3,000 miles. From the ocean to the source of the St. Croix the line of division has been ascertained and fixed

by agreement; from the source of the St. Croix to a point near St. Regis, on the River St. Lawrence, it may be considered as unsettled or controverted; from this last-mentioned point along the St. Lawrence and through the Lakes, it is settled until it reaches the water-communication between Lake Huron and Lake Superior. At this point the Commissioners under the 7th Article of the Treaty of Ghent found a subject of disagreement which they could not overcome, in deciding up which branch or channel the line should proceed till it should reach a point in the middle of St. Mary's River, about one mile above St. George's or Sugar Island.

From the middle of the water-communication between the two lakes, at the point last mentioned, the Commissioners extended the line through the remaining part of that water-communication, and across Lake Superior to a point north of Ile Royale, but they could not agree in what direction the line should run from this last-mentioned point, nor where it should leave Lake Superior, nor how it should be extended to the Rainy Lake, or Lac la Pluie. From this last-mentioned lake they agreed on the line to the north-westernmost point of the Lake of the Woods, which they found to be in latitude 49° 23′ 55″.

The line therefore extends, according to existing treaties, due south from this point to the 49th parallel of north latitude, and by that latitude to the Rocky Mountains.

Not being able to agree upon the whole line, the Commissioners under the 7th Article did not make any joint report to their respective Governments; so far as they agreed on any part of the line that part has been considered settled, but it may be well to give validity to these portions of the line by the Treaty.

To complete the Boundary Line, therefore, and to remove all doubts and disputes, it is necessary for the two Governments to come to an agreement on three points:—

1st. What shall be the line on the north-eastern and northern limits of the United States, from the St. Croix to the St. Lawrence. This is by far the most important and difficult of the subjects, and involves the principal questions of equivalents and compensations.

2nd. What shall be the course of the boundary from the point where the Commissioners under the 6th Article of the Treaty of Ghent terminated their labours; to wit, a point in the Neebish Channel, near Muddy Lake, in the water-communication between Lake Huron and Lake Superior, to a point in the middle of St. Mary's River, one mile above Sugar Island. This question is important, as it involves the ownership of that island.

3rd. What shall be the line from the point north of Ile Royale in Lake Superior, to which the Commissioners of the two Governments arrived by agreement, to the Rainy Lake; and also to confirm those parts of the line to which the said Commissioners agreed.

Besides agreeing upon the line of division through these controverted portions of the boundary, you have suggested also, as the proposed settlement proceeds upon the ground of compromise and equivalents, that boats belonging to Her Majesty's subjects may pass the falls of the Long Saut on the St. Lawrence, on either side of the Long Saut Islands; and that the passages between the islands lying at or near the junction of the River St. Clair with the lake of that name, shall be severally free and open to the vessels of both countries. There appears no reasonable objection to what is requested in these particulars; and on the part of the United States it is desirable that their vessels in proceeding from Lake Erie into the Detroit River, should have the privilege of passing between Bois Blanc, an island belonging to England, and the Canadian shore, the deeper and better channel being on that side.

The line, then, now proposed to be agreed to, may be thus described:—

Beginning at the monument at the source of the River St. Croix, as designated and agreed to by the Commissioners under the 5th Article of the Treaty of 1794 between the Governments of the United States and Great Britain; thence north, following the exploring line run and marked by

the surveyors of the two Governments, in the years 1817 and 1818, under the 5th Article of the Treaty of Ghent, to its intersection with the River St. John, and to the middle of the channel thereof; thence up the middle of the main channel of the said River St. John to the mouth of the River St. Francis; thence up the middle of the channel of the said River St. Francis, and of the lakes through which it flows, to the outlet of the Lake Pohenagamook; thence south-westerly, in a straight line, to a point on the north-west branch of the River St. John, which point shall be ten miles distant from the main branch of the St. John, in a straight line, and in the nearest direction; but if the said point shall be found to be less than seven miles from the nearest point of the summit or crest of the highlands that divide those rivers which empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, then the said point shall be made to recede down the said river, to a point seven miles in a straight line from the said summit or crest; thence in a straight line, in a course about south 8° west, to the point where the parallel of latitude of 46° 25′ intersects the south-west branch of the St. John; thence southerly by the said branch to the source thereof in the highlands at the Metjarmette portage; thence down along the said highlands to the head of Hall's Stream; thence down the middle of said stream, till the line thus run intersects the old line of boundary surveyed and marked by Valentine and Collins previously to the year 1774, as the 45° of latitude, and which has been known and understood to be the line of actual division between the States of New York and Vermont, on one side, and the British Province of Canada on the other; and from said point of intersection, west, along the said dividing line, as heretofore known and understood, to the Iroquois, or St. Lawrence River; and from the place where the Joint Commissioners terminated their labours under the 6th Article of the Treaty of Ghent, to wit, at a point in the Neebish Channel, near Muddy Lake, the line shall run into and along the ship channel between St. Joseph and St. Tammany Islands, to the division of the channel at or near the head of St. Joseph's Island; thence turning eastwardly and northwardly around the lower end of St. George's or Sugar Islands, and following the middle of the channel which divides St. George's from St. Joseph's Island; thence up the East Neebish channel, next to St. George's Island, through the middle of Lake George; thence west of Jonas Island, into St. Mary's River, to a point in the middle of that river, about one mile above St. George's or Sugar Island, so as to appropriate and assign the said island to the United States; thence, adopting the line traced on the maps by the Commissioners, through the River St. Mary and Lake Superior, to a point north of Ile Royale in said lake, 100 yards to the north and east of Ile Chapeau, which last-mentioned island lies near the north-eastern-point of Ile Royale, where the line marked by the Commissioners terminates; and from the last-mentioned point south-westerly, through the middle of the Sound, between Ile Royale and the north-western mainland, to the mouth of Pigeon River, and up said river to and through the north and south Fowl Lakes, to the lakes of the height of land between Lake Superior and the Lake of the Woods; thence, along the water communication to Lake Saisaginaga, and through that lake; thence to and through Cypress Lake, Lac du Bois Blanc, Lac la Croix, Little Vermillion Lake, and Lake Namecan, and through the smaller lakes, straits, or streams connecting the lakes here mentioned, to that point in Lac la Pluie, or Rainy Lake, at the Chaudière Falls, from which the Commissioners traced the line to the most north-western point of the Lake of the Woods; thence, along the said line to the said most north-western point, being in latitude 49° 23′ 55″ north, and in longitude 95° 14′ 38″ west from the observatory at Greenwich; thence, according to existing Treaties, the line extends due south to its intersection with the 49th parallel of north latitude, and along that parallel to the Rocky Mountains. All the water-communications, and all the usual portages along the line from Lake Superior to the Lake of the Woods, and also Grand Portage, from the shore of Lake Superior to the Pigeon River, as now actually used, to be free and open to the use of the subjects and citizens of both countries.

It is desirable to follow the description, and the exact line of the original Treaty, as far as practicable. There is reason to think, that "Long Lake" mentioned in the Treaty of 1783, meant merely the estuary of the Pigeon River, as no lake, called "Long Lake," or any water strictly conforming to the idea of a lake, is found in that quarter. This opinion is strengthened by the fact, that the words of the Treaty would seem to imply, that the water, intended as "Long Lake," was immediately adjoining Lake Superior. In one respect, an exact compliance with the words of the Treaty, is not practicable. There is no continuous water-communication between Lake Superior and the Lake of the Woods, as the Lake of the Woods is known to discharge its waters through Red River of the north into Hudson's Bay. The dividing height or ridge between the eastern sources, or the tributaries of the Lake of the Woods, and the western sources of Pigeon River, appears, by authentic maps, to be distant about forty miles from the mouth of the Pigeon River, on the shore of Lake Superior.

It is not improbable, that in the imperfection of knowledge which then existed, of these remote countries, and, perhaps, misled by Mitchell's Map, the negotiators of the Treaty of 1783 supposed the Lake of the Woods to discharge its waters into Lake Superior. The broken and difficult nature of the water-communication from Lake Superior to the Lake of the Woods, renders numerous portages necessary; and it is right that these water-communications, and these portages, should make a common highway, where necessary, for the use of the subjects and citizens of both Governments.

When the proposed line shall be properly described in the Treaty, the grant by England of the right to use the waters of the River St. John, for the purpose of transporting to the mouth of that river, all the timber and agricultural products raised in Maine, on the waters of the St. John, or any of its tributaries, without subjection to any discriminating toll, duty, or disability, is to be inserted. Provision should also be made for quieting and confirming the titles of all persons having claim to lands on either side of the line, whether such titles be perfect or inchoate only; and to the same extent in which they would have been confirmed by their respective Governments, had no change taken place. What has been agreed to, also, in respect to the common use of certain passages in the rivers and lakes, as already stated, must be made matter of regular stipulation.

Your Lordship is also informed by correspondence which formerly took place between the two Governments, that there is a fund arising from the sale of timber, concerning which fund, an understanding was had some years ago. It will be expedient to provide by the Treaty, that this arrangement shall be carried into effect.

A proper Article will be necessary to provide for the creation of a commission to run and mark some parts of the line between Maine and the British provinces.

These several objects appear to me to embrace all respecting the Boundary Line and its equivalents, which the Treaty needs to contain as matters of stipulation between the United States and England.

I have, &c.,

(Signed) DANIEL WEBSTER.

No. 10.

Lord Ashburton to Mr. Webster.

Sir, *Washington, July* 29, 1842.

I HAVE attentively considered the statement contained in the letter you did me the honour of addressing me the 27th of this month, of the terms agreed to for the settlement of boundaries between Her Majesty's provinces and the United States, being the final result of the many conferences we have had on this subject. This statement appears sub-

stantially correct in all its parts, and we may now proceed, without further delay, to draw up the Treaty. Several of the articles for this purpose are already prepared and agreed, and our most convenient course will be to take and consider them singly. I would beg leave to recommend, that as we have excellent charts of the country through which the boundary, which failed of being settled by the Commissioners under the Seventh Article of the Treaty of Ghent, is partially marked, that it would be advisable to make good the delineation on those charts, which would spare to both parties the unnecessary expense of new commissioners and a new survey. In this case the only commission required would be to run the line on the boundary of Maine.

The stipulations for the greater facility of the navigation of the River St. Lawrence, and of two passages between the upper lakes, appear evidently desirable for general accommodation, and I cannot refuse the reciprocal claim made by you to render common the passage from Lake Erie into the Detroit River. This must be done by declaring the several passages in those parts free to both parties.

I should remark, also, that the free use of the navigation of the Long Sault passage on the St. Lawrence must be extended to below Barnhart's Island, for the purpose of clearing those rapids.

I beg leave to repeat to you, sir, the assurance of my most distinguished consideration.

(Signed) ASHBURTON.

No. 11.

Lord Ashburton to Mr. Webster.

Sir, *Washington, August* 9, 1842.

IT appears desirable that some explanation between us should be recorded by correspondence, respecting the 5th Article of the Treaty signed by us, this day, for the settlement of boundaries between Great Britain and the United States.

By that Article of the Treaty it is stipulated, that certain payments shall be made by the Government of the United States to the States of Maine and Massachusetts. It has of course been understood, that my negotiations have been with the Government of the United States, and the introduction of terms of agreement between the General Government and the States would have been irregular and inadmissible, if it had not been deemed expedient to bring the whole of these transactions within the purview of the Treaty. There may not be wanting analogous cases to justify this proceeding, but it seems proper that I should have confirmed by you, that my Government incurs no responsibility for these engagements, of the precise nature and object of which I am uninformed, nor have I considered it necessary to make inquiry concerning them.

I beg Sir, &c.,

(Signed) ASHBURTON.

No. 12.

Mr. Webster to Lord Ashburton.

Department of State,

My Lord, *Washington, August* 9, 1842.

I HAVE the honour to acknowledge the receipt of your note of this date, with respect to the object and intention of the 5th Article of the Treaty. What you say in regard to that subject is quite correct. It purports to contain no stipulation on the part of Great Britain, nor is any responsibility supposed to be incurred by it on the part of your Government.

I renew, &c.,

(Signed) DANIEL WEBSTER.

LETTER

FROM

LORD ASHBURTON TO MR. WEBSTER,

RESPECTING

THE MUTUAL SURRENDER OF PERSONS FUGITIVE FROM JUSTICE.

Lord Ashburton to Mr. Webster.

Sir, *Washington, August* 9, 1842.

BY the 3rd Article of the Convention which I have this day signed with you, there is an agreement for the reciprocal delivery, in certain cases, of criminals fugitive from justice, but it becomes necessary that I should apprize you that this Article can have no legal effect within the dominions of Great Britain until confirmed by Act of Parliament. It is possible that Parliament may not be in session before the exchange of the ratifications of the Convention, but its sanction shall be asked at the earliest possible period, and no doubt can be entertained that it will be given. In Her Majesty's territories in Canada, where cases for acting under this Convention are likely to be of more frequent occurrence, the Governor-General has sufficient power under the authority of local legislation, and the Convention will there be acted upon so soon as its ratification shall be known; but it becomes my duty to inform you of the short delay which may possibly intervene in giving full effect to it, where the confirmation by Parliament becomes necessary for its execution.

I beg, Sir, &c.,

(Signed) ASHBURTON.

CORRESPONDENCE

BETWEEN

LORD ASHBURTON AND MR. WEBSTER,

RESPECTING THE

CASE OF THE CREOLE, &c.

No. 1.

Mr. Webster to Lord Ashburton.

Department of State,
Washington, August 1, 1842.

My Lord,

THE President has learned, with much regret, that you are not empowered by your Government to enter into a formal stipulation for the better security of vessels of the United States, when meeting with disasters in passing between the United States and the Bahama Islands, and driven by such disasters into British ports. This is a subject which is deemed to be of great importance, and which cannot, on the present occasion, be overlooked.

Your Lordship is aware, that several cases have occurred within the last few years, which have caused much complaint. In some of these cases compensation has been made by the English Government, for the interference of the local authorities with American vessels having slaves on board, by which interference these slaves were set free. In other cases such compensation has been refused. It appears to the President to be for the interest of both countries, that the recurrence of similar cases in future, should be prevented as far as possible.

Your Lordship has been acquainted with the case of the "Creole," a vessel carried into the port of Nassau last winter, by persons who had risen upon the lawful authority of the vessel, and, in the accomplishment of their purpose, had committed murder on a person on board.

The opinions which that occurrence gave occasion for this Government to express in regard to the rights and duties of friendly and civilized maritime States, placed by Providence near to each other, were well considered, and are entertained with entire confidence. The facts in the particular case of the "Creole" are controverted; positive and officious interference by the colonial authorities to set the slaves free being alleged on one side, and denied on the other.

It is not my present purpose to discuss this difference of opinion as to the evidence in this case, as it at present exists; because the rights of individuals having rendered necessary a more thorough and a judicial investigation of facts and circumstances attending the transaction, such investigation is understood to be now in progress, and its result, when known, will render me more able than at this moment to present to the British Government a full and accurate view of the whole case. But it is my purpose and my duty to invite your Lordship's attention to the

general subject, and your serious consideration of some practical means of giving security to the coasting trade of the United States, against unlawful annoyance and interruption, along this part of their shore.

The Bahama Islands approach the coast of Florida within a few leagues, and, with the coast, form a long and narrow channel, filled with innumerable small islands and banks of sand, and the navigation difficult and dangerous, not only on these accounts, but from the violence of the winds and the variable nature of the currents. Accidents are of course frequent, and necessity often compels vessels of the United States in attempting to double Cape Florida, to seek shelter in the ports of these islands. Along this passage the Atlantic States hold intercourse with the States on the gulf and the Mississippi, and through it the products of the valley of that river,—a region of vast extent and boundless fertility,—find a main outlet to the sea in their destination to the markets of the world.

No particular ground of complaint exists as to the treatment which American vessels usually receive in these ports, unless they happen to have slaves on board; but in cases of that kind, complaints have been made, as already stated, of officious interference of the colonial authorities with the vessel, for the purpose of changing the condition in which these persons are by the laws of their own country, and of setting them free.

In the Southern States of this Union, slavery exists by the laws of the States and under the guarantee of the constitution of the United States, and it has existed in them from a period long antecedent to the time when they ceased to be British Colonies. In this state of things, it will happen that slaves will be often on board coasting vessels, as hands, as servants attending the families of their owners, or for the purpose of being carried from port to port. For the security of the rights of their citizens, when vessels having persons of this description on board, are driven by stress of weather or carried by unlawful force into British ports, the United States propose the introduction of no new principle into the law of nations. They require only a faithful and exact observance of the injunctions of that code, as understood and practised in modern times.

Your Lordship observes, that I have spoken only of American vessels driven into British ports by the disasters of the seas, or carried in by unlawful force. I confine my remarks to these cases, because they are the common cases, and because they are the cases which the law of nations most emphatically exempts from interference. The maritime law is full of instances of the application of that great and practical rule, which declares that that which is the clear result of necessity, ought to draw after it no penalty and no hazard. If a ship be driven by stress of weather into a prohibited port, or into an open port with prohibited articles on board, in neither case is any forfeiture incurred. And what may be considered a still stronger case, it has been decided by eminent English authority, and that decision has received general approbation, that, if a vessel be driven by necessity into a port strictly blockaded, this necessity is good defence and exempts her from penalty.

A vessel on the high seas beyond the distance of a marine league from the shore, is regarded as part of the territory of the nation to which she belongs, and subjected exclusively to the jurisdiction of that nation. If, against the will of her master or owner, she be driven or carried nearer to the land, or even into port, those who have or who ought to have control over her, struggling all the while to keep her upon the high seas, and so within the exclusive jurisdiction of her own Government, what reason or justice is there in creating a distinction between her rights and immunities in a position thus the result of absolute necessity, and the same rights and immunities before superior power had forced her out of her voluntary course?

But, my Lord, the rule of law and the comity and practice of nations, go much further than these cases of necessity, and allow even to a merchant-vessel coming into any open port of another country, voluntarily, for the purposes of lawful trade, to bring with her and keep over her, to a very considerable extent, the jurisdiction and authority of the

laws of her own country. A ship, say the publicists, though at anchor in a foreign harbour, preserves its jurisdiction and its laws. It is natural to consider the vessels of a nation as parts of its territory, though at sea, as the State retains its jurisdiction over them; and, according to the commonly received custom, this jurisdiction is preserved over the vessel even in parts of the sea subject to a foreign dominion.

This is the doctrine of the law of nations, clearly laid down by writers of received authority, and entirely conformable, as it is supposed, with the practices of modern nations.

If a murder be committed on board of an American vessel, by one of the crew upon another, or upon a passenger, or by a passenger upon one of the crew, or another passenger, while such vessel is lying in a port within the jurisdiction of a foreign State or sovereignty, the offence is cognizable and punishable by the proper court of the United States, in the same manner as if such offence had been committed on board the vessel on the high seas. The law of England is supposed to be the same.

It is true that the jurisdiction of a nation over a vessel belonging to it, while lying in the port of another, is not necessarily wholly exclusive. We do not so consider or so assert it. For any unlawful acts done by her while thus lying in port, and for all contracts entered into while there, by her master or owners, she and they must doubtless be answerable to the laws of the place. Nor, if her master or crew while on board in such port break the peace of the community by the commission of crimes, can exemption be claimed for them. But nevertheless, the law of nations, as I have stated it, and the statutes of Governments founded on that law, as I have referred to them, show that enlightened nations, in modern times, do clearly hold that the jurisdiction and laws of a nation accompany her ships, not only over the high seas, but into ports and harbours, or wheresoever else they may be water-borne, for the general purpose of governing and regulating the rights, duties, and obligations of those on board thereof; and that to the extent of the exercise of this jurisdiction they are considered as parts of the territory of the nation herself.

If a vessel be driven by weather into the ports of another nation, it would hardly be alleged by any one that by the mere force of such arrival within the waters of the State, the law of that State would so attach to that vessel as to affect existing rights of property between persons on board, whether arising from contract or otherwise. The local law would not operate to make the goods of one man to become the goods of another man. Nor ought it to affect their personal obligations, or existing relations between themselves; nor was it ever supposed to have such effect, until the delicate and exciting question which has caused these interferences in the British islands arose. The local law in these cases dissolves no obligations or relations lawfully entered into, or lawfully existing, according to the laws of the ship's country. If it did, intercourse of civilized men between nation and nation must cease. Marriages are frequently celebrated in one country in a manner not lawful or valid in another. But did anybody ever doubt that marriages are valid all over the civilized world, if valid in the country in which they took place? Did any one ever imagine that local law acted upon such marriages to annihilate their obligations, if the parties should visit a country in which marriages must be celebrated in another form? It may be said that in such instances personal relations are founded in contract, and therefore to be respected; but that the relation of master and slave is not founded in contract, and therefore is to be respected only by the law of the place which recognizes it. Whoever so reasons, encounters the authority of the whole body of public law, from Grotius down, because there are numerous instances in which the law itself presumes or implies contracts; and prominent among these instances is the very relation which we are now considering, and which relation is holden by law to draw after it mutuality of obligation.

Is not the relation between a father and his minor children acknowledged when they go abroad? And on what contract is this founded, but a contract raised by general principles of law, from the relation of the parties?

Your Lordship will please bear in mind that the proposition which I

am endeavouring to support, is, that by the comity of the law of nations, and the practice of modern times, merchant vessels entering open ports of other nations, for the purpose of trade, are presumed to be allowed to bring with them, and to retain for their protection and government, the jurisdiction and laws of their own country. All this, I repeat, is presumed to be allowed, because the ports are open, because trade is invited, and because, under these circumstances, such permission or allowance is according to general usage. It is not denied that all this may be refused; and this suggests a distinction, the disregard of which may perhaps account for most of the difficulties arising in cases of this sort; that is to say, the distinction between what a State may do, if it pleases, and what it is presumed to do, or not to do, in the absence of any positive declaration of its will. A State might declare that all foreign marriages should be regarded as null and void within its territory; that a foreign father, arriving with an infant son, should no longer have authority or control over him; that on the arrival of a foreign vessel in its ports, all shipping articles, and all indentures of apprenticeship between her crew and her owners or masters, should cease to be binding. These and many other things equally irrational and absurd, a Sovereign State has, doubtless, the power to do. But they are not to be presumed. It is not to be taken for granted, *ab ante*, that it is the will of the Sovereign State, thus to withdraw itself from the circle of civilized nations. It will be time enough to believe this to be its intention, when it formally announces that intention by appropriate edicts, enactments, or other declarations.

In regard to slavery within the British territories, there is a well known and clear promulgation of the will of the sovereign authority, that is to say, there is a well known rule of her law. As to England herself, that law has long existed; and recent Acts of Parliament establish the same law for the Colonies. The usual mode of stating the rule of English law is, that no sooner does a slave reach the shore of England than he is free. This is true; but it means no more than that when a slave comes within the exclusive jurisdiction of England, he ceases to be a slave, because the law of England positively and notoriously prohibits and forbids the existence of such a relation between man and man. But it does not mean, that English authorities, with this rule of English law in their hands, may enter where the jurisdiction of another nation is acknowledged to exist, and there destroy rights, obligations, and interests, lawfully existing under the authority of such other nation. No such construction, and no such effect, can be rightfully given to the British law. It is true, that it is competent to the British Parliament, by express statute provision, to declare that no foreign jurisdiction of any kind should exist in or over a vessel, after its arrival, voluntarily in her ports. And so she might close all her ports to the ships of all nations. A State may also declare, in the absence of treaty stipulations, that foreigners shall not sue in her courts, nor travel in her territories, nor carry away funds or goods received for debts. We need not inquire what would be the condition of a country that should establish such laws, nor in what relation they would leave her towards the States of the civilized world. Her power to make such laws is unquestionable, but in the absence of direct and positive enactments to that effect, the presumption is that the opposites of these things exist. While her ports are open to foreign trade, it is to be presumed that she expects foreign ships to enter them, bringing with them the jurisdiction of their own Government and the protection of its laws, to the same extent that her ships and the ships of other commercial States carry with them the jurisdiction of their respective Governments into the open ports of the world; just as it is presumed, while the contrary is not avowed, that strangers may travel in a civilized country, in a time of peace, sue in its courts, and bring away their property.

A merchant vessel enters the port of a friendly State, and enjoys while there the protection of her own laws, and is under the jurisdiction of her own Government, not in derogation of the Sovereignty of the place, but by the presumed allowance or permission of that sovereignty. This permission or allowance is founded on the comity of nations, like the other

cases which have been mentioned, and this comity is part, and a most important and valuable part, of the law of nations, to which all nations are presumed to assent, until they make their dissent known. In the silence of any positive rule, affirming or denying, or restraining the operation of foreign laws, their tacit adoption is presumed to the usual extent. It is upon this ground that courts of law expound contracts according to the law of the place in which they are made; and instances almost innumerable exist in which, by the general practice of civilized countries, the laws of one will be recognized, and often executed in another. This is the comity of nations; and it is upon this, as its solid basis, that the intercourse of civilized States is maintained.

But while that which has now been said is understood to be the voluntary and adopted law of nations in cases of the voluntary entry of merchant vessels into the ports of other countries, it is nevertheless true that vessels in such ports, only through an overruling necessity, may place their claims for exemption from interference on still higher principles; that is to say, principles held in more sacred regard by the comity, the courtesy, or indeed the common sense of justice of all civilized States.

Even in regard to cases of necessity, however, there are things of an unfriendly and offensive character, which yet it may not be easy to say that a nation might not do. For example, a nation might declare her will to be, and make it the law of her dominions, that foreign vessels cast away on her shores should be lost to their owners and subject to the ancient law of wreck. Or a neutral State, while shutting her ports to the armed vessels of belligerents, as she has a right to do, might resolve on seizing and confiscating vessels of that description which should be driven to take shelter in her harbours by the violence of the storms of the ocean. But laws of this character, however within the absolute competence of Governments, could only be passed, if passed at all, under a willingness to meet the last responsibility to which nations are subject.

The presumption is stronger, therefore, in regard to vessels driven into foreign ports by necessity, and seeking only temporary refuge, than in regard to those which enter them voluntarily and for purposes of trade, that they will not be interfered with; and that unless they commit, while in port, some act against the laws of the place, they will be permitted to receive supplies, to repair damage, and to depart unmolested.

If, therefore, vessels of the United States, pursuing lawful voyages from port to port along their own shore, are driven by stress of weather or carried by unlawful force into English ports, the Government of the United States cannot consent that the local authorities in those ports shall take advantage of such misfortunes, and enter them for the purpose of interfering with the condition of persons or things on board as established by their own laws. If slaves, the property of citizens of the United States, escape into the British territories, it is not expected that they will be restored. In that case, the territorial jurisdiction of England will have become exclusive over them and must decide their condition. But slaves on board of American vessels, lying in British waters, are not within the exclusive jurisdiction of England, or under the exclusive operation of English law; and this founds the broad distinction between the cases. If persons guilty of crimes in the United States seek an asylum in the British dominions, they will not be demanded until provision for such cases be made by treaty. Because the giving up of criminals fugitive from justice, is agreed and understood to be a matter in which every nation regulates its conduct according to its own discretion. It is no breach of comity to refuse such surrender.

On the other hand, vessels of the United States, driven by necessity into British ports, and staying there no longer than such necessity exists, violating no law, nor having intent to violate any law, will claim and there will be claimed for them, protection and security, freedom from molestation, and from all interference with the character or condition of persons or things on board.

In the opinion of the Government of the United States, such vessels so driven and so detained by necessity in a friendly port, ought to be regarded as still pursuing their original voyage, and turned out of their

direct course only by disaster or by wrongful violence; that they ought to receive all assistance necessary to enable them to resume that direct course; and that interference and molestation by the local authorities, where the whole voyage is lawful, both in act and in intent, is ground for just and grave complaint.

Your Lordship's discernment and large experience in affairs cannot fail to suggest to you how important it is to merchants and navigators engaged in the coasting trade of a country so large in extent as the United States, that they should feel secure against all but the ordinary causes of maritime loss. The possessions of the two Governments closely approach each other. This proximity, which ought to make us friends and good neighbours, may, without proper care and regulation, itself prove a ceaseless cause of vexation, irritation, and disquiet.

If your Lordship has no authority to enter into a stipulation by treaty for the prevention of such occurrences hereafter as have already happened, —occurrences so likely to disturb that peace between the two countries which it is the object of your Lordship's mission to establish and confirm,—you may still be so far acquainted with the sentiments of your Government as to be able to engage that instructions shall be given to the local authorities in the islands, which shall lead them to regulate their conduct in conformity with the rights of citizens of the United States and the just expectations of their Government; and in such manner as shall in future take away all reasonable ground of complaint. It would be with the most profound regret that the President should see that, whilst it is now hoped so many other subjects of difference may be harmoniously adjusted, nothing should be done in regard to this dangerous source of future collisions.

I avail myself, &c.,
(Signed) DANL. WEBSTER.

No. 2.

Lord Ashburton to Mr. Webster.

Sir, *Washington, August* 7, 1842.

YOU may be well assured that I am duly sensible of the great importance of the subject to which you call my attention in the note which you did me the honour of addressing me the 1st instant, in which you inform me that the President had been pleased to express his regret that I was not empowered by my Government to enter into a formal stipulation for the better security of vessels of the United States, when meeting with disasters in passing between the United States and the Bahama Islands, and driven by such disasters into British ports.

It is, I believe, unnecessary that I should tell you that the case of the "Creole" was known in London a few days only before my departure. No complaint had at that time been made by Mr. Everett. The subject was not therefore among those which it was the immediate object of my mission to discuss. But at the same time I must admit, that from the moment I was acquainted with the facts of this case, I was sensible of all its importance, and I should not think myself without power to consider of some adjustment of, and remedy for, a great acknowledged difficulty, if I could see my way clearly to any satisfactory course, and if I had not arrived at the conclusion, after very anxious consideration, that, for the reasons which I will state, this question had better be treated in London, where it will have a much increased chance of settlement on terms likely to satisfy the interests of the United States.

The immediate case of the "Creole" would be easily disposed of, but it involves a class and description of cases which, for the purpose of affording that security you seek for the trade of America through the Bahama Channel, brings into consideration questions of law, both national and international, of the highest importance; and, to increase the delicacy and difficulty of the subject, public feeling is sensitively

alive to everything connected with it. These circumstances bring me to the conviction, that although I really believe that much may be done to meet the wishes of your Government, the means of doing so would be best considered in London, where immediate reference may be had to the highest authorities on every point of delicacy and difficulty that may arise. Whatever I might attempt, would be more or less under the disadvantage of being fettered by apprehensions of responsibility, and I might thereby be kept within limits which my Government at home might disregard. In other words, I believe you would have a better chance in this settlement with them, than with me. I state this after some imperfect endeavours by correspondence to come at satisfactory explanations. If I were in this instance treating of ordinary material interests, I should proceed with more confidence; but anxious as I unfeignedly am, that all questions likely to disturb future good understanding between us should be averted, I strongly recommend this question of the security of the Bahama Channel being referred for discussion in London.

This opinion is more decidedly confirmed by your very elaborate and important argument on the application of the general principles of the law of nations to these subjects; an argument to which your authority necessarily gives great weight, but in which I would not presume to follow you with my own imperfect means. Great Britain and the United States, covering all the seas of the world with their commerce, have the greatest possible interest in maintaining sound and pure principles of international law, as well as the practice of reciprocal aid and good offices in all their harbours and possessions. With respect to the latter, it is satisfactory to know, that the disposition of the respective Governments and people leaves little to be desired, with the single exception of those very delicate and perplexing questions which have recently arisen from the state of slavery; and even these seem confined, and likely to continue to be confined, to the narrow passage of the Bahama Channel. At no other part of the British possessions are American vessels with slaves ever likely to touch, nor are they likely to touch there otherwise than from the pressure of very urgent necessity. The difficulty, therefore, as well as the desired remedy, is apparently confined within narrow limits.

Upon the great general principles affecting this case, we do not differ: you admit that if slaves, the property of American citizens, escape into British territories, it is not expected that they will be restored, and you may be well assured that there is no wish on our part that they should reach our shores, or that British possessions should be used as decoys for the violators of the laws of a friendly neighbour.

When these slaves do reach us by whatever means, there is no alternative. The present state of British law is in this respect too well known to require repetition, nor need I remind you, that it is exactly the same with the laws of every part of the United States, where a state of slavery is not recognized; and that the slave put on shore at Nassau, would be dealt with exactly as would a foreign slave landed under any circumstances whatever at Boston.

But what constitutes the being within British dominion, from which these consequences are to follow? Is a vessel passing through the Bahama Channel, and forced involuntarily either from storm or mutiny into British waters, to be so considered? What power have the authorities of those islands to take cognizance of the condition of persons or property in such vessels? These are questions, which you, Sir, have discussed at great length, and with evident ability. Although you have advanced some propositions which rather surprise and startle me, I do not pretend to judge them, but what is very clear is, that great principles are involved in a discussion, which it would ill become me lightly to enter upon, and I am confirmed by this consideration in wishing that the subject be referred to where it will be perfectly weighed and examined.

It behoves the authorities of our two Governments well to guard themselves against establishing by their diplomatic intercourse false drecedents and principles, and that they do not for the purpose of meet-

n g a passing difficulty, set examples which may hereafter mislead the world.

It is not intended on this occasion to consider in detail the particular instances which have given rise to these discussions, they have already been stated and explained; our object is rather to look to the means of future prevention of such occurrences. That this may be attained I have little doubt, although we may not be able immediately to agree on the precise stipulations of a treaty. On the part of Great Britain there are certain great principles too deeply rooted in the consciences and sympathies of the people, for any Minister to be able to overlook, and any engagement I might make in opposition to them would be instantly disavowed. But, at the same time that we maintain our own laws within our own territories, we are bound to respect those of our neighbours, and to listen to every possible suggestion of means of averting from them every annoyance and injury. I have great confidence that this may be effectually done in the present instance; but the case to be met and remedied is new, and must not be too hastily dealt with; you may however be assured that measures so important for the preservation of friendly intercourse between the two countries shall not be neglected.

In the mean time I can engage that instructions shall be given to the Governors of Her Majesty's colonies on the southern borders of the United States, to execute their own laws with careful attention to the wish of their Government to maintain good neighbourhood, and that there shall be no officious interference with American vessels driven by accident or by unlawful violence into those ports. The laws and duties of hospitality shall be executed, and these seem neither to require nor to justify any further inquisition into the state of persons or things on board of vessels so situated, than may be indispensable to enforce the observance of the municipal law of the colony, and the proper regulation of its harbours and waters. A strict and careful attention to these rules, applied in good faith to all transactions as they arise, will, I hope and believe, without any abandonment of great general principles, lead to the avoidance of any excitement or agitation on this very sensitive subject of slavery, and consequently of those irritating feelings which may have a tendency to bring into peril all the great interests connected with the maintenance of peace.

I further trust that friendly sentiments, and the conviction of the importance of cherishing them, will on all occasions lead the two countries to consider favourably any further arrangements which may be judged necessary for the reciprocal protection of their interests.

I hope, Sir, that this explanation on this very important subject will be satisfactory to the President, and that he will see in it no diminution of that earnest desire which you have been pleased to recognize in me to perform my work of reconciliation and friendship, but that he will rather perceive in my suggestion in this particular instance that it is made with a well-founded hope of thereby better attaining the object we have in view.

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

No. 3.

Mr. Webster to Lord Ashburton.

Department of State,
Washington, August 8, 1842.

My Lord,

I HAVE the honour to acknowledge the receipt of your Lordship's note of the 6th instant, in answer to mine of the 1st, upon the subject of a stipulation for the better security of American vessels driven by accident or carried by force into the British West India ports.

The President would have been gratified if you had felt yourself at liberty to proceed at once to consider of some proper arrangement, by a

formal treaty, for this object; but there may be weight in the reasons which you urge for referring such mode of stipulation for consideration in London.

The President places his reliance on those principles of public law which were stated in my note to your Lordship, and which are regarded as equally well founded and important; and on your Lordship's engagement, that instructions shall be given to the Governors of Her Majesty's colonies to execute their own laws with careful attention to the wish of their Government to maintain good neighbourhood; and that there shall be no officious interference with American vessels driven by accident or by violence into those ports. That the laws and duties of hospitality shall be executed, and that these seem neither to require nor to justify any further inquisition into the state of persons or things on board of vessels so situated, than may be indispensable to enforce the observance of the municipal law of the colony, and the proper regulation of its harbours and waters. He indulges the hope, nevertheless, that, actuated by a just sense of what is due to the mutual interests of the two countries, and the maintenance of a permanent peace between them, Her Majesty's Government will not fail to see the importance of removing, by such further stipulations, by treaty or otherwise, as may be found to be necessary, all cause of complaint connected with this subject.

I have, &c.,

(Signed) DANIEL WEBSTER.

CORRESPONDENCE

BETWEEN

LORD ASHBURTON AND MR. WEBSTER,

RESPECTING THE

CASE OF THE STEAM BOAT "CAROLINE."

No. 1.

Mr. Webster to Lord Ashburton.

Department of State,
Washington, July 27, 1842.

My Lord,

IN relation to the case of the "Caroline," which we have heretofore made the subject of conference, I have thought it right to place in your hands an extract of a letter from this department to Mr. Fox, of the 24th of April, 1841, and an extract from the message of the President of the United States to Congress at the commencement of the present session. These papers, you have no doubt already seen; but they are, nevertheless, now communicated, as such communication is considered a ready mode of presenting the view which this Government entertains of the destruction of that vessel.

The act of which the Government of the United States complains is not to be considered as justifiable or unjustifiable, as the question of the lawfulness or unlawfulness of the employment in which the "Caroline" was engaged, may be decided the one way or the other. That act is of itself a wrong and an offence to the sovereignty and dignity of the United States, being a violation of their soil and territory; a wrong, for which to this day, no atonement or even apology has been made by Her Majesty's Government.

Your Lordship cannot but be aware that self-respect, the consciousness of independence and national equality, and a sensitiveness to whatever may touch the honour of the country,—a sensitiveness which this Government will ever feel and ever cultivate,—make this a matter of high importance; and I must be allowed to ask for it your Lordship's grave consideration.

I have, &c.,
(Signed) DANL. WEBSTER.

Inclosure 1 in No. 1.

Extract of a letter from Mr. Webster to Mr. Fox, dated April 24, 1841.

THE Undersigned has now to signify to Mr. Fox, that the Government of the United States has not changed the opinion which it has heretofore expressed to Her Majesty's Government, of the character of the act of destroying the "Caroline."

It does not think that that transaction can be justified by any reasonable application or construction of the right of self-defence, under the laws of nations. It is admitted that a just right of self-defence attaches always to nations as well as to individuals, and is equally necessary for the preservation of both. But the extent of this right is a question to be judged of by the circumstances of each particular case; and when its alleged exercise has led to the commission of hostile acts within the territory of a Power at peace, nothing less than a clear and absolute necessity can afford ground of justification. Not having, up to this time, been made acquainted with the views and reasons, at length, which have led Her Majesty's Government to think the destruction of the "Caroline" justifiable as an act of self-defence, the Undersigned, earnestly renewing the remonstrance of this Government against the transaction, abstains, for the present, from any extended discussion of the question. But it is deemed proper, nevertheless, not to omit to take some notice of the general grounds of justification stated by Her Majesty's Government, on their instruction to Mr. Fox.

Her Majesty's Government have instructed Mr. Fox to say, that they are of opinion that the transaction which terminated in the destruction of the "Caroline" was a justifiable employment of force, for the purpose of defending the British territory from the unprovoked attack of a band of British rebels and American pirates, who having been "permitted" to arm and organize themselves within the territory of the United States, had actually invaded a portion of the territory of Her Majesty.

The President cannot suppose that Her Majesty's Government, by the use of these terms, meant to be understood as intimating that these acts, violating the laws of the United States and disturbing the peace of the British territories, were done under any degree of countenance from this Government, or were regarded by it with indifference; or that, under the circumstances of the case, they could have been prevented by the ordinary course of proceeding. Although he regrets that, by using the term "permitted" a possible inference of that kind might be raised, yet such an inference the President is willing to believe would be quite unjust to the intentions of the British Government.

That, on a line of frontier such as separates the United States from Her Britannic Majesty's North American provinces—a line long enough to divide the whole of Europe into halves—irregularities, violence, and conflicts, should sometimes occur, equally against the will of both Governments, is certainly easily to be supposed. This may be more possible, perhaps, in regard to the United States, without any reproach to their Government, since their institutions entirely discourage the keeping up of large standing armies in time of peace, and their situation happily exempts them from the necessity of maintaining such expensive and dangerous establishments. All that can be expected from either Government, in these cases, is good faith, a sincere desire to preserve peace and do justice, the use of all proper means of prevention; and that, if offences cannot nevertheless, be always prevented, the offenders shall still be justly punished. In all these respects this Government acknowledges no delinquency in the performance of its duties.

Her Majesty's Government are pleased, also, to speak of those American citizens who took part with persons in Canada engaged in an insurrection against the British Government as "American pirates." The Undersigned does not admit the propriety or justice of this designation. If citizens of the United States fitted out, or were engaged in fitting out, a military expedition from the United States, intended to act against the British Government in Canada, they were clearly violating the laws of their own country, and exposing themselves to the just consequences which might be inflicted on them, if taken within the British dominions. But, notwithstanding this, they were certainly not pirates, nor does the Undersigned think that it can advance the purpose of fair and friendly discussion, or hasten the accommodation of national difficulties, so to denominate them. Their offence, whatever it was, had no analogy to cases of piracy. Supposing all that is alleged against them to be true, they were taking a part in what they regarded as a civil war, and they

were taking a part on the side of the rebels. Surely England herself has not regarded persons thus engaged as deserving the appellation which Her Majesty's Government bestows on these citizens of the United States.

It is quite notorious that, for the greater part of the last two centuries, subjects of the British Crown have been permitted to engage in foreign wars, both national and civil, and in the latter in every stage of their progress; and yet it has not been imagined that England has at any time allowed her subjects to turn pirates. Indeed, in our own times, not only have individual subjects of that Crown gone abroad to engage in civil wars, but we have seen whole regiments openly recruited, imbodied, armed, and disciplined, in England, with the avowed purpose of aiding a rebellion against a nation with which England was at peace; although it is true that, subsequently, an Act of Parliament was passed to prevent transactions so nearly approaching to public war, without license from the Crown.

It may be said that there is a difference between the case of a civil war arising from a disputed succession, or a protracted revolt of a colony against the mother country, and the case of the fresh outbreak or commencement of a rebellion. The Undersigned does not deny that such distinction may, for certain purposes, be deemed well founded. He admits that a Government, called upon to consider its own rights, interests, and duties, when civil wars break out in other countries, may decide on all the circumstances of the particular case upon its own existing stipulations, on probable results, on what its own security requires, and on many other considerations. It may be already bound to assist one party, or it may become bound, if it so chooses, to assist the other, and to meet the consequences of such assistance.

But whether the revolt be recent or long continued they who join those concerned in it, whatever may be their offence against their own country, or however they may be treated, if taken with arms in their hands in the territory of the Government against which the standard of revolt is raised, cannot be denominated pirates, without departing from all ordinary use of language in the definition of offences. A cause which has so foul an origin as piracy cannot, in its progress, or by its success, obtain a claim to any degree of respectability or tolerance among nations; and civil wars, therefore, are not understood to have such a commencement.

It is well known to Mr. Fox, that authorities of the highest eminence in England, living and dead, have maintained that the general law of nations does not forbid the citizens or subjects of one Government from taking part in the civil commotions of another. There is some reason, indeed, to think that such may be the opinion of Her Majesty's Government at the present moment.

The Undersigned has made these remarks from the conviction that it is important to regard established distinctions, and to view the acts and offences of individuals in the exactly proper light. But it is not to be inferred that there is, on the part of this Government, any purpose of extenuating, in the slightest degree, the crimes of those persons, citizens of the United States, who have joined in military expeditions against the British Government in Canada. On the contrary, the President directs the Undersigned to say that it is his fixed resolution that all such disturbers of the national peace, and violators of the laws of their country, shall be brought to exemplary punishment. Nor will the fact that they are instigated and led on to these excesses by British subjects, refugees from the provinces, be deemed any excuse or palliation; although it is well worthy of being remembered, that the prime movers of these disturbances on the borders are subjects of the Queen, who come within the territories of the United States, seeking to enlist the sympathies of their citizens, by all the motives which they are able to address to them, on account of grievances, real or imaginary. There is no reason to believe that the design of any hostile movement from the United States against Canada has commenced with citizens of the United States. The true origin of such purposes and such enterprizes is on the other side of the line.

But the President's resolution to prevent these transgressions of the laws is not, on that account, the less strong. It is taken, not only in conformity to his duty, under the provisions of existing laws, but in full consonance with the established principles and practice of this Government.

The Government of the United States has not, from the first, fallen into the doubts, elsewhere entertained, of the true extent of the duties of neutrality. It has held that, however it may have been in less enlightened ages, the just interpretation of the modern law of nations is, that neutral States are bound to be strictly neutral; and that it is a manifest and gross impropriety for individuals to engage in the civil conflicts of other States, and thus to be at war while their Government is at peace. War and peace are high national relations, which can properly be established or changed only by nations themselves.

The United States have thought, also, that the salutary doctrine of non-intervention by one nation with the affairs of others is liable to be essentially impaired, if while Government refrains from interference, interference is still allowed to its subjects, individually or in masses. It may happen, indeed, that persons choose to leave their country, emigrate to other regions, and settle themselves on uncultivated lands in territories belonging to other States. This cannot be prevented by Governments which allow the emigration of their subjects and citizens; and such persons, having voluntarily abandoned their own country, have no longer claim to its protection, nor is it longer responsible for their acts. Such cases, therefore, if they occur, show no abandonment of the duty of neutrality.

The Government of the United States has not considered it as sufficient to confine the duties of neutrality and non-interference to the case of Governments whose territories lie adjacent to each other. The application of the principle may be more necessary in such cases, but the principle itself they regard as being the same, if those territories be divided by half the globe. The rule is founded in the impropriety and danger of allowing individuals to make war on their own authority, or, by mingling themselves in the belligerent operations of other nations, to run the hazard of counteracting the policy or embroiling the relations of their own Government. And the United States have been the first among civilized nations to enforce the observance of this just rule of neutrality and peace, by special and adequate legal enactments. In the infancy of this Government, on the breaking out of the European wars which had their origin in the French Revolution, Congress passed laws, with severe penalties, for preventing the citizens of the United States from taking part in those hostilities.

By these laws it prescribed to the citizens of the United States what it understood to be their duty as neutrals, by the law of nations, and the duty also which they owed to the interest and honour of their own country.

At a subsequent period, when the American colonies of an European Power took up arms against their Sovereign, Congress, not diverted from the established system of the Government by any temporary considerations, not swerved from its sense of justice and of duty by any sympathies which it might naturally feel for one of the parties, did not hesitate also to pass acts applicable to the case of colonial insurrection and civil war. And these provisions of law have been continued, revised, amended, and are in full force at the present moment. Nor have they been a dead letter, as it is well known that exemplary punishments have been inflicted on those who have transgressed them. It is known, indeed, that heavy penalties have fallen on individuals (citizens of the United States) engaged in this very disturbance in Canada with which the destruction of the "Caroline" was connected. And it is in Mr. Fox's knowledge also, that the Act of Congress of 10th March, 1838, was passed for the precise purpose of more effectually restraining military enterprises from the United States into the British provinces, by authorizing the use of the most sure and decisive preventive means. The Undersigned may add, that it stands on the admission of very high British authority, that during

the recent Canadian troubles, although bodies of adventurers appeared on the border, making it necessary for the people of Canada to keep themselves in a state prepared for self-defence, yet that these adventurers were acting by no means in accordance with the feeling of the great mass of the American people or of the Government of the United States.

This Government, therefore, not only holds itself above reproach in everything respecting the preservation of neutrality, the observance of the principle of non-intervention, and the strictest conformity, in these respects, to the rules of international law, but it doubts not that the world will do it the justice to acknowledge that it has set an example not unfit to be followed by others; and that, by its steady legislation on this most important subject, it has done something to promote peace and good neighbourhood among nations, and to advance the civilization of mankind.

The Undersigned trusts that, when Her Britannic Majesty's Government shall present the grounds, at length, on which they justify the local authorities of Canada in attacking and destroying the "Caroline," they will consider that the laws of the United States are such as the Undersigned has now represented them, and that the Government of the United States has always manifested a sincere disposition to see those laws effectually and impartially administered. If there have been cases in which individuals, justly obnoxious to punishment, have escaped, this is no more than happens in regard to other laws.

Under these circumstances, and under those immediately connected with the transaction itself, it will be for Her Majesty's Government to show upon what state of facts, and what rules of national law, the destruction of the "Caroline" is to be defended. It will be for that Government to show a necessity of self-defence, instant, overwhelming, leaving no choice of means, and no moment for deliberation. It will be for it to show also that the local authorities of Canada, even supposing the necessity of the moment authorized them to enter the territories of the United States at all, did nothing unreasonable or excessive, since the act, justified by the necessity of self-defence, must be limited by that necessity, and kept clearly within it. It must be shown that admonition or remonstrance to the persons on board the "Caroline" was impracticable, or would have been unavailing. It must be shown that daylight could not be waited for; that there could be no attempt at discrimination between the innocent and the guilty; that it would not have been enough to seize and detain the vessel; but that there was a necessity, present and inevitable, for attacking her in the darkness of the night, while moored to the shore, and while unarmed men were asleep on board, killing some and wounding others, and then drawing her into the current above the cataract, setting her on fire, and careless to know whether there might not be in her the innocent with the guilty, or the living with the dead, committing her to a fate which fills the imagination with horror. A necessity for all this, the Government of the United States cannot believe to have existed.

All will see that if such things be allowed to occur, they must lead to bloody and exasperated war. And when an individual comes into the United States from Canada, and to the very place on which this drama was performed, and there chooses to make public and vain-glorious boast of the part he acted in it, it is hardly wonderful that great excitement should be created, and some degree of commotion arise.

This republic does not wish to disturb the tranquillity of the world; its object is peace, its policy peace. It seeks no aggrandizement by foreign conquest, because it knows that no foreign acquisitions could augment its power and importance so rapidly as they are already advancing by its own natural growth, under the propitious circumstances of its situation. But it cannot admit that its Government has not both the will and the power to preserve its own neutrality, and to enforce the observance of its own laws upon its own citizens. It is jealous of its rights, and among others, and most especially, of the right of the absolute immunity of its territory against aggression from abroad; and these rights it is the duty and determination of this Government fully and at all times to maintain, while it will at the same time as scrupulously refrain from infringing on the rights of others.

The President instructs the Undersigned to say, in conclusion, that he confidently trusts that this, and all other questions of difference between the two Governments, will be treated by both in the full exercise of such a spirit of candour, justice, and mutual respect, as shall give assurance of the long continuance of peace between the two countries.

Inclosure 2 in No. 1.

Extract from the Message of the President to Congress at the commencement of its present session.

I REGRET that it is not in my power to make known to you an equally satisfactory conclusion in the case of the "Caroline" steamer, with the circumstances connected with the destruction of which, in December, 1837, by an armed force fitted out in the province of Upper Canada, you are already made acquainted. No such atonement as was due for the public wrong done to the United States by this invasion of her territory, so wholly irreconcileable with her rights as an independent Power, has yet been made. In the view taken by this Government, the inquiry whether the vessel was in the employment of those who were prosecuting an unauthorized war against that province, or was engaged by the owner in the business of transporting passengers to and from Navy Island, in hopes of private gain, which was most probably the case, in no degree alters the real question at issue between the two Governments. This Government can never concede to any foreign Government the power, except in a case of the most urgent and extreme necessity, of invading its territory, either to arrest the persons or destroy the property of those who may have violated the municipal laws of such foreign Government, or have disregarded their obligations arising under the law of nations. The territory of the United States must be regarded as sacredly secure against all such invasions, until they shall voluntarily acknowledge inability to acquit themselves of their duties to others; and, in announcing this sentiment, I do but affirm a principle which no nation on earth would be more ready to vindicate, at all hazards, than the people and Government of Great Britain. If, upon a full investigation of all the facts, it shall appear that the owner of the "Caroline" was governed by a hostile intent, or had made common cause with those who were in the occupancy of Navy Island, then, so far as he is concerned, there can be no claim to indemnity for the destruction of his boat, which this Government would feel itself bound to prosecute, since he would have acted not only in derogation of the rights of Great Britain, but in clear violation of the laws of the United States. But that is a question which, however settled, in no manner involves the higher consideration of the violation of territorial sovereignty and jurisdiction. To recognize it as an admissible practice, that each Government, in its turn, upon any sudden and unauthorized outbreak, which on a frontier the extent of which renders it impossible for either to have an efficient force on every mile of it, and which outbreak, therefore, neither may be able to suppress in a day, may take vengeance into its own hands, and without even a remonstrance, and in the absence of any pressing or overruling necessity, may invade the territory of the other, would inevitably lead to results equally to be deplored by both. When border collisions come to receive the sanction or to be made on the authority of either Government, general war must be the inevitable result. While it is the ardent desire of the United States to cultivate the relations of peace with all nations, and to fulfil all the duties of good neighbourhood towards those who possess territories adjoining their own, that very desire would lead them to deny the right of any foreign Power to invade their boundary with an armed force. The correspondence between the two Governments on this subject will, at a future day of your session, be submitted to your consideration;

and, in the mean time, I cannot but indulge the hope that the British Government will see the propriety of renouncing, as a rule of future action, the precedent which has been set in the affair at Schlosser.

No. 2.

Lord Ashburton to Mr. Webster.

Sir, *Washington, July* 28, 1842.

IN the course of our conferences on the several subjects of difference which it was the object of my mission to endeavour to settle, the unfortunate case of the "Caroline," with its attendant consequences, could not escape our attention; for although it is not of a description to be susceptible of any settlement by a convention or treaty, yet being connected with the highest considerations of national honour and dignity, it has given rise at times to deep excitement, so as more than once to endanger the maintenance of peace.

The note you did me the honour of addressing me the 27th instant, reminds me that however disposed your Government might be to be satisfied with the explanations which it has been my duty to offer, the natural anxiety of the public mind requires that these explanations should be more durably recorded in our correspondence, and you send me a copy of your note to Mr. Fox, Her Britannic Majesty's Minister here, and an extract from the speech of the President of the United States to Congress at the opening of the present session, as a ready mode of presenting the view entertained on this subject by the Government of the United States.

It is so far satisfactory to perceive that we are perfectly agreed as to the general principles of international law applicable to this unfortunate case. Respect for the inviolable character of the territory of independent nations is the most essential foundation of civilization. It is useless to strengthen a principle so generally acknowledged by any appeal to authorities on international law, and you may be assured, Sir, that Her Majesty's Government set the highest possible value on this principle, and are sensible of their duty to support it by their conduct and example for the maintenance of peace and order in the world. If a sense of moral responsibility were not a sufficient surety for their observance of this duty towards all nations, it will be readily believed that the most common dictates of interest and policy would lead to it in the case of a long conterminous boundary of some thousand miles with a country of such great and growing power as the United States of America, inhabited by a kindred race, gifted with all its activity and all its susceptibility on points of national honour.

Every consideration therefore leads us to set as highly as your Government can possibly do, this paramount obligation of reciprocal respect for the independent territory of each. But, however strong this duty may be, it is admitted by all writers, by all jurists, by the occasional practice of all nations, not excepting your own, that a strong overpowering necessity may arise when this great principle may and must be suspended. It must be so, for the shortest possible period during the continuance of an admitted overruling necessity, and strictly confined within the narrowest limits imposed by that necessity. Self-defence is the first law of our nature, and it must be recognized by every code which professes to regulate the condition and relations of man. Upon this modification, if I may so call it, of the great general principle, we seem also to be agreed; and on this part of the subject I have done little more than repeat the sentiments, though in less forcible language, admitted and maintained by you in the letter to which you refer me.

Agreeing, therefore, on the general principle and on the possible exception to which it is liable, the only question between us is, whether this occurrence came within the limits fairly to be assigned to such exceptions: whether, to use your words, there was "that necessity of self-defence, instant, overwhelming, leaving no choice of means" which preceded the destruction of the "Caroline" while moored to the shore of the United

States? Give me leave, Sir, to say, with all possible admiration of your very ingenious discussion of the general principles which are supposed to govern the right and practice of interference by the people of one country in the wars and quarrels of others, that this part of your argument is little applicable to our immediate case. If Great Britain, America, or any other country suffer their people to fit out expeditions to take part in distant quarrels, such conduct may, according to the circumstances of each case, be justly matter of complaint, and, perhaps, these transactions have generally been in late times too much overlooked or connived at. But the case we are considering is of a wholly different description, and may be best determined by answering the following question. Supposing a man, standing on ground where you have no legal right to follow him, has a weapon long enough to reach you, and is striking you down and endangering your life, how long are you bound to wait for the assistance of the authority having the legal power to relieve you? Or, to bring the facts more immediately home to the case, If cannon are moving and setting up in a battery which can reach you, and are actually destroying life and property by their fire; if you have remonstrated for some time without effect, and see no prospect of relief, when begins your right to defend yourself, should you have no other means of doing so than by seizing your assailant on the verge of a neutral territory?

I am unwilling to recall to your recollection the particulars of this case, but I am obliged very shortly to do so to show what was at the time the extent of the existing justification, for upon this entirely depends the questions whether a gross insult has or has not been offered to the Government and people of the United States.

After some tumultuous proceedings in Upper Canada, which were of short duration and were suppressed by the militia of the country, the persons criminally concerned in them took refuge in the neighbouring State of New York, and, with a very large addition to their numbers, openly collected, invaded the Canadian territory, taking possession of Navy Island.

This invasion took place the 16th of December, 1837, a gradual accession of numbers and of military ammunition continued openly, and though under the sanction of no public authority, at least with no public hindrance, until the 29th of the same month, when several hundred men were collected, and twelve pieces of ordnance, which could only have been procured from some public store or arsenal, were actually mounted on Navy Island, and were used to fire within easy range upon the unoffending inhabitants of the opposite shore. Remonstrances wholly ineffectual were made; so ineffectual, indeed, that a militia regiment, stationed on the neighbouring American island, looked on without any attempt at interference, while shots were fired from the American island itself. This important fact stands on the best American authority, being stated in a letter to Mr. Forsyth, of the 6th February, 1838, of Mr. Benton, attorney of the United States, the gentleman sent by your Government to inquire into the facts of the case, who adds, very properly, that he makes the statement "with deep regret and mortification."

This force, formed of all the reckless and mischievous people of the border, formidable from their numbers and from their armament, had in their pay and as part of their establishment this steam-boat "Caroline," the important means and instrument by which numbers and arms were hourly increasing. I might safely put it to any candid man, acquainted with the existing state of things, to say whether the military commander in Canada had the remotest reason, on the 29th day of December, to expect to be relieved from this state of suffering by the protective intervention of any American authority. How long could a Government, having the paramount duty of protecting its own people, be reasonably expected to wait for what they had then no reason to expect? What would have been the conduct of American officers? What has been their conduct under circumstances much less aggravated? I would appeal to you, Sir, to say whether the facts which you say would alone justify the act, viz.: "a necessity of self-defence, instant, overwhelming, leaving no choice of means and no moment for deliberation," were not applicable to this case in as high a degree as they ever were to any case of a similar description in the history of nations.

Nearly five years are now past since this occurrence, there has been time for the public to deliberate upon it calmly, and I believe I may take it to be the opinion of candid and honourable men, that the British officers who executed this transaction, and their Government who approved it, intended no slight or disrespect to the sovereign authority of the United States. That they intended no such disrespect I can most solemnly affirm, and I trust it will be admitted that no inference to the contrary can fairly be drawn, even by the most susceptible on points of national honour.

Notwithstanding my wish that the explanations I had to make might not revive, in any degree, any feelings of irritation, I do not see how I could treat this subject without this short recital of facts; because the proof that no disrespect was intended is mainly to be looked for in the extent of the justification.

There remains only a point or two which I should wish to notice, to remove, in some degree, the impression which your rather highly coloured description of this transaction is calculated to make. The mode of telling a story often tends to distort facts, and in this case, more than any other, it is important to arrive at plain unvarnished truth.

It appears from every account, that the expedition was sent to capture the "Caroline," when she was expected to be found on the British ground of Navy Island, and that it was only owing to the orders of the rebel leader being disobeyed that she was not so found. When the British officer came round the point of the island in the night, he first discovered that the vessel was moored to the other shore. He was not by this deterred from making the capture, and his conduct was approved. But you will perceive that there was here most decidedly the case of justification mentioned in your note, that there should be "no moment left for deliberation." I mention this circumstance to show also that the expedition was not planned with a premeditated purpose of attacking the enemy within the jurisdiction of the United States, but that the necessity of so doing arose from altered circumstances at the moment of execution.

I have only further to notice the highly coloured picture drawn in your note, of the facts attending the execution of this service. Some importance is attached to the attack having been made in the night, and the vessel having been set on fire and floated down the falls of the river, and it is insinuated, rather than asserted, that there was carelessness as to the lives of the persons on board. The account given by the distinguished officer who commanded the expedition distinctly refutes, or satisfactorily explains, these assertions. The time of night was purposely selected as most likely to ensure the execution with the least loss of life, and it is expressly stated, that the strength of the current not permitting the vessel to be carried off, and it being necessary to destroy her by fire, she was drawn into the stream for the express purpose of preventing injury to persons or property of the inhabitants at Schlosser.

I would willingly have abstained from a return to the facts of this transaction, my duty being to offer those explanations and assurances which may lead to satisfy the public mind, and to the cessation of all angry feeling, but it appeared to me that some explanation of parts of the case, apparently misunderstood, might be of service for this purpose.

Although it is believed that a candid and impartial consideration of the whole history of this unfortunate event will lead to the conclusion, that there were grounds of justification as strong as were ever presented in such cases, and, above all, that no slight of the authority of the United States was ever intended, yet it must be admitted, that there was, in the hurried execution of this necessary service, a violation of territory; and this I am instructed to assure you that Her Majesty's Government consider as a most serious fact, and that far from thinking that an event of this kind should be lightly risked, they would unfeignedly deprecate its recurrence. Looking back to what passed at this distance of time, what is perhaps most to be regretted, is that some explanation and apology for this occurrence was not immediately made; this, with a frank explanation of the necessity of the case, might and probably would have

prevented much of the exasperation and of the subsequent complaints and recriminations, to which it gave rise.

There are possible cases in the relations of nations, as of individuals, where necessity, which controls all other laws, may be pleaded, but it is neither easy nor safe to attempt to define the rights or limits properly assignable to such a plea. This must always be a subject of much delicacy, and should be considered by friendly nations with great candour and forbearance. The intentions of the parties must mainly be looked to, and can it for a moment be supposed that Great Britain would intentionally and wantonly provoke a great and powerful neighbour?

Her Majesty's Government earnestly desire that a reciprocal respect for the independent jurisdiction and authority of neighbouring States may be considered among the first duties of all Governments, and I have to repeat the assurance of regret they feel that the event of which I am treating should have disturbed the harmony they so anxiously wish to maintain with the American people and Government.

Connected with these transactions there have also been circumstances of which, I believe, it is generally admitted that Great Britain has also had just ground to complain. Individuals have been made personally liable for acts done under the avowed authority of their Government, and there are now many brave men exposed to personal consequences for no other cause than having served their country. That this is contrary to every principle of international law it is useless for me to insist. Indeed it has been admitted by every authority of your Government, but owing to a conflict of laws, difficulties have intervened, much to the regret of those authorities, in giving practical effect to these principles, and for these difficulties some remedy has been by all desired. It is no business of mine to enter upon the consideration of them, nor have I sufficient information for the purpose, but I trust you will excuse my addressing to you the inquiry, whether the Government of the United States is now in a condition to secure, in effect and in practice, the principle which has never been denied in argument, that individuals acting under legitimate authority are not personally responsible for executing the orders of their Government. That the power, when it exists, will be used on every fit occasion I am well assured, and I am bound to admit that, looking through the voluminous correspondence concerning these transactions, there appears no indisposition with any of the authorities of the Federal Government, under its several administrations, to do justice in this respect in as far as their means and powers would allow.

I trust, Sir, I may now be permitted to hope that all feelings of resentment and ill-will, resulting from these truly unfortunate events, may be buried in oblivion, and that they may be succeeded by those of harmony and friendship, which it is certainly the interest and I also believe the inclination of all to promote.

I beg, Sir, &c.,
(Signed) ASHBURTON.

No. 3.

Mr. Webster to Lord Ashburton.

Department of State,
Washington, August 6, 1842.

My Lord,

YOUR Lordship's note of the 28th of July in answer to mine of the 27th of July, respecting the case of the "Caroline" has been received and laid before the President.

The President sees with pleasure that your Lordship fully admits those great principles of public law applicable to cases of this kind, which this Government has expressed; and that on your part, as on ours, respect for the inviolable character of the territory of independent States is deemed the most essential foundation of civilization. And, while it is admitted on both sides that there are exceptions to this rule, he is gratified

to find that your Lordship admits that such exceptions must come within the limitations stated, and the terms used in a former communication from this department to the British Plenipotentiary here. Undoubtedly it is just, that while it is admitted that exceptions growing out of the great law of self-defence do exist, those exceptions should be confined to cases in which "the necessity of that self-defence is instant, overwhelming, and leaving no choice of means and no moment for deliberation."

Understanding these principles alike, the difference between the two Governments is only whether the facts in the case of the "Caroline," make out a case of such necessity for the purposes of self-defence. Seeing that the transaction is not recent, having happened in the time of one of his predecessors; seeing that your Lordship, in the name of your Government, solemnly declares that no slight or disrespect was intended to the sovereign authority of the United States; seeing that it is ackowledged that, whether justifiable or not, there was yet a violation of the territory of the United States, and that you are instructed to say that your Government consider that as a most serious occurrence; seeing, finally, that it is now admitted that an explanation and apology for this violation was due at the time; the President is content to receive these acknowledgments and assurances in the conciliatory spirit which marks your Lordship's letter, and will make this subject, as a complaint of violation of territory, the topic of no further discussion between the two Governments.

As to that part of your Lordship's note which relates to other occurrences springing out of the case of the "Caroline," with which occurrences the name of Alexander Mc Leod has become connected, I have to say that the Government of the United States entirely adheres to the sentiments and opinions expressed in the communication from this department to Mr. Fox.

This Government has admitted, that for an act committed by the command of his Sovereign, *jure belli*, an individual cannot be responsible in the ordinary Courts of another State. It would regard it as a high indignity if a citizen of its own, acting under its authority, and by its special command in such cases, were held to answer in a municipal tribunal, and to undergo punishment, as if the behest of his Government were no defence or protection to him.

But your Lordship is aware that in regular constitutional Governments, persons arrested on charges of high crimes can only be discharged by some judicial proceeding. It is so in England; it is so in the colonies and provinces of England. The forms of judicial proceeding differ in different countries, being more rapid in some and more dilatory in others; and it may be added, generally more dilatory, or at least more cautious in cases affecting life, in Governments of a strictly limited, than in those of a more unlimited character. It was a subject of regret that the release of Mc Leod was so long delayed. A State Court, and that not of the highest jurisdiction, decided that on summary application embarrassed, as it would appear, by technical difficulties, he could not be released by that Court. His discharge shortly afterwards by a jury, to whom he preferred to submit his case, rendered unnecessary the further prosecution of the legal question. It is for the Congress of the United States, whose attention has been called to the subject, to say what further provisions ought to be made to expedite proceedings in such cases; and in answer to your Lordship's questions, towards the close of your note, I have to say that the Government of the United States holds itself, not only fully disposed, but fully competent, to carry into practice every principle which it avows or acknowledges, and to fulfil every duty and obligation which it owes to foreign Governments, their citizens or subjects.

I have, &c.,

(Signed) DANIEL WEBSTER.

Bill to provide further Remedial Justice in the Courts of the United States.

No. 1.

Mr. Webster to Lord Ashburton.

Department of State,
Washington, August 29, 1842.

My Lord,

I HAVE the honour to inclose a copy of the bill "To provide further Remedial Justice, &c., &c.," as it has passed through both Houses.

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

Inclosure in No. 1.

In the House of Representatives.—July 9, 1842.

Read twice and referred to the Committee on the Judiciary.

An Act to provide further Remedial Justice in the Courts of the United States.

BE IT ENACTED by the Senate and House of Representatives of the United States of America in Congress assembled, That either of the justices of the Supreme Court of the United States, or a judge of any district Court of the United States, in which a prisoner is confined, in addition to the authority already conferred by law, shall have power to grant writs of *habeas corpus* in all cases of any prisoner or prisoners in jail or confinement, where he, she, or they, being subjects or citizens of a foreign State, and domiciled therein, shall be committed or confined, or in custody, under or by any authority or law, or process founded thereon, of the United States, or of any one of them, for or on account of any act done or omitted under any alleged right, title, authority, privilege, protection, or exemption, set up or claimed under the commission, or order, or sanction, of any foreign State or Sovereignty, the validity and effect whereof depend upon the law of nations, or under colour thereof. And upon the return of the said writ, and due proof of the service of notice of the said proceeding to the Attorney-General or other officer prosecuting the pleas of the State under whose authority the petitioner has been arrested, committed, or is held in custody, to be prescribed by the said justice or judge at the time of granting said writ, the said justice or judge shall proceed to hear the said cause; and if, upon hearing the same, it shall appear that the prisoner or prisoners is or are entitled to be

discharged from such confinement, commitment, custody, or arrest, for or by reason of such alleged right, title, authority, privileges, protection, or exemption, so set up and claimed, and the law of nations applicable thereto, and that the same exists in fact, and has been duly proved to the said justice or judge, then it shall be the duty of the said justice or judge forthwith to discharge such prisoner or prisoners accordingly. And if it shall appear to the said justice or judge that such judgment of discharge ought not to be rendered, then the said prisoner or prisoners shall be forthwith remanded: Provided always, That from any decision of such justice or judge an appeal may be taken to the circuit court of the United States for the district in which the said cause is heard; and from the judgment of the said circuit court to the Supreme Court of the United States, on such terms and under such regulations and orders, as well for the custody and appearance of the prisoner or prisoners, as for sending up to the appellate tribunal a transcript of the petition, writ of *habeas corpus* returned thereto, and other proceedings, as the judge hearing the said cause may prescribe; and pending such proceedings or appeal, and until final judgment be rendered therein, and after final judgment of discharge in the same, any proceeding against said prisoner or prisoners, in any State court, or by or under the authority of any State, for any matter or thing so heard and determined, or in process of being heard and determined, under and by virtue of such writ of *habeas corpus*, shall be deemed null and void.

Passed the Senate, July 8, 1842.

Attest: ASBURY DICKINS,
Secretary.

CORRESPONDENCE

BETWEEN

LORD ASHBURTON AND MR. WEBSTER,

RESPECTING

IMPRESSMENT.

No. 1.

Mr. Webster to Lord Ashburton.

Department of State,
Washington, August 8, 1842.

My Lord,

WE have had several conversations on the subject of impressment; but I do not understand that your Lordship has instructions from your Government to negotiate upon it, nor does the Government of the United States see any utility in opening such negotiation, unless the British Government is prepared to renounce the practice in all future wars.

No cause has produced to so great an extent, and for so long a period, disturbing and irritating influences on the political relations of the United States and England, as the impressment of seamen by British cruizers from American merchant vessels.

From the commencement of the French Revolution to the breaking out of the war between the two countries in 1812, hardly a year elapsed without loud complaint and earnest remonstrance; a deep feeling of opposition to the right claimed, and to the practice exercised under it, and not unfrequently exercised without the least regard to what justice and humanity would have dictated, even if the right itself had been admitted, took possession of the public mind of America, and this feeling, it is well known, co-operated most powerfully with other causes to produce the state of hostilities which ensued.

At different periods, both before and since the war, negotiations have taken place between the two Governments, with the hope of finding some means of quieting these complaints. At some times the effectual abolition of the practice has been requested and treated of; at other times its temporary suspension; and at other times again the limitation of its exercise and some security against its enormous abuses.

A common destiny has attended these efforts; they have all failed; the question stands at this moment where it stood fifty years ago. The nearest approach to a settlement was a convention, proposed in 1803, and which had come to the point of signature, when it was broken off, in consequence of the British Government insisting that the *narrow seas* should be expressly excepted out of the sphere over which the contemplated stipulation against impressment should extend. The American Minister, Mr. King, regarded this exception as quite inadmissible, and chose rather to abandon the negotiation than to acquiesce in the doctrine which it proposed to establish.

England asserts the right of impressing British subjects, in time of

war, out of neutral merchant vessels, and of deciding by her visiting officers who, among the crews of such merchant vessels, are British subjects. She asserts this as a legal exercise of the prerogative of the Crown, which prerogative is alleged to be founded on the English law of the perpetual and indissoluble allegiance of the subject, and his obligation under all circumstances, and for his whole life, to render military service to the Crown whenever required.

This statement made in the words of eminent British jurists shows at once that the English claim is far broader than the basis or platform on which it is raised. The law relied on is English law, the obligations insisted on are obligations existing between the Crown of England and its subjects. This law and these obligations, it is admitted, may be such as England may choose they shall be; but then they must be confined to the parties. Impressment of seamen out of and beyond English territory, and from on board the ships of other nations, is an interference with the rights of other nations; is further, therefore, than English prerogative can legally extend; and is nothing but an attempt to enforce the peculiar law of England beyond the dominions and jurisdiction of the Crown. The claim asserts an extra-territorial authority for the law of British prerogative; and assumes to exercise this extra-territorial authority to the manifest injury and annoyance of the citizens and subjects of other States on board their own vessels on the high seas.

Every merchant vessel on the seas is rightfully considered as part of the territory of the country to which it belongs. The entry, therefore, into such vessel being neutral, by a belligerent, is an act of force, and is *primâ facie* a wrong, a trespass, which can be justified only when done for some purpose, allowed to form a sufficient justification by the law of nations. But a British cruizer enters an American merchant vessel, in order to take therefrom supposed British subjects, offering no justification therefor, under the law of nations, but claiming the right under the law of England respecting the king's prerogative; this cannot be defended. English soil, English territory, English jurisdiction, is the appropriate sphere for the operation of English law. The ocean is the sphere of the law of nations, and by that law every merchant vessel on the seas is under the protection of the laws of her own nation, and may claim immunity unless in cases in which that law allows her to be entered and visited.

If this notion of perpetual allegiance, and the consequent power of the prerogative, was the law of the world; if it formed part of the conventional code of nations, and was usually practised like the right of visiting neutral ships, for the purpose of discovering and seizing enemy property, then impressment might be defended as a common right, and there would be no remedy for the evils till the national code should be altered; but this is by no means the case. There is no such principle incorporated into the code of nations. The doctrine stands only as English law, not as national law, and English law cannot be of force beyond English dominion. Whatever duties or relations that law creates between the sovereign and his subjects, can be enforced and maintained only within the realm, or proper possessions, or territory of the sovereign. There may be quite as just a prerogative right to the property of subjects as to their personal services in an exigency of the State; but no Government thinks of controlling, by its own laws, property of its subjects situated abroad; much less does any Government think of entering the territory of another Power for the purpose of seizing such property and applying it to its own uses. As laws, the prerogatives of the Crown of England have no obligation on persons or property domiciled or situated abroad.

"When therefore," says an authority not unknown or unregarded on either side of the Atlantic, "we speak of the right of a State to bind its own native subjects everywhere, we speak only of its own claim and exercise of sovereignty over them, when they return within its own territorial jurisdiction, and not of its right to compel or require obedience to such laws on the part of other nations within their own territorial sovereignty. On the contrary, every nation has an exclusive right to regulate

persons and things within its own territory according to its own sovereign will and public polity."

The good sense of these principles, their remarkable pertinency to the subject now under consideration, and the extraordinary consequences resulting from the British doctrine, are signally manifested by that which we see taking place every day. England acknowledges herself overburdened with population of the poorer classes, Every instance of the emigration of persons of those classes is regarded by her as a benefit. England therefore encourages emigration ; means are notoriously supplied to emigrants, to assist their conveyance, from public funds ; and the New World, and most especially these United States, receive the many thousands of her subjects, thus ejected from the bosom of their native land by the necessities of their condition. They come away from poverty and distress in overcrowded cities, to seek employment, comfort, and new homes, in a country of free institutions, possessed by a kindred race, speaking their own language, and having laws and usages, in many respects like those to which they have been accustomed ; and a country which upon the whole is found to possess more attractions for persons of their character and condition than any other on the face of the globe. It is stated that in the quarter of the year, ending with June last, more than 26,000 emigrants left the single port of Liverpool for the United States, being four or five times as many as left the same port within the same period for the British Colonies and all other parts of the world. Of these crowds of emigrants many arrive in our cities in circumstances of great destitution, and the charities of the country both public and private are severely taxed to relieve their immediate wants. In time, they mingle with the new community in which they find themselves and seek means of living ; some find employment in the cities, others go to the frontiers, to cultivate lands reclaimed from the forest ; and a greater or less number of the residue becoming in time naturalized citizens, enter into the merchant service under the flag of their adopted country.

Now, my Lord, if war should break out between England and a European Power, can anything be more unjust, anything more irreconcileable to the general sentiments of mankind, than that England should seek out these persons thus encouraged by her, and compelled by their own condition, to leave their native homes, tear them away from their new employments, their new political relations, and their domestic connections, and force them to undergo the dangers and hardships of military service, for a country which has thus ceased to be their own country? Certainly, certainly, my Lord, there can be but one answer to this question. Is it not far more reasonable that England should either prevent such emigration of her subjects, or that if she encourage and promote it, she should leave them not to the embroilment of a double and a contradictory allegiance, but to their own voluntary choice, to form such relations, political or social, as they see fit, in the country where they are to find their bread, and to the laws and institutions of which they are to look for defence and protection?

A question of such serious importance ought now to be put at rest. If the United States give shelter and protection to those whom the policy of England annually casts upon their shores, if by the benign influences of their Government and institutions, and by the happy condition of the country, those emigrants become raised from poverty to comfort, finding it easy even to become landholders, and being allowed to partake in the enjoyment of all civil rights, if all this may be done, and all this is done, under the countenance and encouragement of England herself, is it not high time, my Lord, that yielding that which had its origin in feudal ideas is inconsistent with the present state of society, and especially with the intercourse and relations subsisting between the Old World and the New, England should at length formally disclaim all right to the services of such persons, and renounce all control over their conduct?

But impressment is subject to objections of a much wider range. If it could be justified in its application to those who are declared to be its only objects, it still remains true that in its exercise it touches the political rights of other Governments, and endangers the security of their own

native subjects and citizens. The sovereignty of the State is concerned in maintaining its exclusive jurisdiction and possession over its merchant-ships on the sea, except so far as the law of nations justifies intrusion of that possession for special purposes; and all experience has shown that no member of a crew, wherever born, is safe against imprisonment when a ship is visited.

The evils and injuries resulting from the actual practice can hardly be overstated, and have ever proved themselves to be such as should lead to its relinquishment, even if it were founded on any defensible principle. The difficulty of discriminating between English subjects and American citizens has always been found to be great, even when an honest purpose of discrimination has existed. But the lieutenant of a man-of-war, having necessity for men, is apt to be a summary judge, and his decisions will be quite as significant of his own wants and his own power, as of the truth and justice of the case. An extract from a letter of Mr. King, of the 13th of April, 1797, to the American Secretary of State, shows something of the enormous extent of these wrongful seizures: "Instead of a few, and those in many instances equivocal cases, I have," says he, "since the month of July past, made application for the discharge from British men-of-war of two hundred and seventy-one seamen, who, stating themselves to be Americans, have claimed my interference. Of this number eighty-six have been ordered by the Admiralty to be discharged; thirty-seven more have been detained as British subjects or as American volunteers, or for want of proof that they are Americans; and to my applications for the discharge of the remaining one hundred and forty-eight, I have received no answer. The ships on board of which these seamen were detained having, in many instances, sailed before an examination was made, in consequence of my application."

"It is certain that some of those who have applied to me are not American citizens, but the exceptions are, in my opinion, few; and the evidence, exclusive of certificates, has been such, as in most cases, to satisfy me that the applicants were real Americans who have been forced into the British service, and who, with singular constancy, have generally persevered in refusing pay or bounty, though, in some instances, they have been in service more than two years."

But the injuries of impressment are by no means confined to its immediate subjects, or the individuals on whom it is practised. Vessels suffer from the weakening of their crews, and voyages are often delayed, and not unfrequently broken up, by subtraction from the number of necessary hands by impressment. And what is still of greater and more general moment, the fear of impressment has been found to create great difficulty in obtaining sailors for the American merchant-service, in times of European war. Seafaring men, otherwise inclined to enter into that service are, as experience has shown, deterred by the fear of finding themselves ere long in compulsory military service in British ships of war. Many instances have occurred fully established in proof, in which raw seamen, natives of the United States, fresh from the fields of agriculture, entering for the first time on shipboard, have been impressed before they made the land, placed on the decks of British men-of-war, and compelled to serve for years before they could obtain their release, or revisit their country and their homes. Such instances become known, and their effect in discouraging young men from engaging in the merchant-service of their country, can neither be doubted nor wondered at. More than all, my Lord, the practice of impressment, wherever it has existed, has produced, not conciliation and good feeling, but resentment, exasperation, and animosity, between the two great commercial countries of the world.

In the calm and quiet which have succeeded the late war, a condition so favourable for dispassionate consideration, England herself has evidently seen the harshness of impressment, even when exercised on seamen in her own merchant-service; and she has adopted measures calculated, if not to renounce the power or to abolish the practice, yet, at least, to supersede its necessity, by other means of manning the Royal Navy more compatible with justice and the rights of individuals, and far more conformable to the spirit and sentiments of the age.

Under these circumstances the Government of the United States has used the occasion of your Lordship's pacific mission to review this whole subject, and to bring it to your notice and that of your Government. It has reflected on the past, pondered the condition of the present, and endeavoured to anticipate, so far as might be in its power, the probable future; and I am now to communicate to your Lordship the result of these deliberations.

The American Government, then, is prepared to say that the practice of impressing seamen from American vessels cannot hereafter be allowed to take place. That practice is founded on principles which it does not recognize, and is invariably attended by consequences so unjust, so injurious, and of such formidable magnitude, as cannot be submitted to.

In the early disputes between the two Governments on this so long contested topic, the distinguished person to whose hands were first intrusted the seals of this department, declared that "the simplest rule will be that the vessel being American shall be evidence that the seamen on board are such."

Fifty years' experience, the utter failure of many negotiations, and a careful reconsideration now had of the whole subject, at a moment when the passions are laid and no present interest or emergency exists to bias the judgment, have fully convinced this Government that this is not only the simplest and the best but the only rule which can be adopted and observed, consistently with the rights and honour of the United States, and the security of their citizens. That rule announces, therefore, what will hereafter be the principle maintained by their Government. In every regularly documented American merchant-vessel, the crew who navigate it will find their protection in the flag which is over them.

The announcement is not made, my Lord, to revive useless recollections of the past nor to stir the embers from fires which have been in a great degree smothered by many years of peace. Far otherwise. Its purpose is to extinguish those fires effectually before new incidents arise to fan them into flame. The communication is in the spirit of peace, and for the sake of peace, and springs from a deep and conscientious conviction that high interests of both nations require that this so long-contested and controverted subject, should now be finally put to rest. I persuade myself, my Lord, that you will do justice to this frank and sincere avowal of motives, that you will communicate your sentiments in this respect to your Government.

This letter closes, my Lord, on my part our official correspondence; and I gladly use the occasion to offer you the assurances of my high and sincere regard.

(Signed) DANIEL WEBSTER.

No. 2.

Lord Ashburton to Mr. Webster.

Sir, *Washington, August* 9, 1842.

THE note you did me the honour of addressing me the 8th instant, on the subject of impressment shall be transmitted without delay to my Government, and will, you may be assured, receive from them the deliberate attention which its importance deserves.

The object of my mission was mainly the settlement of existing subjects of difference; and no differences have, or could have, arisen of late years with respect to impressment, because the practice has, since the peace wholly ceased, and cannot, consistently with existing laws and regulations for manning Her Majesty's navy, be under present circumstances renewed.

Desirous, however, of looking far forward into futurity, to anticipate even possible causes of disagreement, and sensible of the anxiety of the American people on this grave subject of past irritation, I should be sorry

in any way to discourage the attempt at some settlement of it; and although without authority to enter upon it here during the limited continuance of my mission, I entertain a confident hope that this task may be accomplished when undertaken with the spirit of candor and conciliation which has marked all our late negotiations.

It not being our intention to endeavour now to come to any agreement on this subject, I may be permitted to abstain from noticing at any length your very ingenious arguments relating to it, and from discussing the grave matters of constitutional and international law growing out of them. These sufficiently show that the question is one requiring calm consideration, though I must at the same time admit that they prove a strong necessity of some settlement for the preservation of that good understanding which I trust we may flatter ourselves that our joint labours have now succeeded in establishing.

I am well aware that the laws of our two countries maintain opposite principles respecting allegiance to the Sovereign. America receiving every year by thousands the emigrants of Europe, maintains the doctrine suitable to her condition, of the right of transferring allegiance at will. The laws of Great Britain have maintained from all time the opposite doctrine. The duties of allegiance are held to be indefeasible; and it is believed that this doctrine, under various modifications, prevails in most, if not in all, the civilized states of Europe. Emigration, the modern mode by which the population of the world peaceably finds its level, is for the benefit of all, and eminently for the benefit of humanity. The fertile deserts of America are gradually advancing to the highest state of cultivation and production, while the emigrant acquires comfort, which his own confined home could not afford him. If there were anything in our laws or our practice on either side tending to impede this march of providential humanity, we could not be too eager to provide a remedy: but as this does not appear to be the case, we may safely leave this part of the subject without indulging in abstract speculations, having no material practical application to matters in discussion between us.

But it must be admitted that a serious practical question does arise, or rather has existed, from practices formerly attending the mode of manning the British navy in times of war. The principle is, that all subjects of the Crown are, in case of necessity, bound to serve their country, and the sea-faring man is naturally taken for the naval service. This is not, as is sometimes supposed, any arbitrary principle of monarchical government, but one founded on the natural duty of every man to defend the life of his country; and all the analogy of your laws would lead to the conclusion that the same principle would hold good in the United States, if their geographical position did not make its application unnecessary.

The very anomalous condition of the two countries with relation to each other here creates a serious difficulty. Our people are not distinguishable, and, owing to the peculiar habits of sailors, our vessels are very generally manned from a common stock. It is difficult under these circumstances to execute laws which at times have been thought to be essential for the existence of the country, without risk of injury to others. The extent and importance of those injuries, however, are so formidable, that it is admitted that some remedy should, if possible, be applied. At all events it must be fairly and honestly attempted. It is true that during the continuance of peace no practical grievance can arise; but it is also true that it is for that reason, the proper season for the calm and deliberate consideration of an important subject. I have much reason to hope that a satisfactory arrangement respecting it may be made, so as to set at rest all apprehension and anxiety; and I will only further repeat the assurance of the sincere disposition of my Government favourably to consider all matters having for their object the promoting and maintaining undisturbed kind and friendly feelings with the United States.

I beg, Sir, &c.,

(Signed) ASHBURTON.

NORTH AMERICAN BOUNDARY.

CORRESPONDENCE

RELATING TO THE

BOUNDARY

BETWEEN THE

BRITISH POSSESSIONS IN NORTH AMERICA

AND THE

UNITED STATES OF AMERICA,

UNDER THE

TREATY OF 1783.

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

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

LONDON:

PRINTED BY T. R. HARRISON.

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PROCEEDINGS AND CORRESPONDENCE

RELATING TO

THE DISPUTED TERRITORY;

FROM

June 1840, *to October* 1841.

No. 1.

Viscount Palmerston to Mr. Fox.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

No. 2.

Viscount Palmerston to Mr. Fox.

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

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

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

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

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

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

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

No. 3.

Viscount Palmerston to Mr. Fox.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Inclosure 1 in No. 3.

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

PREAMBLE.

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

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

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

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

ARTICLE I*.

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

ARTICLE II†.

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

ARTICLE III.

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

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

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

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

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

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

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

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

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

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

ARTICLE IV.

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

ARTICLE V.

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

ARTICLE VI.

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

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

ARTICLE VII.

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

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

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

ARTICLE VIII.

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

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

ARTICLE IX.

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

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

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

ARTICLE X.

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

ARTICLE XI.

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

ARTICLE XII.

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

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

ARTICLE XIII.

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

ARTICLE XIV.

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

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

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

Inclosure 2 in No. 3.

North-Eastern Boundary.

American Counter-Project.

PREAMBLE.

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

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

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

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

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

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

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

ARTICLE II.

(Unchanged.)

ARTICLE III.

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

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

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

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

ARTICLE IV.

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

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

The rest of this Article is susceptible of improvement.

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

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

ARTICLE V.

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

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

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

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

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

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

This is too vague.

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

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

All this is needlessly wordy.

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

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

ARTICLE VI.

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

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

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

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

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

ARTICLE VII.

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

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

ARTICLE VIII.

As Article IX. of the British Project.

ARTICLE IX.

Article X. of the British Project.

ARTICLE X.

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

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

ARTICLE XI.

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

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

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

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

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

ARTICLE XII

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

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

ARTICLE XIII.

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

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

ARTICLE XIV.

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

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

ARTICLE XV.

As Article XI. of the British Project.

No. 4.

Viscount Palmerston to Mr. Fox.

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

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

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

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

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

No. 5.

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

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

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

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

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

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

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

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

Inclosure 1 in No. 5.

Mr. Fox to Mr. Forsyth.

Washington, June 22, 1840.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Undersigned avails, &c.,

(Signed) H. S. FOX.

Inclosure 2 in No. 5.

Mr. Forsyth to Mr. Fox.

Washington, June 26, 1840.

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

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

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

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

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

The Undersigned avails, &c.

(Signed) JOHN FORSYTH.

No. 6.

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

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

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

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

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

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

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

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

Inclosure 1 in No. 6.

President's Message to Congress.

NORTH-EASTERN BOUNDARY.

To the Senate:—

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

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

M. VAN BUREN.

Washington, June 17, 1840.

Inclosure 2 in No. 6.

Discussion in the Senate on the Boundary Negotiations.

NORTH-EASTERN BOUNDARY.

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

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

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

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

No. 7.

Viscount Palmerston to Mr. Fox.

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

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

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

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

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

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

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

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

No. 8.

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

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

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

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

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

Inclosure in No. 8.

Mr. Fox to Mr. Forsyth.

Sir, *Washington, July* 28, 1840.

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

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

I avail myself, &c.

(Signed) H. S. FOX.

No. 9.

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

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

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

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

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

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

I have, &c.,

(Signed) H. S. FOX.

Inclosure 1 in No. 9.

Mr. Forsyth to Mr. Fox.

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

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

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

I avail myself, &c.,

(Signed) JOHN FORSYTH.

Inclosure 2 in No. 9.

Mr. Fox to Mr. Forsyth.

Sir, *Washington, July* 28, 1840.

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

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

I avail myself, &c.

(Signed) H. S. FOX.

No. 10.

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

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

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

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

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

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

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

(Signed) H. S. FOX.

Inclosure in No. 10.

Mr. Fox to Mr. Forsyth.

Washington, July 28, 1840.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Undersigned, &c.,

(Signed) H. S. FOX.

No. 11.

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

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

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

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

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

Inclosure in No. 11.

Mr. Forsyth to Mr. Fox.

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

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

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

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

No. 12.

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

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

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

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

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

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

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

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

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

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

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

Inclosure 1 in No. 12.

Mr. Forsyth to Mr. Fox.

Department of State,
Sir, *Washington, August* 13, 1840.

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

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

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

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

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

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

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

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

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

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

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

The Undersigned, &c.,

(Signed) JOHN FORSYTH.

Inclosure 2 in No. 12.

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

PREAMBLE.

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

ARTICLE I.

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

ARTICLE II.

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

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

ARTICLE III.

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

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

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

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

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

ARTICLE IV.

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

ARTICLE V.

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

ARTICLE VI.

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

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

ARTICLE VII.

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

ARTICLE VIII.

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

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

ARTICLE IX.

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

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

ARTICLE X.

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

ARTICLE XI.

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

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

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

ARTICLE XII.

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

ARTICLE XIII.

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

ARTICLE XIV.

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

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

ARTICLE XV.

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

ARTICLE XVI.

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

ARTICLE XVII.

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

ARTICLE XVIII.

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

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

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

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No. 13.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I have, &c.,

(Signed(H. S. FOX.

Inclosure in No. 13.

Mr. Fox to Mr. Forsyth.

Sir, *Washington, August* 17, 1840.

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

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

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

I avail myself, &c.

(Signed) H. S. FOX.

No. 14.

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

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

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

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

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

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

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

No. 15.

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

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

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

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

Inclosure in No. 15.

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

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

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

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

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

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

No. 16.

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

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

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

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

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

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

Inclosure 1 in No. 16.

Lord Sydenham to Mr. Fox.

Government House,
Sir, *Montreal, November* 23, 1840.

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

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

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

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

Inclosure 2 in No. 16.

Sir John Harvey to Lord Sydenham.

Government House, Fredericton,
My Lord, *New Brunswick, November* 3, 1840.

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

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

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

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

Inclosure in No. 16.

Sir John Harvey to Lord Sydenham.

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

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

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

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

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

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

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

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

Inclosure 4 in No. 16.

Sir John Harvey to Lord Sydenham.

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

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

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

Inclosure 5 in No. 16.

Mr. Maclauchlan to Sir John Harvey.

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

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

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

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

I have, &c.,

(Signed) J. A. MACLAUCHLAN,
Warden of the Disputed Territory.

Inclosure 6 in No. 16.

Mr. Maclauchlan to Sir John Harvey.

Madawaska Settlement,
November 9, 1840.

May it please your Excellency,

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

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

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

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

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

I have, &c.,

(Signed) J. A. MACLAUCHLAN,
Warden of the Disputed Territory.

Inclosure 7 in No. 16.

Mr. Rice to Mr. Machlauchlan.

Sir, *Madawaska, November* 3, 1840.

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

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

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

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

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

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

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

Inclosure 8 in No. 16.

Lord Sydenham to Sir John Harvey.

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

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

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

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

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

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

Inclosure 9 in No. 16.

Sir John Harvey to Mr. Fox.

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

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

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

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

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

Inclosure 10 in No. 16.

Mr. Forsyth to Mr. Fox.

Department of State,
Sir, *Washington, December* 26, 1840.

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

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

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

Inclosure 11 in No. 16.

Governor Fairfield to Sir John Harvey.

Executive Department,
Sir, *Saco, December* 15, 1840.

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

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

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

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

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

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

I have, &c.,

(Signed) JOHN FAIRFIELD,
Governor of Maine.

No. 17.

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

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

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

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

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

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

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

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

Inclosure in No. 17.

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

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

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

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

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

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

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

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

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

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

No. 18.

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

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

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

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

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

No. 19.

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

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

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

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

Inclosure in No. 19.

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

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

REPORT, &c.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The avenue, which had been cleared through a dense forest from the monument to a distance of twelve miles north of it, by the surveyors in 1817, was easily recognized by the new and thick growth of young timber, which, having a width of from forty to fifty feet, now occupied it. Axe-men were at once set at work to re-open this avenue, under the supposition that the due north line would at least fall within its borders for a distance of twelve miles. In the mean time, the first astronomical station and camp were established, and the transit instrument set up at a distance of 4,578 feet north of the monument upon an eminence $45\frac{1}{2}$ feet above the level of its base. This position commanded a distinct view of the monument to the south, and of the whole line to the north for a distance of eleven miles, reaching to Park's Hill.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

All which is respectfully submitted.

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

Hon. John Forsyth, Secretary of State.

No. 20.

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

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

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

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

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

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

Inclosure in No. 20.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Fox to Mr. Forsyth.

"*June* 22, 1840.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

" *Lord Palmerston to Mr. Stevenson.*

" *Foreign Office, April* 16, 1838.

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

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

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

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

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

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

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

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

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

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

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

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

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

3. That an ancient map so places the line.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"JOHN POWNALL, *Secretary.*

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

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

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

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

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

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

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

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

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

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

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

Yes.

To the second question the answer would be,

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

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

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

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

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

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

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

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

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

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

No. 21.

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

Her Majesty's Consulate, Boston,
(Extract.) *March* 29, 1841.

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

Inclosure in No. 21.

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

COMMONWEALTH OF MASSACHUSETTS.

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

REPORT:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Which your Committee would render by the following words:—

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

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

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

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

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

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

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

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

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

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

Which Her Majesty's Commissioners desire to translate thus:

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

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

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

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

* [Not the Government of the United States.]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"VII. It is shown that the charter of William and Mary, of 1691, does not extend the grant of the Sagadahoc country to the St. Lawrence, but only grants the lands 'between the said country or territory of Nova Scotia and the said river of Sagadahoc, or any part thereof;' so that the extreme interpretation of this grant would require, for the northern limit, a line passing between the head water of the St. Croix River and the source of the Sagahadoc or Kennebec River, which would nearly coincide with a line passing between the western waters of the St. Croix and the Highlands which divide the Kennebec from the Chaudière."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"The boundary must be determined by applying the words of the Treaty to the natural features of the country itself, and not by applying those words to any map."

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

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

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

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

By order of the Committee,

CHARLES FRANCIS ADAMS.

COMMONWEALTH OF MASSACHUSETTS, 1841.

Resolves concerning the North-Eastern Boundary.

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

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

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

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

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

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

No. 22.

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

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

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

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

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

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

No. 23.

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

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

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

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

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

Inclosure 1 in No. 23.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

understand, that what was to be done should be so under the authority of the General Government, and would be sustained by it; for so long as they supposed that Maine was not acting in accordance with the sentiments of the United States, but proceeded on her own responsibility, alone and unsupported—so long must we expect a repetition of outrages upon our rights and upon the persons of our citizens and agents. Maine was obliged to move upon her own responsibility; but no just inference was thence to be drawn that she intended to absolve the General Government from its constitutional obligation, as the principal, responsible guardian power; and the course prescribed, was evidently intended to be pursued only in the last resort, to assert our rights, all other measures failing. But in that respect, the determination of Maine was announced to be fixed and settled; and, so far as rested on her Executive, her will, as expressed by the Legislature, should be faithfully obeyed and executed.

The Committee do not deem it necessary to go into all the circumstances of that eventful Resolve, and to review the whole transactions of that period in which our cause was raised from the character of a border quarrel—one in which it had too long been viewed by other parts of the Union—into its due relief and importance; when it was presented to public favour, and placed in the foreground of our public affairs, and lifted into the clearer light of day, as a matter about which there could be no doubt, and there ought to be no further dispute and delay. It was rescued, at the same time, from the deadly repose of diplomacy, and almost redeemed at once from those enormous errors and obliquities in which it had been involved by the predecessors of the now late Secretary of State. An arrangement was, at this point of time, without waiting any further, proposed by him to the British Government, under the direction of the President, to test the correctness of the opinion of the State of Maine, that the line described in the Treaty of 1783 could be found and traced, whenever the Governments of the United Sates and Great Britain should proceed to make the requisite investigation, with a predisposition to effect the desired object. It might seem strange, to be sure, that the question should be supposed to have arrived at such a pass; and the mode in which the investigation was taken up, at that particular moment, was far from being satisfactory; but it undoubtedly appeared to the Executive of the United States to be best; and it was regarded, indeed, it is believed, as the only alternative that could be adopted to the total rupture of negotiation. Whether that was of so much real importance as was then, perhaps, conceived, the result has hardly yet proved. The subject was, however, by this means, unavoidably taken out of the immediate hands of Congress, as a matter of practical consideration and proceeding, further than the occasion was thereby afforded to call for its definite opinion and decision thereupon. And it must be owned to have been a great and sensible relief to the State of Maine; and it awakened her warmest gratitude, that her call for the judgment of Congress was followed by the cordial and unanimous recognition of her rights by both its branches, and by the subsequent acknowledgment, so long suspended, of her title to recompense for essential and vital wrongs.

The cause of Maine was then adopted and made, not only the cause of Massachusetts and all New England, but the cause of New York and Virginia, of Pennsylvania, Ohio, and Kentucky, and, in fine, of the whole Union. While all might not have been done by the Federal Government that was desired by the Legislature, it is due to acknowledge that all was done by Congress that was in their power, under the circumstances in which they were called to act, consistent with the previous course of the President, in re-opening negotiation. Whether there is any reason for regret, in respect to that course, as before intimated, it is not within the province, if it were in the power, of the Committee to determine. They may, perhaps, be permitted to observe, that there was a full report made at that period of the agency instituted under the State Executive for the purpose of obtaining the constitutional sanction and co-operation of the Government of the United States. Full justice was intended to be done, as the Committee may believe, in that Report to the principal actors in that interesting and important matter; and a merited tribute was paid to those distinguished persons in the Senate of the United States, particularly, who took a leading part in the discussion and decision. The only difficulty was in assigning to individuals their proper share of that

merit on our behalf, which, if so well deserved by them, was justly due to all. If there was an omission to be repaired, it might have been in respect to the names of the two representatives of Maine, therein mentioned as having taken an effective part in the finally-successful course of proceedings in the House of Representatives. There was no occasion to say that those two representatives were Mr. Evans and Mr. Fairfield; both of whom have since been remembered with the most respectful consideration by the State, and the memory of their arduous and faithful services on this subject is yet fresh in its mind. Without disparagement also to the constant and faithful services of a Senator from our own State (Mr. Williams), which are also entitled to their due acknowledgment, the Committee may be allowed the gratification of adding that the cause of Maine, in the true sense of the word, had no more decided and determined champion in the Senate than the present worthy Governor of Massachusetts.

If the Resolves of 1838 did not entirely reach their object, they may be well regarded as having accomplished their end. This was done, we would remark, in the first place, by means of those joint unanimous Resolutions of Congress which asserted the rightfulness of our claim, and the practicability of running and establishing the line of Boundary agreeable to the Treaty of 1783; and secondly, by engaging the co-operation and support of the Government of the United States, so much in accordance with the spirit, if somewhat short of the letter, of our Resolves; thirdly, the fulfilment of the course of action adopted by the General Government, so far as it proved defective upon a strict construction of those Resolves, was necessarily furnished by the conclusion of the Executive of the State, to go on and execute the instructions of the Legislature, as he had unequivocally announced his intention to do in that emergency. The absolute mandate of the Legislature left him no alternative; and although the path on which he was obliged to enter was one beset with difficulty and discouragement, he was equal to what the occasion required. The Committee are proud to recal that he had the satisfaction of being seconded, also, in carrying the undertaking into effect, by that constant, ardent, and indefatigable advocate of the rights and interests of Maine, the late John G. Deane, over whose recent and untimely grave we are called to pause, without turning aside, and to bestow the passing tribute due to his honest worth, and his persevering and devoted spirit.

And, finally, we may consider the end of these resolves to have been accomplished, in a material respect; that is, in regard to ascertaining what was the immediate object of that expedition, and which never fairly admitted of a question—the feasibility of the undertaking, if there was a disposition to go about it in good earnest. We may likewise be at liberty to look upon the late subsequent proceedings, instituted under the direction of the Government of the United States, for the exploration and survey of the Treaty Boundary, upon the north-east angle of the United States, as the final though tardy result and confirmation of the previous consequence of the resolves and proceedings of 1838 in this same respect. Without questioning whether the American Government ought to have allowed the British to have been in advance upon an investigation of this kind, it may afford sufficient satisfaction that the main object has so far been answered, and that the resolves of 1838 have been thus, in some important respects, although still imperfectly, performed.

In this respect the Committee may allude with gratification to the so far satisfactory results to which the Commissioners recently appointed by the Government of the United States have arrived, as already communicated. Without deeming them to have been of absolute and essential importance, we may regard them as auxiliary to what has been already accomplished, and as tending to carry out the purpose of the resolves of 1838 to their final completion. The character of the recent exploration is one well calculated to gain respect and confidence; and we hope it may be speedily pursued to the final determination of the lines it will be the object to run and mark.

The Committee have now come upon a period at which Maine was called upon to test the firmness of her principles and the fortitude of her purposes, and they may further say, the strength of her resolves, upon a sudden and somewhat unforeseen emergency. This was in consequence of information communicated to Governor Fairfield, on entering the duties of his office, as successor to Governor Kent, in 1839, and by him confidentially to the Legis-

lature, that there was a large assembly of unknown individuals upon the border, many of whom were from the British provinces, engaged in trespassing extensively upon the lands belonging to this State and Massachusetts, within the proper jurisdiction of Maine; and it was further stated, that they not only refused to desist, but that they defied the power of this Government to prevent their committing depredations upon the timber within the territory, to any extent they pleased. In consequence of this communication, and the evidence in support of it, the Land Agent of the State was authorized, by a special resolve of January 24, 1839, to employ forthwith sufficient force to arrest, detain, and imprison all persons found trespassing on the territory of this State, as bounded and established by the Treaty of 1783. In proceeding upon the execution of this duty, upon the south side of the St. John, and west of the meridian dividing Maine from New Brunswick, the Land Agent was surprised and seized by an unauthorized force from the other side of the line, of the same character, if not in connexion, with the general trespassing parties in the night, and was drawn, with circumstances of indignity and precipitation, to the seat of the Provincial Government at Fredericton. There he was received, detained, and treated as an offender; and shortly paroled, as a prisoner of state; so, that, in addition to the indignity to which this State was thus subjected by the seizure and captivity of her official public agent, representing her supreme power and acting under the direct authority and commission of the Legislature, it had to endure the further mortification of having the appropriate duties of that high officer discharged by a paroled prisoner of Her Britannic Majesty's Lieutenant-Governor of New Brunswick, liable to be called to answer, at any moment, for official acts by him performed upon the territory in question; while it had, at the same time, to digest the double disgrace of receiving this derogatory boon, under degrading circumstances, from a deputed power, which demanded the whole Disputed Territory to be under the immediate custody of a Provincial Warden.

To pass rapidly over events so recent, as not to require recital, and not to burden this Report with details of which we may retain, perhaps, too deep and vivid a recollection, it may be observed, in passing, that the course thus adopted by this State, in resorting to its own power for protection, and moving upon the emergency to repel lawless aggression, was one, of which the legitimacy was recognized as well by British as by American jurisprudence, and it was allowed by Congress to have been exerted in strict conformity to the established principles of the fundamental law of both countries. The first appeal, moreover, to military force was made, and so declared by Congress, by the Lieutenant-Governor of New Brunswick; and the consequent proceedings on the part of Maine were acknowledged to have been purely defensive. The pretension assumed by the Lieutenant-Governor of New Brunswick was considered as excluding the civil, as well as the military power of this State. It no less rejected the right of the United States, than that of Maine, to interpose any authority to preserve the peace and order of a portion of country, to which the British Government could extend nothing but a naked and destitute claim; and which portion was comprehended in the ancient recognized jurisdiction of Massachusetts. These facts and principles were embodied in an able and patriotic Report from the Committee of Foreign Affairs, presented in the House of Representatives, on the 28th of February, 1839.

Maine has not forgotten the generous and simultaneous sympathy which swelled throughout the land, nor will she cease to bear in mind the noble burst of indignation which arose in the Halls of Congress, above all other interests, on the occasion of this movement from New Brunswick, and the stand assumed by Maine. The demand upon this State to divest herself of a jurisdiction practically established, and perfectly defined, and to surrender it to a contiguous foreign province, was listened to with astonishment; and the idea was not tolerated for a moment. The objection to the military occupation of the Disputed Territory by Great Britain was pronounced to be insurmountable; and the execution of orders to that effect was proclaimed to be incompatible with the honour of the United States. The pretence, that there was any agreement or understanding that Great Britain should occupy the territory as she claimed, pending the controversy, was instantly repudiated; and the right of the State to the control and protection of her own domain fully asserted. The appeal, that was made by Maine at that moment to the General Govern-

ment, met with a prompt and immediate response. The reply was one that manifested a due sense of her rights, by spreading over them the ample folds of the federal union; and the sensibility of Congress to the claim of the State for protection expressed itself at once in the most effective and emphatic form. By an Act of Congress, upon the Report of the Committee of the House, the President was authorized to resist and repel any attempt on the part of Great Britain to enforce by arms her claim to exclusive jurisdiction. The whole military and naval forces of the United States were placed at his disposal, with such portions of the militia as he might see fit to call out for our protection. Ten millions of dollars were appropriated for the purpose; and a special provision was further made for the appointment of a Minister to Great Britain, if the President should consider it expedient. This act was to continue in force until sixty days after the commencement of the then next session.

Maine, in return, was solicited and appealed to, to rest satisfied with this vindication of her sovereignty, and to rely on this full assurance of protection; and this Act of Congress was presented to her at once, as a pledge on the part of the Government, and as an inducement to prevail upon her to withdraw her military force, then rightfully in arms to sustain the civil authority and to repel invasion. The Committee almost quote the public language employed by high authority upon that occasion; and they may refer to the general character of the acts and declarations of the Federal Government in our favour. And they would take this further opportunity to say, with sincerity and pleasure, that if there had been any real want of vigour in the course of the late national administration upon this important subject, there has been scarcely any failure of the most uniform, conciliatory, and respectful treatment toward the State and its official authorities.

Upon view of these measures of the National Government for the protection of the State, and in particular, of the provision also for the appointment of a Special Minister to the Court of St. James', the Legislature passed a resolve on the 23rd of March, 1839, which asserted the right of the State to exclusive jurisdiction over all the territory that lies west of a due north line from the monument to the north-west angle of Nova Scotia, to wit, all that had been called the Disputed Territory; and it denied the competency of any other authority to limit or impair the exercise of that inherent right, according to her own sole judgment; and expressing at the same time an earnest desire to come to an amicable adjustment of the whole controversy, (referring immediately to the provision for the appointment of a Special Minister,) it did further resolve to forbear to enforce her jurisdiction in that part of the territory of which the possession was then usurped by the Province of New Brunswick, so far as she could do so, consistently with the maintenance of the former resolve of January 24, which has been mentioned; and in relation to that late resolve the Legislature still declared it to be no less the imperative duty than the unalienable right of the State to protect her public domain from depredation and plunder, up to the extremest limits of her territory; and that, moreover, nopower on earth should drive her from an act of jurisdiction so proper in itself, and to which her honour was so irrevocably committed.

The Legislature also expressed its perfect approbation of the public measures pursued by Governor Fairfield in relation to the Disputed Territory, and further declared its determination to stand to, and sustain the execution of, the aforesaid resolve of January 24. It, however, authorized the Governor, whenever he should be satisfied that the exigency had ceased, and that all intention of occupying the Disputed Territory with a military force, and of attempting the expulsion of our own party, had been abandoned, to withdraw the militia, leaving the Land Agent with a sufficient posse, armed or unarmed, as the case might require, to carry the said resolve into effect.

The Legislature, at the same time, (having before them the recent demonstration made under the direction of the former Governor,) deemed that the entire practicability of running and marking our North-Eastern Boundary Line, in strict conformity with the Definitive Treaty of Peace of 1783, was placed beyond a doubt; and further declared that a crisis had arrived, when it became the duty of the Government of the United States forthwith to propose to that of Great Britain a joint commission for the purpose of running the line accordingly; and in case of refusal on the part of Great Britain, it

was incumbent on the United States to run the line upon their own authority, and to take possession of the whole Disputed Territory without unnecessary delay.

In the mean time it may be remarked, that a preliminary arrangement had been entered into by a memorandum signed on the 27th of February, 1839, between the Secretary of State and the British Minister; which, after stating the different views entertained by the two parties on the point of jurisdiction, proposed, that while the Lieutenant-Governor of New Brunswick should not without renewed instructions undertake to expel by force the armed party employed upon the Aroostook by Maine, it should, on the other hand, be withdrawn by Maine; and, furthermore, that all future operations for protecting the territory against trespassers, should be carried on, either jointly or separately, by agreement between Maine and New Brunswick.

With the greatest deference to the high source from which this proposal proceeded, the Committee cannot close their eyes to the singular and somewhat extraordinary nature and character of this recommendation. Maine had, to be sure, been compelled to act upon a sudden occasion in self-defence; but she had not presumed to enter into any relation with New Brunswick, in face of the absolute clause of the Constitution which forbids any State, without the consent of Congress, to "enter into any agreement or compact with another State or with a Foreign Power, or engage in war, unless actually divided, or in such imminent danger, as will not admit of delay." Certain stipulations are stated and understood to have been subscribed to and interchanged between the then Governor of Maine, and the Lieutenant-Governor of New Brunswick, under the mediation of a distinguished military officer, sent hither by the General Government; but they have not been understood, on the part of this State, to have exceeded the limits prescribed by the cotemporaneous resolves, of which alone they could have been in execution, or fulfilment, so far as this State is concerned; and as to any further virtue or efficacy, the subscription must, the Committee conceive, derive its authority entirely from the Commission given by the Government of the United States to Major-General Scott.

Be that as it may, the request, recommendation, or agreement (whatever it was), was immediately complied with and performed on the part of Maine, under the sanction of the National Government; and under a full reliance, also, upon its guarantee against any adverse military occupation of any part of the Disputed Territory by Great Britain. Upon the proposition made by General Scott to Sir John Harvey, it was signified by the latter not to be his intention, under the expected renewal of negotiations between the Cabinets of London and Washington, on the subject of the Disputed Territory, without renewed instructions from his Government to seek to take military possession of that territory, or to seek by military force to expel the armed civil posse or the troops of Maine.

This being, in the view entertained by Governor Fairfield, the exact contingency contemplated by the Legislature in the foregoing resolves, he did not hesitate to conform to the stipulation, by recalling the troops of Maine at once and dismissing them to their homes. It appeared to be the course prescribed to him by the Legislature; such a one as might be adopted without compromising the rights or dignity of the State, which had never, as he stated, proposed to take military possession of the territory. Our objects had been only, in the first place, to protect the territory from devastation by trespassers, and, secondly, to resist the opposite threats of expulsion by military power. Our militia had maintained their ground, while the exigency that called them out remained. When that was removed, the withdrawal of the troops was no abandonment of any position taken by this State: an ordinary civil posse was thereupon substituted, and stationed at one or two points only upon the Aroostook and St. John, barely sufficient for the intended purpose of preventing trespass.

It is unnecessary to mention that, under all these circumstances, the presence of any actual or impending military force upon our frontier was presumed to have been entirely removed. Such appears to have been the persuasion of Governor Fairfield when he prepared to meet the Legislature at the opening of the Session of 1840. But the communication he was about to make was obliged to be modified by the information which reached him, in

reply to an inquiry he had addressed to Sir John Harvey, founded on previous rumour, that the British Government was about taking a military possession of the region of Madawaska. In this reply it was acknowledged, that one or two companies had been stationed at Temiscouta Lake; that this was done, however, not by orders from him, the Lieutenant-Governor of New Brunswick, but by virtue of authority superior to his, namely, that of the Government of Lower Canada. Through less official sources, accounts were received, about the same time, of the building of barracks by the British Government near the mouth of Madawaska River, on the St. John. These movements were naturally regarded by Governor Fairfield, under whatever branch of British authority, or upon whatever pretence they might be made, not more clearly as a violation of the spirit of the arrangement that had been adopted in the March previous, than as an absolute invasion of our territory, and as such, demanding the immediate and vigorous interposition of the General Government enjoined by the constitution and laws of the United States. In an ensuing correspondence, these measures on the part of the British were justified or defended by their Minister at Washington, on the grounds of a general report, of which that Government was said to be fully aware, charging the Legislature of Maine with the intention, during its then session, of revoking the provisional agreements then in force, and authorizing some new and extensive, nameless, act of aggression over the stipulated territory. From this offensive charge the State of Maine was justly vindicated by the Secretary of the United States; and the imputation was repelled with an equally measured force and propriety of expression; and this vindication was accompanied with a due demand for the removal of the invading force.

The Legislature at its next session, by its Resolves of March 18, 1840, gratefully acknowledged the patriotic enthusiasm with which several of our sister States had, during the preceding year, tendered their aid to repel threatened foreign invasion, and hailed the pervading spirit of self-sacrifice and devotion to national honour throughout the Union, as auspicious to preserving the integrity of our territory. They recognised, moreover, in like manner, the promptness and unanimity with which the last Congress, at the call of the State, had placed at the disposal of the President the arms and treasures of the nation, for our defence; and they regarded the firmness of its Executive in sustaining the course of the State, and in repelling the charge of any infraction of arrangement on the part of this State, and retorting a violation of agreement upon the British Government, and the decision manifested in demanding the removal of the British troops then quartered on the Disputed Territory as the only guarantee of a sincere desire for an amicable settlement of the Boundary Question,—all these acts of the Government, combined with the union of public sentiment, they looked upon and regarded as affording confident assurance that this State would not be compelled single-handed to take up arms in defence of its territory and of national honour; and they further avowed the conviction that the crisis was near, when this question would be settled by the National Government, either by negotiation or by the ultimate resort.

It was, moreover, resolved, that unless the British Government should, during the then session of the Congress, make or accept a distinct and satisfactory proposition for the immediate adjustment of the Boundary Question, it would be the duty of the General Government to take military possession of the Disputed Territory; and the Legislature did therein, in the name of a sovereign State, call upon the National Government to fulfil its constitutional obligation to establish the line which they had acknowledged to be the true boundary, and to protect this State in extending her jurisdiction to the utmost limits of our territory.

And finally, these resolves declared, that this State had a right to expect that the General Government would extend to this member of the Union, by negotiation or by arms, the protection of her territorial rights, guaranteed by the Federal compact; and thus to save her from the necessity of recurring to those ultimate rights of self-defence and self-protection, which do not depend upon constitutional forms; and they concluded that should this confidence be disappointed, in view of such a speedy crisis, it would become the imperative duty of Maine to assume the defence of the State and of national honour, and to expel from our limits the British troops then quartered upon our territory.

In proposing to take an observation of our exact position, and in regard to our situation, under the terms and import of our Legislative Resolves, and under all the circumstances in which we are necessarily placed, at the present period, the Committee would remark that they have been guided by the public documents that have emanated from the Governments of the United States and of this State, so far as they have extended; it so happening that there has been no Report, such as was formerly usual from the Standing Committee upon this subject, for the last two years. The active duties in which the State has been necessarily engaged during that interval, may naturally account for the omission; and the Committee may be permitted to allude to it, as an apology, if one is to be offered, for the more extended range which the present Report has taken, in regard more particularly to the transactions and events of the last three or four years, which have been so pregnant with momentous concerns and consequences.

The last Legislature, it has been noticed, invoked the General Government for protection and for the settlement of this question shortly by negotiation or by arms; and unless a distinct and satisfactory proposition for the immediate adjustment of the question should be made or accepted by the British Government during the session of Congress, which expired last year, it solicited the General Government to take military possession of the Disputed Territory.

In view of these Resolves, the Committee would remark, first, that the appropriation made by Congress in 1839, making extraordinary provision for military force, and for a special embassy to England, had already expired, at the passage of those Resolves. Instead of adopting this last course, which appeared to be recommended by Congress, and which might have been the means of at least preventing the long delays required by interchanges across the Atlantic, (without making any remark, for which there might well be room, on the instructions to Mr. Stevenson, of March 6, 1839,) it seems that the ordinary sluggish course of negotiation was resumed, and it was to be carried on thenceforward at Washington.

Soon after the close of the session of the Legislature in 1839, and the termination of that matter, a proposition was made by the British Government to our own for establishing a Commission of Exploration and Survey, but one so loaded with such limitations and qualifications as to cause its rejection by the President at once. Subsequently, in the course of the next summer, a Counter-project was submitted to the British Government, which included a provision for the certain and final adjustment of the limits in dispute; and it was kept by that Government for some time under consideration. It seems no reply had been received by the President at the commencement of the session of Congress in December (1839). In the mean time the British Government instituted the Special Commission, which has been referred to, for the exploration of the territory. It appeared by a subsequent official communication from Lord Palmerston to Mr. Fox, laid before Parliament in June, 1840, "that the British Government then concurred with the United States in the opinion, that the next measure to be taken by the two Governments should contain, in its details, arrangements which should necessarily lead to some final settlement." At the same time the British Government signified its willingness to assent to the principle of arbitration.

The note from Mr. Fox to Mr. Forsyth, conveying this concurrence and assent, dated June 22, 1840, according to his instructions, purported to state officially, "that Her Majesty's Government consent to the two principles which form the main foundation of the American Counter-Draft, namely: first, that the Commission to be appointed shall be so constituted as necessarily to lead to a final settlement of the question of Boundary at issue between the two countries; and secondly, that in order to secure such a result, the Convention, by which the Commission is to be created, shall contain a provision for arbitration upon points as to which the British and American Commissioners may not be able to agree." But it was further added, that there were "many matters of detail in the American Counter-Draft, which Her Majesty's Government cannot adopt."

The last President's annual message, at the opening of the late session of Congress, announced the arrival of the answer of that Government, accompanied by additional propositions of its own, some of which were assented to,

and others not. Such as were deemed correct in principle, and consistent with a due regard to the just rights of the United States and of the State of Maine, were concurred in; and the reasons for dissenting from the residue, together with an additional suggestion on our part, communicated by the Secretary of State to the British Minister at Washington, through whom the recent reply had been received. The matter was again referred by that Minister to his Government for its further decision, for want of instructions upon some of the points, and that Government having for some time had the subject under advisement, the President expressed his confident expectation of a speedy and satisfactory termination.

That the condition or contingency required by the Legislature of Maine, at the last session, to the execution of its resolutions, has not taken place in terms is quite obvious. How far the State should rest satisfied with the reasons and circumstances assigned for the delay, or is bound to resign itself to this interminable course of procrastination, is not perhaps quite so clear. The State cannot forget its proper position in the Union, nor fail of the obligations it is under to abide the high behests of our supreme national counsels. At the same time it is absolutely impossible to reconcile itself to this system of endless delay, and this continual claim upon the inexhaustible confidence of our General Government in the equal disposition of both parties to bring the subject to a decisive conclusion. The original proposition of our own Government included "a provision looking in terms for a certain and final adjustment of the limits in dispute." And all that we are definitely led to understand that the British Government gives its assent to, from the language of Lord Palmerston, is, that the next measure to be adopted should contain—not in its absolute provisions, but its details—arrangements that should necessarily lead to some final adjustment! This prospect appears to the Committee, from the very form of statement, to be far from promising; and what is more observable in regard to the plan, it seems to have a reference to some more or less direct principle of determination to which the State has already signified its entire aversion. What may be the effect of the additional stipulation sent out we do not know; nor can the Committee tell us what is to be the alternative. But Maine can feel no assurance of safety or successful progress towards a conclusion in these vague, involved, and distant phrases. It is undoubtedly difficult to say that any course deliberately acceded to by our own Government would be likely to prove a delusion; but there is no certainty yet, nor any security when the subject will be redeemed from the arts and complications of diplomacy. The Committee must say they are not sanguine as to any prospect of a speedy or satisfactory conclusion to the present state of negotiation. All the propositions now pending, as presented to their minds, appear to them to be purely dilatory.

It is impossible, therefore, your Committee confess, to consider the language of the last Resolves as perfectly satisfied; though, that the whole subject is not placed in such a condition as in some measure to elude the operation of those resolutions, according to their literal force and meaning, is more than the Committee can undertake to say; and no less so, perhaps, whether it is in the power of the National Government to bring the business to a point, otherwise than by a positive rupture. The fact may be, that it is not in our power to relieve ourselves; and that we must suffer the mortification of having holden language which we cannot carry out without compromising our constitutional relations. But it is needless to remark, that there is no end to this course of diplomacy so long as it serves the purpose of delay, and to stave off a final determination. The postponement is indefinite, and we cannot but fear it will ever continue so, so long as Great Britain finds her advantage in keeping open a question that can never be decided in her favour, and in the mean time enjoys the value of a possession which she must eventually yield, or employs herself to strengthen a position she is not disposed to surrender, nor entitled to hold. From whatever cause the difficulty arises most, whether from an aversion on her part to come to an issue, or a reluctance and unwillingness on that of our own Government to precipitate one, which can by any means be avoided, it is apparent that the adjournment of it is equally detrimental to the rights and interests of Maine. Your Committee would be among the last to undervalue sincere and well-directed efforts to bring about an adjustment, at once peaceful and rightful, of the controversy; but they

have seen too much cause to be convinced, that such a disposition, however just and creditable, may be abused.

The Committee may perhaps view themselves called upon to consider the effect of the stipulations adopted in 1839, under the authority of the Resolves of that year, or under the further advice and sanction of Major-General Scott, acting under and in behalf of the Government of the United States.

They may observe that nothing was considered to be done by Maine under the conventional agreement entered into and signed by Mr. Forsyth, the Secretary of State, and Mr. Fox, the British Minister, on the 27th of February, 1839. Without questioning the competency of the two parties to enter into such an arrangemeut between themselves, or the propriety of recommending it to the acceptance of the State of Maine, its obligatory force was not acknowledged by Governor Fairfield, who observed in his communication of it to the Legislature: "To such an arrangement I trust Maine will never consent. She has been sufficiently trammelled hitherto in the exercise of her rights, and will not voluntarily forge new shackles for herself."

The authority of the Governor, as the Committee view it, to bind the State by his signature to any public stipulation, was necessarily limited by the laws and constitution of the State. His authority in this instance was entirely derived from the Resolves of 1839; and your Committee not only do not understand that he did not intend to exceed it; but they do understand, that what he did he intended in strict and faithful execution of the immediate objects of those Resolves. Such was his language in reporting and communicating what he had done in virtue of these Resolves to the next Legislature; and such is the understanding of the Committee equally in regard to the import of the act on his part, and the character of the subject. The Resolves have been already recited. All the information the Legislature have of what was done by Governor Fairfield, under the Resolves, is contained in his subsequent communication to the Legislature the following year; and it is subjoined to a simple statement of having received the written assent of the Lieutenant-Governor of New Brunswick to the following proposition made to him by Major-General Scott: to wit, "that it is not the intention of the Lieutenant-Governor of Her Britannic Majesty's Province of New Brunswick, under the expected renewal of negotiations between the Cabinets of London and Washington, on the subject of the said Disputed Territory, without renewed instructions to that effect from his Government, to seek to take military possession of that territory, or to seek by military force to expel the armed civil posse or the troops of Maine." The residue of the correspondence has not been, that your Committee are aware, communicated to the Legislature.

The stipulation, therefore, entered into by Governor Fairfield, under the invitation and sanction of General Scott, is, as your Committee understand, perfectly fulfilled; and the Resolve of 1839 is therefore executed, and has been faithfully observed. The mission of General Scott to Maine was accomplished; and Governor Fairfield, having recalled the military, professed his willingness not, without renewed instructions from the Legislature, to reoccupy the field of dispute in the like manner. Here the immediate controversy subsided. Governor Fairfield may be deemed to have indorsed the agreement made for him by General Scott; who thereby undertook to guarantee, so far as he was capable, to the State of Maine, the counter security of the territory against the military operations of Sir John Harvey.

Such was the posture of Governor Fairfield, and the situation of Maine, in relation to the subject, touching the matter of arrangement. Soon afterwards, it would seem, that Sir John Harvey was divested of all further authority over the subject; and any power of a military kind in that quarter appeared to be transferred from him to the Government of Lower Canada. It may be noticed as a circumstance, that this silent operation, or transmutation, took place about the same time that the British Commission of exploration was closing its business, and shifting the highland description, which formed the southern boundary of Quebec or Canada, to the hypothetical maximum axis of elevation south of the St. John. It is not understood, however, that any corresponding change took place in regard to the usurping civil authorities at Madawaska. This alteration first disclosed itself, in that quarter, by the movement of military force from the side of Lower Canada to certain stations within the Disputed Territory; and in reply to a letter of inquiry from Governor Fairfield into the meaning of so apparent and palpable an infringement of the arrangement entered into under the mediation of General Scott, Sir

John Harvey could only answer as before, that these movements were made under an authority superior to his own. It was added, that they were meant for the protection of certain buildings which had been constructed for the better accommodation of Her Majesty's troops on their march between the Lower and Upper Provinces, and of the provisions, stores, and other public property therein deposited; and it was further subjoined by Sir John Harvey that he should communicate a copy of the letter to the authorities in Canada, who, he was assured, would be as scrupulously desirous that the spirit, as well as the letter, of the agreement entered into, should be observed on their part, as he himself was. The remonstrance, however, produced no further effect; and this last December, upon the occasion of a new detachment of troops having arrived at the Madawaska settlement, Sir John Harvey deemed it consistent with the sincerity which had always marked his intercourse with the authorities of Maine, to apprize Governor Fairfield of the fact, and that the movement was made by the orders of the Governor-General of those provinces. It was evident that this movement was unadvised by Sir John Harvey, who could only apologize or account for it by reference to the complaints of certain civil authorities at that settlement, (one of them a supposed magistrate, and the other the pretended "Warden of the Disputed Territory,") which it had no other object than to support. And Sir John Harvey did not hesitate to express to the Governor-General his persuasion, that the movement for this purpose was needless, and that a corresponding armed civil posse to that of Maine would be quite adequate to prevent any unauthorized interference with the inhabitants or authorities of the Madawaska settlements.

The Committee would take leave to observe, that they know of no settlements bearing that name but the original and proper settlement of Madawaska. That is a spot, or settlement, with which the civil authorities of Maine have not interfered, since those who undertook to act under a law of the State, in organizing the place in 1832, were seized, imprisoned, and punished at Fredericton for the offence, excepting the like seizure and imprisonment of Greely for taking the census in 1837. As to what is supposed to have occurred at Fish River, it is stated as having been represented to Governor Fairfield, that it took place when certain of the citizens of this State were assembled at the Fish River settlement to give in their votes at the recent election for President and Vice-President, under a late law of this State authorizing it. The territory contiguous to the mouth of Fish River, on both sides of the St. John, is not considered, in any proper sense, as included in the Madawaska settlement, which is confined to the immediate vicinity of that river, and does not extend up even to the mouth of the Meriumpticock. To the original and proper limit of the old Madawaska settlement, the adverse local possession ought, in the opinion of your Committee, to be reduced; and it ought to be restored, and confined strictly, to its former civil character.

To return, however; the Committee would not fail to treat the species of arrangement in question, under whatever authority it was entered into, with all the respect to which it is entitled, and to render it all proper regard and observance. Having punctually complied with any obligation that might be deemed to be entered into on the part of Maine, it is of no consequence as to the origin of the agency, which is of no further importance, than that the State should stand clear of any reproach upon her good faith and allegiance. It cannot be pretended that there has been any failure upon her part to fulfil any duty that may have been imposed upon her, in whatever way or manner she may have been committed. The imputation cast upon her at one time, to say the least, without sufficient cause and consideration, of any intention to break through the engagements she was placed under, has been repelled with no less force than truth. But it is obvious, that any obligation of this nature, to be effectual, must be mutual. It is plain that it cannot be violated on one side at will, and preserve all its binding force upon the other. The Committee are not called to make any complaint of any breach of agreement between the authorities of this State and of New Brunswick upon the subject. They much doubt, as they have already signified, the competency of any arrangement between the State and a foreign province, without a constitutional sanction, which has not yet been asked; and they should hesitate no less upon the propriety and expediency of any convention or co-operation between two opposite Governments or communities, situated and related as these are, for

purposes which this State, as they conceive, ought either to take upon herself or to be entitled to call upon the General Government to perform, or to provide for her. As to the policy, as well as the principle, of any different course that has been proposed to her, the Committee can have no doubt at all. If any compact exists, or any is violated, in whatever form it has been made, it must be one between the Governments of Great Britain and the United States; and such, as it is the province of the latter, and not that of this State, to see to the effect of, and look after its observance. We do not hold ourselves entitled to call upon a foreign Government for its performance. Our relations are properly with the Government of the United States, upon a subject of this kind, only. It is their agreements and stipulations in regard to our security upon which we must be understood to rely; and we cannot be deemed to have given our consent to any provisionary arrangement, except under the sanction of our own Government, and its guarantee of our own safety. In short, it must be the essence of any agreement entered into by us, that it should be with, and through, the Government of the United States; although we may well view and hold ourselves as bound to fulfil any proper stipulations that the Government has actually made upon our behalf by its own officers, aud with the consent of our Executive agents and Legislative authorities.

The Committee consider it to have been well observed by the Governor in his official communication to both branches of the Legislature, on commencing the duties of his office, that "whatever arrangements have been assented to, in regard to the jurisdiction of different portions of the territory, pending negotiations, must be regarded merely as temporary in their nature;" as well as "under a protest always that we relinquish no claim, and no right, to the absolute and undisputed ownership and jurisdiction of every inch of our State." It is a matter which must force itself upon the mind of every reflecting friend of the peace of the two countries, as it has done, that these sub-arrangements or understandings, are of too slight and precarious a texture to permit the tranquillity of these neighbouring communities to rest upon them.

The arrangements understood to be assented to on the part of Maine in 1839, by which, on condition that Maine should remain in undisturbed possession of the rest of the territory, it was stipulated that we should not attempt to disturb by arms the Province of New Brunswick in its proper Madawaska possession, was only acquiesced in, as the Governor further remarks in his communication, "by the people, on the ground and the belief that immediate and determined efforts were to be, in good faith, adopted by both General Governments, to bring the matter to a speedy, just and final determination. Indulging such hopes," the Governor also adds, "Maine has certainly yielded much in the matter of temporary arrangements, influenced by the wish to preserve the peace of the country and to remove all obstacles to the progress of negotiations. But she has a right to ask," (he subjoins, with no undue emphasis,) "when she yields so much, that her motives should be appreciated, and her cause become the cause of the whole country, and be pressed with vigour and energy to a final settlement."

Earnest and strong as is the desire of this discreet and determined community to remain at peace with her neighbours on this continent, still she can no longer give any consent to the exercise of provincial authority out of the proper orbit of Madawaska. Neither can this State enter into any temporary partition of its own power with a foreign province, or agree to the exercise of any equal, divided, or concurrent authority, either with New Brunswick or Canada, over any other part of her own exclusive territory. Still less, if it be possible, can she endure to see the portion of which the Provincial Government, whether above or below, still claim to be in possession, (and the only portion to which it ever had any shadow of pretence,) converted into a military depôt, as avowed by Sir John Harvey to Governor Fairfield, in the first place, by the erection of barracks, and the collections of stores, provisions, and other munitions of a hostile character, under the name of public property, for establishing a cordon of military communication between the Upper and the Lower British Provinces. This is bringing upon us in time of peace, (to us the most profound, unless we are aroused or awaken,) all the forms of almost unmasked war. It realizes, in advance of the result of any arbitrary process for the division of our Disputed Territory with Great Britain, the dangerous character of this decided military demonstration within our limits. It advises and admonishes us, moreover, of the rather too

obvious and undisguised meaning of a noticeable and striking passage in the letter of the British Minister, Mr. Fox, to Mr. Forsyth, dated November 2, 1839, in which he remarks, that "whatever shall be the line of boundary between Her Majesty's possessions and the Republic of the United States, definitely recognized and decided upon by the two Governments, either through the attainment of the true line of the Treaty of 1783, or through the adoption of a conventional line, Her Majesty's Government will have to rely upon the Federal Government of the United States to assist and carry out the decision, whatever may be the views and pretensions of the inhabitants of the State of Maine notwithstanding."

Your Committee may here remark, that when these facts, in regard to the stationing of regular military forces by the British provincial authorities upon Lake Temiscouata, and of their building barracks, as represented, at the confluence of the Madawaska River with the St. John, were brought to the direct knowledge of the National Government, they were pronounced by the President to be a flagrant contravention of the existing understanding between the parties; and those authorities were distinctly and emphatically admonished, through their regular Minister, of the obvious inexpediency and imprudence of such proceedings, and of the effect likely to arise from persistence in them.

The only explanation produced by this expressive remonstrance was conveyed in the shape of a letter from Mr. Fox to Mr. Forsyth, of January 24th, 1840, to the effect that the movement complained of was nothing new, and that it was only a change of force to keep up the station at the Temiscouata post, as it always had been, "for the necessary purpose of protecting the stores and accommodations provided for the use of Her Majesty's troops, who may be required, as heretofore, to march by that route to and from the provinces of Canada and New Brunswick." It was not admitted that any new barracks had been built, or were building, by the British authorities on both sides of the St. John, or at the mouth of Madawaska river, or, in fact, anywhere; and it was declared that no intention existed on the part of those authorities to infringe the terms of the provisional agreements that had been entered into the year before, so long as there was reason to trust that the same would be faithfully adhered to by the opposite party. But it was at the same time plainly avowed, that Her Majesty's authorities in North America, observing the attitude assumed by the State of Maine with reference to the Boundary Question, would, as then advised, be governed entirely by circumstances, in adopting such measures of defence and protection, whether along the confines of the Disputed Territory, or within that portion of it where the authority of Great Britain, according to its own explanation of the existing agreements, was not to be interfered with, as might seem to them necessary for guarding against or for promptly repelling the further acts of what was termed hostile aggression, which it appeared to be the avowed design of the State of Maine, sooner or later, to attempt. Her Majesty's authorities in North America, it was averred, had no intention, on their part, to interfere with the course of pending negotiation, by the exercise of military force; but that they should as then at present advised, "consult their own discretion in adopting the measures of defence, that might be rendered necessary by the threats of a violent interruption to the negotiation, which had been used by all parties in Maine, confirmed, it was alleged, by the language employed by the highest official authority (alluding to the recent message and correspondence of the Governor) in that State."

The official reply to this plain note professed to express the satisfaction of the President, that no actual change was understood to have taken place in the attitude of Her Majesty's authorities in the territory, since the date of the arrangements entered into; and that there was no intention to infringe them on their part, so long as their terms were faithfully observed on the side of the United States. It signified, however, much regret, that the British colonial authorities should, without graver motives than a mere possibility of a departure from those arrangements by the State of Maine, thus take upon themselves the fearful responsibility of being guided by circumstances, susceptible as those were of misapprehension and misconception, in regard to measures of precaution and defence, under this exercise of discretion, against imagined acts of meditated aggression on the part of Maine. And the hope was further expressed, with how little effect we have witnessed, that when the British

Government at home should be apprized of the position assumed in this respect by its colonial agents here, proper steps would be taken to place the performance of express and solemn agreements, in effect, upon a more secure and solid basis than such a precarious sort of contingent colonial discretion.

It could scarcely have escaped notice in regard to the character of this correspondence, that a change had occurred in the style, if not in the attitude, of the British provincial authorities in America. Your Committee, however, are not aware whether the attention of the Federal Government was immediately drawn to the circumstance, that these forces seemed to have been detached and stationed there under the positive orders of the new Governor-General of the British provinces; nor are they apprized of the precise bearing which this circumstance might be considered to have, in the view of the National Government, upon the character of the arrangements deemed to have been subscribed to by the authorities of Maine and New Brunswick under its own high auspices. It has become apparent, at least since then, that the authority of the Lieutenant-Governor of New Brunswick is rendered subordinate in this respect to that of the Governor-General of Her Britannic Majesty's dominions; that there has been some new partition, or subdivision, by which, while the civil authority to be exercised in that region still resides in the Government of New Brunswick, the military power by which this State was menaced is transferred into other and higher hands; and all that Sir John Harvey can say, when he is apprized of our remonstrances and complaints, is that we must appeal to his superiors.

It may be recollected that inquiry was made soon afterward by the Senate of the United States, at its session a year ago, whether any measures had been taken under the Act of Congress, of March 3, 1839, or otherwise, to cause the removal or expulsion of the British troops which had taken possession of this portion of the territory of Maine, or whether any military posts had been established in Maine, or any other measures of a military nature, adopted preparatory to a just vindication of the honour and the rights of the nation and of Maine. The reply to this inquiry from the Secretary of War through the President was, that the circumstance of the occupation of the territory by British troops had been but recently communicated; and, having been made a subject of remonstrance and so become a matter of discussion between the two Governments, no measures had been taken of the character referred to under the Act of Congress or otherwise. To the residue of the inquiry it was answered, that no contingency contemplated by the Act of 1839 having occurred, no military measures had been thought necessary; repeating what had been previously stated by the President in his annual message to Congress. The Secretary further stated, that a military reconnoissance had been made in 1838, of the undisputed boundary of Maine, of which the result had been transmitted to the Senate the following session, but that there being no appropriation made, no fortifications were commenced. It will be understood that the other appropriations have expired.

From the parting communication made by our late Chief Magistrate, at the commencement of the present session, the Legislature is informed, that Maine is again subject to the mortification of having fresh troops quartered upon her territory. The causes alleged for this renewed outrage, and the circumstances by which it is attempted to be palliated in the letter of Sir John Harvey are so trivial, as justly observed by Governor Fairfield, to hardly afford a decent pretext for thus adding another to the catalogue of wrongs and injuries which the people of this State have so long been compelled to endure at the hands of the British Government. So sensible was Sir John Harvey himself, we may remark, of the slenderness of this pretence, and of the superfluousness of this further force, that in conveying this information, as he claimed to do with his accustomed frankness, of the recent arrival of a new detachment of Her Majesty's troops at Madawaska, he avowed he had not hesitated to give his opinion at once to the Governor-General that it was unnecessary, and that he had no doubt that the Governor-General, on this suggestion, would forthwith give directions for withdrawing the troops. This communication came dated December 10th last; and the same, together with the Governor's reply, requesting further information upon the subject, were transmitted to the President within a few days after; and the former ex-

pressed his full reliance, that if the suggestion of Sir John Harvey to the Governor-General should prove unavailing, the Executive Government of the United States would forthwith take measures for the withdawal or expulsion of these troops from our territory. Since this last period the Legislature has received no official information from any source. Nothing has reached us but rumours from the adjacent provinces, that the military position in question was intended to be maintained; and there has nothing yet come from any quarter to tranquillize and assure us further.

The Committee have gone into these details more fully, in order to place the subject in all its extent before the Legislature, for their consideration at its present session. The Resolves passed the last day of the session, March 23rd, 1839, pledged the power of the State to the protection of its territory up to its extremest limits, and asserted the right of exclusive jurisdiction over the whole extent of it. And they denied the efficacy of any agreement entered into by the Government of the Union to impair her prerogative to be the sole judge of the time and manner of enforcing that right. The State had, however, the guarantee of the General Government at that time, that if it would withdraw her military force from the frontier, the adverse military power, with which it was threatened, should immediately be caused to cease upon the other side. This guarantee the State afterwards accepted: and in consequence of this, and of the agreement to that effect entered into by the Lieutenant-Governor of New Brunswick, Maine did promptly and unhesitatingly withdraw her advanced military force. That pledge has not been performed; or if apparently so for a brief period, it has not been fulfilled; but it has been openly and deliberately violated. We may have been slow in coming to this conviction; but the fact cannot be concealed, and is hardly attempted to be disguised. As the matter now stands, the State is without any barrier, or boundary, against the Provinces of Great Britain, not even where the north line crosses the St. John. Barracks have been erected above that point; boats have been built upon the Lake; troops stationed at different posts, stores and munitions of war collected, constituting an actual military and naval armament; which is at this moment established upon the shores and waters of the Madawaska region, contrary to all the stipulations and mutual engagements of the two Governments. And Maine is compelled to forget, if she can, that all this is done within a precinct specially incorporated by an act of her Legislature, the validity of which is also recognized and confirmed by an Act of Congress.

It may properly be avowed, that Maine may still consider herself to stand pledged for the present, by the course that has been pursued by her authorities under the sanction of the General Government, not to disturb by any active proceedings of her's the British Provincial, that is to say, local possession at Madawaska; while, at the same time, she must be allowed to extend her civil power, for the protection of her territory against devastation, without any limitation as to the sphere of its operation, within the bounds of the Treaty of 1783; but that to suffer a military occupation of any portion of it, is incompatible with her existence and character as an independent State. She may well submit to the moral and self-imposed restraint of forbearing to exercise her given faculties, and to exert her lawful rights up to their full extent; but she cannot, with the same comfort or consistency, yield a silent and unresisting submission to the operation, until it becomes overwhelming, of absolute superior force. She may accord a loyal and becoming obedience to the graver authority of the Union; but she cannot without extreme, unmitigated pain, see any part of her soil subtracted and reduced to exterior colonial subjection; nor can she bear to have a foreign military force planted upon her with any more patience than our fathers could endure the same species of intolerable oppression. She acknowledges faithfully her obligations to the Union, and that she is bound to consult the feelings and opinions of the county, and to make no further movement, moreover, without invoking its aid, or asking its authority. But this is the point at which she unavoidably stands, and her fidelity entitles her to its confidence, and her necessity to its constitutional support.

Now all this, it may be admitted, might be tolerated perhaps by the Union, for the sake of tranquillity, if it was not pregnant with such real danger, and did not involve so much evil in the way of injury and sacrifice,

to the prospects and peace of Maine. Winter, which shuts up the St. Lawrence, and pours hosts of trespassers and marauders into our woods and forests, closes down upon us with an increased pressure from the military power of Great Britain. Between the Government of Canada above, and that of New Brunswick below, we are pressed as between the upper and the nether millstone. We are thus obviously exposed to a double increased damage from our open and unguarded situations upon the borders of these different dependencies upon a distant foreign Government; so far off, and thus situated in regard to us, that "oceans roll and seasons pass between the order and the execution;" or possibly the advice and recal. Our territory is now more than made a complete thoroughfare for the passage of British troops; while we have even no projects of national fortifications to protect us any further than Houlton, nearer than at the Forks of the Kennebec, or the mouth of the Mattawamkeag.

Even the military road which was authorized by Cougress so long ago as 1828, to be laid out to the mouth of the Madawaska river, in virtue of what the succeeding President, General Jackson, declared to be an unquestionable right, the exercise of which the American Government would not allow to be restrained by the protest of the Lieutenant-Governor of New Brunswick, but only to be postponed for the time being—as expressed by the then Secretary of State, Mr. Van Buren, to the British Minister, as a proof of forbearance, intended in an amicable spirit of conciliation—has so continued ever since, and it would almost seem to be, indefinitely. The appropriations of 1836 and 1839, by Congress, were suffered to expire; but this authority has only been suspended; and it is for the Executive Government to determine, whether the period has not arrived at which the execution of it ought to be resumed. The present condition of the State of Maine certainly demands it.

The Committee are here induced to omit much they might otherwise be disposed to say on this subject, and in relation to all its immediate and future bearings upon the public peace and welfare; and which they are constrained to do, as well in consequence of the length to which their remarks have already been extended, as from considerations of a serious kind which are not without due weight upon their minds. Perhaps they ought to say more in regard to the neglect of preparations for defence, in our exposed and unprotected position, the necessity of which has long been pointed out and felt, and the power to provide for them, even when put in force, suffered to stand a dead letter. The State of Maine has had its virtue put to the severest test, until even the very length of time that the Government has delayed its duty, and she has been obliged to endure its omission, is liable to be turned against her, and set up as on her part a prescriptive sufferance.

The principal view which the Committee have had in preparing this Report, has been to present a further vindication of the rights and principles of the State in regard to this subject, and to the course which her people and authorities have hitherto pursued, and the position which they now maintain in respect thereto. They would wish not to make a mere appeal to the sympathy and fellow-feeling of her sister States, and to the patriotic sensibility of the people of the United States upon points apart from public right and national honour; but they would be no less desirous to extend it to the justice of England and the judgment of Europe, nay, of the whole world, if so remote a portion of it, as the inhabitants of Maine could hope to have their cause heard before so vast and elevated a tribunal. Nor would they shrink from submitting it to the future judgment of posterity and the final sentence of mankind, upon its real merits, (not as they may have presented them,) when the present age shall have passed away, and the accounts of the present questions shall have all been closed. They would not refuse to commend it to the native "nobleness and manliness of Englishmen,"—to the generosity which was manifested in the last painful effort of separation,—to that magnanimity displayed by the Monarch in proclaiming, as he did, with profound emotion, the great dismemberment of the empire,—concerning, that is to say, this long pending question with Great Britain, in reference to the true right of a territory which is and was always ours, infinitely more than it was ever hers; ours, no less in the first place, by the strength of primeval right; ours, also, by the Acts of Crown and Parliament, as well as by our own energies and achievements, when our sires were the loyal subjects of a common Sovereign; ours,

if she still chooses, by the terms of her own free and full assignment at the partition of that empire, originally divided by the ocean; ours, in fine, by the ancient honour of Great Britain, by all the faith of treaties, by the sacred principles of public laws, and eternal truth and justice. There is no wish in this part of the Union for extension of territory; we are content with our own limits. If injustice has heretofore been done us, if justice has not been done us in that respect, or any misfortune has attended the decision of points that have already been determined unfavourably to us, we are disposed to abide by it, and do not now seek to remedy it. We are only solicitous to enjoy the rights and advantages which the laws of nature and nations have secured to us, and to realize the benefit of that condition which Providence seems to have designed for us upon the foundation of State and national independence.

There is one circumstance also, in regard to which your Committee believe that the people of Maine would be willing that their course and principles should not be misunderstood; although they would not be under any solicitude respecting it. It is now a well known fact, not only that Maine has not in any manner intermeddled, but that she has uniformly abstained from any intermixture of her own causes of complaint with those of an exciting nature that have prevailed along further portions of the frontier, and has faithfully kept aloof from mingling her concerns with other distant and disturbing questions with Great Britain. And this, although she has one interest of great importance, much involved in the present issue, which has not been distinctly developed in the immediate connection with it. The circumstance above alluded to, not perfectly perceived and even at first distrusted, was afterwards freely confessed by that vigilant and virtuous observer of our course, Sir John Harvey, who will retire from his station, when he shall be called away by his Sovereign, with the esteem of the people of Maine. Although inclined at first to credit opposite surmises, he soon became convinced of the truth, and, with his characteristic candour, communicated it to his own Government. Nor is it at all unlikely, that a persuasion of this integrity of our purpose entered into the exercise of that high prudence and proper discretion, by which his judgment was determined in a delicate and critical emergency. But while it may be well, it should be understood that Maine has not been disposed to compromit her cause with any foreign matter, your Committee would be far from wishing to enter into any vindication upon this point, or be anxious that the State should set itself apart from the just and common feeling of kindred humanity which pervades this vast hemisphere.

Resolutions of the Legislative assemblies of some of our sister States have reached us now, or lately, in response to our own former proceedings and resolves, and have been referred to this Committee. Those of the State of Indiana were transmitted at the late adjourned session, being a special one for the general revision of the laws, and may be deemed to have been postponed to the present, not having been before printed; and, having been recalled from the files, they will, with your permission, form part of this report. The Committee accordingly refer to them with feelings of mingled gratitude and pride. These Resolves of Indiana are echoes of those of Ohio, formerly received, which they recite, and which likewise recited, in the spirit of that immortal ordinance upon which the original constitution of the whole north-west territory (once a single government) was framed, the grounds of our just territorial right, and the indefeasible character of our title to the soil of the State and nation.

The Indiana Resolutions cherish the hope, that in the adjustment of this question of our national boundary, the integrity of our soil, and the national honour may be preserved inviolate, without an appeal to arms. They further express, that they highly approve the efforts made by the now late President of the United States to avert from the country the calamities of war. Yet ever preferring honourable war rather than dishonourable peace, in case of unavoidable collision in settling the pending dispute, they join with Ohio in the declaration she had made, and the generous oblation of her whole means and resources to the authorities of the Union in sustaining our rights and honour.

The Resolutions of the General Assembly of Alabama, transmitted at the

present session, in more guarded and measured terms, declare it to be the solemn and imperative duty of the Federal Government faithfully to maintain every obligation it is under toward the State of Maine, touching the establishment of our North-Eastern Boundary Line; that the question is one not local in its character to this State, although this State is allowed to be more interested than any other in its adjustment, but that it concerns the whole Union; that the Government is bound in defence of its own honour, not to concede to Great Britain any claim not strictly founded in right and justice; and that it is the duty of Maine to trust the decision of the matter to the counsels of the Union, and to abide thereby, whatever it may finally be, and whether exactly consistent with her own wishes or not. They further declare, that they should deprecate a resort to force, until every honourable peaceful expedient has been exhausted; and while they are ready to go to war, if Congress so says, they should deeply regret to see the State of Maine take any rash step which might tend to plunge her sister States into a war, more through sympathy and feeling on their part, than from any deliberate choice and determination.

To the more advisory and admonitory tone of these Alabama Resolutions the Committee do not except, though it is somewhat more collected and grave than we have been accustomed to, in our painful condition, from our sister States. We may assent to their fitness, and be content with the assurance they contain; and we may feel further all the force and propriety of the appeal. Yet, may we ask, what other State in the Union is there that could thus bear to see a district of its territory torn from its own possession, and held under the hostile flag of a foreign Power—its citizens interrupted and harassed in their peaceful pursuits—even those who bear the official signet of its authority, treated with violence and disgrace, and its dearest and most vital rights trampled upon, as those of Maine have been? These wrongs may well be imagined to require all her patience, and to admit of much alleviation. Alabama, we may be sure, does not mean to add to all this sense of what this State has experienced and yet endures, the most distant idea, in any contingency or event, of being laid under the ban of the Union.

To a people whose pursuits in life are moral and peaceful, and which cherishes a deep sensibility to all the guilt and wretchedness of war, it may be easy to see that a profound conviction must be required of the purity and righteousness of a cause which could, by any possibility, be exposed for its vindication to so great a calamity. Nor is there any occasion to colour or pourtray the consequences of such an alternative. It may well be admitted that something more that the ordinary apology for even defensive war may be demanded in this advanced and enlightened age of humanity and civilization, and we will not hesitate to say of religion also: one to be looked for only in the nature and circumstances of the case, such as must show themselves in unsullied purity and unblenching strength, so as to constitute an absolute justification in the moral view and judgment of mankind. If such may ever be found, it might surely be in the character of a conflict, to which a community like ours might be subjected, in defence of what is nearest to our homes and hearths, of our dearest rights and native land—a strife to which we might be exposed to preserve the inheritance we received from our ancestors before the Revolution, and the patrimony bequeathed to us by the patriotism of our fathers in the war of independence—a struggle to prevent the removal of our ancient land-marks, and subverting the very soil of our free institutions —points that are vital, let us be allowed to say, to the very principles of our social existence and prosperity. Such a cause as this, if it cannot ensure protection, may at least escape reproach.

Resolutions have just been received from Maryland, accompanied by a Report of much merit from the pen of one who has had official opportunity to become acquainted with the subject, declaring the perfect conviction which the Legislature of that State entertains of the justice and validity of the nation and of Maine to the full extent of all the territory in dispute; and subjoining that the Legislature of Maryland looks to the Federal Government with entire reliance upon its disposition to bring the controversy to an amicable and speedy settlement; but that if these efforts should fail, the State of Maryland will cheerfully place herself in the support of the Federal Government, in what will then become its duty to itself and to the State of Maine. After the

expression of such opinion and assurance, these Resolutions say that the State of Maryland feels that it has a right to request this State to contribute, by all the means in its power, towards an amicable settlement of the dispute upon honourable terms; and they volunteer a suggestion, respecting a reasonable mode of mutual accommodation and adjustment, to which it strikes the minds of your Committee, that it will be time enough for Maine to attend, when it comes recommended to her consideration, as it would be by the condition with which it is connected, namely, that Great Britain should acknowledge the title of the State of Maine.

The Committee were apprized, that Resolutions had been presented, together with the able and critical Report that has been alluded to, to the Legislature of Massachusetts; and those Resolutions, accompanied by the Report, have been received and committed, in order to be acknowledged, while this Report was passing through the press. The Commonwealth has never failed, on any and every occasion, to testify her faithful interest in favour of those just rights which we have derived through her, and with which her own continue to be so closely associated. If we had not heard from her at this time, we should not have been left in any doubt of her disposition. But it is none the less satisfactory at this period, to be reassured, that, in her opinion, our right to require of Great Britain the literal and immediate execution of the terms of the original Treaty, relating to the Boundary in question, remains, after more than half a century, unimpared by the lapse of time or by the interposition of multiplied objections; that although there may be no cause to apprehend any immediate collision upon this subject, it is extremely important that a speedy and effectual termination should be put to a difference which might, even by a remote possibility, produce consequences that humanity would deplore; that anything is to be regretted coming from Great Britain, of the character of the late Report made to that Government under its late Commission of Survey, (though not understood to have received its sanction,) calculated to produce, wherever it is examined in the United States, a state of the public mind unfavourable to that conciliatory temper and confidence in mutual good faith, without which it is hopeless to expect a satisfactory result to controversies of this nature; that the interest and honour of Massachusetts alike demand a perseverance, not the less determined, because it is temperate, in maintaining the rights of Maine; that they now cheerfully repeat their often recorded response to her demand, that justice so long withheld should be speedily done her; and that while they extend to her their sympathy for her past wrongs, they again assure her of their unshaken resolution to sustain the territorial rights of the Union.

The Committee may, perhaps, deem themselves in some measure called upon, under the existing posture of circumstances, not without some hesitation, to touch upon a point of some delicacy; and which relates to the part this State may be in future required to perform in the further prosecution of this question, and in regard to bringing it to a determination. This point is presented, in the first place, by two distinct orders, one from the House of Representatives, and the other from the Senate, both referred to the immediate consideration of this Committee. The one requires the Executive authority of this State to be employed to expel the British force now quartered upon our territory; the other proposes to invoke the constitutional obligation of the Federal Government, and to call upon the National Executive for the prompt fulfilment of this duty. The alternative presented by the forms of these different legislative orders, dictated alike, as your Committee entirely believe, by the spirit of what was due, and even demanded, to the occasion, brings directly into view the continuance—they would not say the competency or propriety—of that former course of action, which the State qrescribed to itself, at those periods, which have been noticed, when the proper powers of the Federal Government appeared to be in abeyance as to us, if not abdicated here. And the Committee do undoubtedly conceive that this State would be untrue to itself, insensible to its own character, interest, and honour, to renounce or repudiate the position in which it was involuntarily placed, or the principles which it pronounced at any time, under the imperious necessity and duty imposed upon it of self-protection. It would be forgetful of the illustrious examples of virtue and patriotism, which were ever before the eyes of our cherished and devoted Lincoln, to disclaim the ground, or abandon the

stand, which he so firmly and intrepidly took upon this question, when its gulf was first opened before us, and he was called to contemplate and survey the sacrifice. Neither would we bury with him the principle on which he acted. But we look upon it as having succeeded; and that we are now enjoying the value and benefit of it in the elevated position to which the progress of it has raised and carried us in the estimation of Congress, the respect of the Government, and the confidence of the country. Your Committee conceive and trust, that that point is now passed; a point ever intended to be taken and sustained in entire submission to the sense of the nation, and to be carried out only in subordination to its supreme constitutional authority, whenever it did or should become necessary, that is to say, to resort to the original principle of self-preservation, which is never to be recurred to only when all other resource fails, and which Maine alone means to reserve for extreme emergency, or the last extremity. The immediate legitimate objects of that just and necessary course of proceeding on our part adopted by her Executive and Legislative counsels, Maine is now disposed, your Committee apprehend, to regard and look upon as fulfilled. It has been fulfilled so far, certainly, at a great and enormous expense and even sacrifice to her; for which, as in performance of an important duty devolved upon her in discharge of the public service, she is entitled in return to cast herself upon the just consideration of the Republic. Henceforth she conceives herself to have acquired a perfect right to rely on the strengh as well as sympathy of the country, and upon the powerful arm of the National Government for vindication and support. That otherwise the object would not have been answered; but its real and proper purpose would have failed. The remainder might be more than she is equal to; but it would be ungrateful, now that her cause has been so perfectly affiliated, and the country asks us to accept its solemn assurance, to pursue any other course at present; and, as we value and cherish the pledge it has given us, not to be anxious to avoid anything to forfeit our title to its protection.

In coming toward a conclusion of the subject of this Report, and to the final consideration of the best course to be pursued, under the existing and actual state of circumstances, the Committee can see no other than to adopt and stand upon the late Resolves of the preceding Legislatures, that is to say, so far as they are not varied and altered, and accordingly required to be modified, by time and other circumstances, connected with the prolonged and pending state of negotiation. They can see no other course, they repeat, than to continue to call still upon the General Government to vindicate and maintain the rights of this State to its indisputable and indefeasible territory, by one of the two modes pointed out by the last Resolves. Gratitude towards that Government for what it has already done toward what it has solemnly promised, affection to our sister States who have come forward so freely and so cordially in our favour, the necessity which disables us from coping single-handed with our real and formidable antagonist, and the Constitution which authorizes and requires us to cast the burden of our defence entirely upon the General Government—all these, combined with the consideration and remembrance of what is equally due to ourselves and mankind, under all these circumstances, direct, if they do not compel, us to this course. We wish we could add, that we had more confidence in the efficacy of the means that have so far been adopted (we will not say those likely to be employed) and used to vindicate and establish those rights. We wish we could see an end to the perpetual course of procrastination, or any immediate prospect of the present negotiation being brought to a decisive or satisfactory termination. The Committee are constrained to say that they cannot. On the contrary, they feel themselves obliged to agree in the opinion of his Excellency the Governor of Massachusetts, in whom they know this State has always a fast friend upon this subject, that they do not see any disposition on the part of the British Government to determine it.

The Committee are concerned to inquire, also, what is to be the state of the Disputed Territory in the mean time, and especially of that portion of it lying northward of the St. John? And what is to be done for its protection, and the intermediate preservation of all the rights of the State to its property and jurisdiction? They inquire in vain. It is clear, that the State can enter into no compact with New Brunswick on the subject, even if the authority

there had not passed into other hands. Such a thing is impossible. It is forbidden by the Constitution, without the consent of Congress, which is not to be implied, nor even in the view of your Committee, to be desired. If it were proper to listen to any suggestion of that nature, or to any proposition from that quarter, there is no power that can apparently be depended upon (though far from questioning by any means the integrity of the disposition that exists), but there is none in New Brunswick that seems to be competent for the fulfilment of any such compact or assurance. Maine could not come into any agreement, such as was recommended to her, on that point. The objections to it, in her view, are insuperable. Worse than the shackles that might be thus imposed upon her, it might only prove a snare for her, and become an endless source of mischief and regret. She sees not, in any way, how she can go further on this subject, than she has already done by her Resolves of 1839; and that is only in the same earnest desire to come to an amicable adjustment of the whole controversy, to forbear to enforce her jurisdiction in that part of the territory which is now usurped by New Brunswick, so far as she can do so, consistently with the maintenance of her previous Resolves for the protection of the whole territory against trespass and devastation. So far as, under this limited restraint, she is obliged to yield to the continuance of the illegal usurpation at the proper original settlement of Madawaska, so far she supposes she must submit to see the sphere of her own sovereignty circumscribed. But she cannot consent to see the space widened. She cannot allow its being extended to the Fish River, or upon the south bank of the St. John, above the western bend, up to which Maine has at least regained, and made good her ground.

It is still less possible for this State to consent to any change in the character of that possession, from civil, as it was only pretended, to military; and further still, to be content to see that change assume a permanent form; in the first place, the whole district converted into a military depôt, and then to take the more decided character of a military establishment. How long we are to remain in this condition, or how we are to be relieved from it, we cannot say, except by pointing to our past Resolves, and putting our trust in the Government of the Union. All that we can say further, perhaps, at this moment, with propriety, is, that it cannot be submitted to with passiveness, and that it cannot be submitted to, at any rate, much longer. The spirit, the patriotism, the self-respect, the native energy, the irrepressible and indomitable determination of the people of this State, will not endure it. They might sooner wish to see the territory sunk in the ocean, than to be made the scene of a bloody war, above all between the kindred and connected races; but they cannot, silently, see it surrendered to a foreign Power in this manner. They are calumniated by the pretext on which it is challenged. They demand, in advance, the protection of the Federal Constitution. They require that the invading force shall be removed; and if this can only be effected by counter force, they request the Government of the United States, with no more delay, to cause possession of the Disputed Territory to be taken, by the suitable and necessary methods.

But while the State thus makes these strong and urgent demands, it may be justly expected, that it will not, in any respect, or in any event, be wanting to itself. While it earnestly seeks, and wishes, to put itself under the broad shield of the General Government, and pray for the protecting power of the whole country, and solicits to be released from the incumbent duty and present heavy burden of its own defence, and desires to do this without retreating from the ground or relinquishing the stand it has hitherto been obliged to take, and does not ask to be released from its position, it well offers to go as far as any of its sister States have done, and to place its whole powers and resources, without reserve, at the public disposal. We will consent to almost any sacrifice—we will pay any reasonable price for our own peace, and for that of the country; and we are willing to purchase it upon the same terms, as "the tranquillity and safety of a camp are secured by the sufferings and privations of its devoted exterior outguards." Maine feels herself, unavoidably, to be the forlorn hope of the Union. As such she is ready to go forward, and to pursue the path that lies before her. As such she is prepared to occupy the pass to which she may be directed, to present her breast as a bulwark for the country—and of those of her brave and beloved sons, the self-devoted band

that shall be sent upon this service, to leave the writing upon the soil, in the best blood of the State, to tell the country, and be carried back to the capital, that they lie there in obedience to its laws.

The Committee would now, respectfully, bring the performance of this part of their service to a conclusion, by recommending the following Resolutions.

By order of the Committee,
(Signed) CHARLES S. DAVEIS.

March 30, 1841.

STATE OF MAINE.

Resolves relating to the North-Eastern Boundary.

Resolved, THAT the Legislature sees no occasion to renew the declarations herefore made of the right of this State to the whole of its territory, according to the Treaty of 1783, unjustly drawn into question by Great Britain, (entirely recognized by the unanimous Resolutions of Congress in 1838,) nor to repeat its own former Resolutions on the subject; and it regards with grateful satisfaction, the strong, increasing, and uniform demonstrations, from all parts of the Union, of conviction thereof, and of determination to support the same.

Resolved, That this Legislature adopts and affirms the principles of former Resolves of preceding Legislatures in relation thereto, in all their force and extent; that it approves their spirit, insists on their virtue, adheres to their terms, and holds the National Government bound to fulfil their obligations; that it deprecates any further delay, and cherishes an earnest trust and expectation, that the National Government will not fail, speedily, to cause our just rights, too long neglected, to be vindicated and maintained either by negotiation or by arms.

Resolved, That we truly appreciate the patriotic spirit with which the Federal Government espoused, and our Sister States embraced our cause, and the country came to our side, in a most severe and critical emergency; and that, confiding in their continued sympathy and support, and confirmed in the strength of our course, we feel warranted to rely for safety on the sovereign power of the Union, the people of this State maintaining all their constitutional rights.

Resolved, That in accordance with the generous examples of our sister States, and not to be behind their free-will offerings on our behalf, this State also voluntarily tenders its whole powers and resources, without reserve, to the supreme authorities of the Union, to sustain our national rights and honour; and it stands ready, furthermore, obeying the call and abiding the will of the country, to go forward and occupy that position which belongs and shall be marked out to it; and engages, that it will not be wanting in any act or duty of devotion to the Union, of fidelity to itself, and, above all, to the common cause of our whole country.

Resolved, That this State is suffering the extreme unresisting wrong of British invasion, begun in 1839, repeated in 1840, and continued to this time, in violation of solemn and deliberate pledges from abroad, guaranteed by our own Executive Government; that the President of the United States, therefore, be requested and called upon to fulfil the obligation of the Federal constitution, by causing the immediate removal, or expulsion, of the foreign invading force now stationed within the bounds of Maine; and, other methods failing, to cause military possession to be taken of the Disputed Territory.

Resolved, That the Government of the United States be earnestly invoked to provide for our future protection against foreign aggression, by proper establishments of military force upon the frontier, and by the due exertion of its constitutional powers to liberate and relieve this State from the present heavy burden of its own needful, unavoidable defence.

Resolved, That the Government of the United States is bound to cause the Commission appointed to explore and trace the north-eastern boundary

line from the north-west angle of Nova Scotia, along those highlands which divide the waters that empty into the River St. Lawrence from those that fall into the Atlantic Ocean, according to the Treaty of 1783, to be prosecuted with the utmost speed, vigour, and certainty, to its definite and absolute conclusion, and that the same should be completed, and the true line run and marked, within the period of the present year.

Resolved, That the Governor be requested to transmit a copy of these Resolves, together with this Report, to the President of the United States; and that similar copies of the same be transmitted to the presiding officers of the two branches of Congress, and to the Executlves of the several States and the presiding officers of the several Legislatures of said States, and to the Senators and Represensatives in Congress of this State and of Massachusetts.

Inclosure 2 in No. 23.

ORDERS AND RESOLUTIONS REFERRED TO THE COMMITTEE.

Resolves to repel British Aggression.

WHEREAS, the State of Maine is now suffering the disgrace of unresisted British invasion, begun in 1839, repeated in 1840, and continued up to this hour, in violation of the most solemn stipulations; and whereas we have no faith in the efficacy of negotiations with a Power which has so repeatedly disregarded its deliberate pledges, and believe that further forbearance on our part to assert the rights and vindicate the honour of our State, will prove as unavailing as it will certainly be humiliating; therefore,

Resolved, That the Governor be authorized to take immediate measures to remove the troops of the Queen of Great Britain, now quartered on the territory, called disputed by the British Government, but by the Treaty of 1783, by the Resolutions of both Houses of Congress passed in 1838, and by repeated Resolves of the Legislature of Maine, clearly and unequivocally a part of the rightful soil of this State.

Resolved, That the resources of this State be, and they hereby are, placed at the disposal of the Governor, and the specific sum of 400,000 dollars be, and the same hereby is, appropriated out of any money in the treasury, for the purpose of carrying said Resolutions into effect.

House of Representatives, February 3, 1841.

These Resolutions (laid upon the table by Mr. Delesdernier,) were read and referred to the Committee on the North-Eastern Boundary.

Sent up for concurrence,

(Signed) GEORGE C. GETCHELL, *Clerk.*

In Senate, February 13, 1841.

The Senate non-concurred the House in its reference of these Resolves, and amended the same as on sheet marked A, and the same were referred to the Committee on the North-Eastern Boundary.

Sent down for concurrence,

(Signed) DANIEL SANBORN, *Secretary.*

A.

Amend, by striking out word *four* in line 3d, of Resolve 2, and insert *ten.*

House of Representatives, February 15, 1841.

The House receded from its vote of February 3, adopted the amendment proposed by the Senate, and referred the same to the Committee on the North-Eastern Boundary, in concurrence.

(Signed) GEORGE C. GETCHELL, *Clerk.*

Resolve for Repelling Foreign Invasion, and Providing for the Protection of the State.

Be it Resolved, That the President of the United States be requested and urged to cause the immediate removal of the foreign armed force by which this State is invaded, stationed upon the upper valley of the St. John, and that the Government of the United States be earnestly invoked to relieve this State from the present heavy, needful burden of its own defence.

In Senate, February 13, 1841.

This Resolve (introduced by Mr. Daveis) was once read, and referred to the Committee on the North-Eastern Boundary.

Sent down for concurrence.

(Signed) DANIEL SANBORN, *Secretary.*

House of Representatives, February 15, 1841.

Read, and referred in concurrence.

(Signed) GEORGE C. GETCHELL, *Clerk.*

Inclosure 3 in No. 23.

INDIANA RESOLUTIONS.

Executive Department, Indianapolis,
Sir, *March* 10, 1840.

IN compliance with the request of the General Assembly of this State, I have the honour to forward a copy of their Preamble and Joint Resolutions in relation to the North-Eastern Boundary.

Very respectfully,
Your obedient Servant,
(Signed) DAVID WALLACE.

His Excellency the Governor of Maine.

A Preamble and Joint Resolutions in relation to the North-Eastern Boundary.

WHEREAS, the General Assembly of the State of Ohio have adopted and caused to be laid before this General Assembly the following Resolutions, to wit:—" Whereas, by the Declaration of Independence, on the 4th of July, 1776, the United States of America became a sovereign and independent nation, with full power over the territory within her limits; and whereas, at the Treaty of 1783, between the United States of America and Great Britain, the northern and north-eastern boundaries between the two Governments were fairly designated and distinctly described; and whereas the said British Government has since set up claims to a part of the territory of these States, and now lying within the State of Maine; and whereas, the subjects of the British Crown have recently invaded and trespassed upon the territory of the State of Maine, and within the limits of this Confederacy, and destroyed the property belonging to the State. Therefore, be it resolved by the General

Assembly of the State of Ohio, That we view with united approbation the prompt and energetic action of the authorities of Maine to protect the rights and honour, not only of their own State, but of the whole Union. Resolved, That the Act of Congress, conferring upon the President of the United States ample power and means to protect this nation from foreign invasion, has our full and most hearty assent. Resolved, That while we highly approve the efforts made by the President of the United States, to avert from this country the calamities of war, and earnestly hope that they may be, as they have been heretofore, successful; yet, should a collision take place between this Government and Great Britain, in the settlement of the pending dispute, Ohio tenders her whole means and resources to the authorities of this Union, in sustaining our rights and honour. Resolved, That the Governor be directed to transmit a copy of the foregoing Preamble and Resolutions to the President of the United States, and to the Governors of the several States."—March 18, 1839.

THEREFORE—

Be it Resolved by the General Assembly of the State of Indiana, That we fully concur in and heartily approve of the above Resolutions of the General Assembly of the State of Ohio.

Resolved, That while we cherish the hope that, in the adjustment of the question of our National Boundary, the integrity of our soil, and the national honour, may be preserved inviolate, without an appeal to arms; yet we will ever prefer honourable war rather than dishonourable peace.

Resolved, That should a collision take place between this Government and Great Britain, in the settlement of the pending dispute, Indiana tenders her whole means and resources to the authorities of the Union, in sustaining our rights and honour.

Resolved, That the Governor be directed to transmit a copy of the foregoing Preamble and Resolutions to the President of the United States, to each of our Senators and Representatives in Congress, and to the Governors of the several States.

(Signed) J. G. READ,
Speaker of the House of Representatives.
DAVID HILLIS,
President of the Senate.

Approved, February 24, 1840,
(Signed) DAVID WALLACE.

Inclosure 4 in No. 23.

ALABAMA RESOLUTIONS.

Executive Department, Tuscaloosa, January 15, 1841.

Sir,

I HAVE the honour to inclose you Joint Resolutions of the General Assembly of the State of Alabama, responsive to certain resolutions of the State over which you preside, in relation to the North-Eastern Boundary. With perfect respect, I am, your obedient servant,

(Signed) A. P. BAGLEY.

To His Excellency the Governor of Maine.

Joint Resolutions of the General Assembly of the State of Alabama, in response to certain Resolutions of the State of Maine, in relation to the North-Eastern Boundary Question.

BE it Resolved, by the Senate and House of Representatives of the State of Alabama, in General Assembly convened, 1st. That we hold it to be the solemn and imperative duty of the Federal Government, faithfully to maintain

toward the State of Maine every obligation she is under, touching the establishment of the North-Eastern Boundary Line of said State.

2nd. That said Government is further bound in defence of her own honour, to not concede to Great Britain any claim not strictly founded in right and justice in the matter aforesaid.

3rd. That we sincerely deprecate a resort to force, until every honourable peaceful expedient has been exhausted, in this and in every other like controversy.

4th. That the question of the North-Eastern Boundary concerns the whole Union, and is not one local in its character to the State of Maine, although she is confessedly more interested than any other in its adjustment; and that, for the reason here set forth, it is the duty of the State of Maine to trust the decision of the matter to the councils of the Union, and abide thereby, whatever it may finally be, whether exactly consistent with her own wishes or not. If Congress says go to war, we will cheerfully obey the mandate, but we should deeply regret to see the State of Maine take any rash step, which might tend to plunge her sister States into war, more through mere feeling and sympathy than from deliberate choice and determination on their part.

5th. That the Governor of this State be requested to forward to the Governor of Maine a copy of the foregoing Resolutions as the response of this General Assembly to her Resolutions of the 18th of May [March] last communicated to us by the Governor of this State, agreeably to a request contained in her said Resolutions.

(Signed) J. L. F. COTTRELL,
President Senate.
R. A. BAKER,
Speaker of the House of Representatives.

Inclosure 5 in No. 23.

MARYLAND RESOLUTIONS.

Council Chamber, March 23, 1840.

I HEREWITH present, to your consideration, a Report and Resolutions, from the State of Maryland, in relation to the North-Eastern Boundary.

EDWARD KENT.

To the Senate and House of Representatives.

Resolved, That the Legislature of Maryland entertains a perfect conviction of the justice and validity of the title of the United States, and State of Maine, to the full extent of all the territory in dispute between Great Britain and the United States.

Resolved, That the Legislature of Maryland, looks to the Federal Government with an entire reliance upon its disposition to bring the controversy to an amicable and speedy settlement; but if these efforts should fail, the State of Maryland will cheerfully place herself in the support of the Federal Government, in what will then become its duty to itself and the State of Maine.

Resolved, That after expressing the above opinions, the State of Maryland feels that it has a right to request the State of Maine to contribute, by all the means in its power, towards an amicable settlement of the dispute upon honourable terms.

Resolved, That if the British Government would acknowledge the title of the State of Maine to the territory in dispute, and offer a fair equivalent for the passage through it of a military road, it would be a reasonable mode of adjusting the dispute, and ought to be satisfactory to the State of Maine.

Resolved, That the Governor be and is hereby requested to transmit a

copy of this Report and these Resolutions to each of the Governors of the several States, and to each of the Senators and Representatives in Congress from the State of Maryland.

Inclosure 6 in No. 23.

MASSACHUSETTS RESOLUTIONS.

Council Chamber, March 27, 1841.

I HAVE received from the Governor of Massachusetts a Report and "Resolves concerning the North-Eastern Boundary," and herewith present them for your consideration.

EDWARD KENT.

To the Senate and House of Representatives.

COMMONWEALTH OF MASSACHUSETTS.—1841.

Resolves concerning the North-Eastern Boundary.

Resolved, unanimously, if the Senate concur, That the right of the United States, and of the State of Maine, to require of Great Britaiu the literal and immediate execution of the terms of the Second Article of the Treaty of 1783, so far as they relate to the Boundary from the source of the St. Croix River to the north-westernmost head of Connecticut River, remains, after a lapse of more than half a century, unimpaired by the passage of time, or by the interposition of multiplied objections.

Resolved, unanimously, if the Senate concur, That although there is no cause to apprehend any immediate collision between the two nations, on account of the controversy respecting the said Boundary, it is nevertheless most earnestly to be desired that a speedy and effectual termination be put to a difference, which might, even by a remote possibility, produce consequences that humanity would deplore.

Resolved, unanimously, if the Senate concur, That the late Report made to the Government of Great Britain, by their Commissioners of Survey, Messrs. Featherstonhaugh and Mudge, though not to be regarded as having yet received the sanction of that Government, is calculated to produce in every part of the United States, where it is examined, a state of the public mind highly unfavourably to that concilitary temper, and to that mutual confidence in the good intentions of each other, without which it is hopelsss to expect a satisfactory result to controversies between nations.

Resolved, unanimously, if the Senate concur, That the interest and the honour of Massachusetts alike demand a perseverance, not the less determined because it is temperate, in maintaining the rights of Maine; and that we now cheerfully repeat our often-recorded response to her demand that the justice which has been so long withheld should be speedily done to her, and that whilst we extend to her our sympathy for her past wrongs, we again assure her of our unshaken resolution to sustain the territorial rights of the Union.

Resolvep, unanimously, if the Senate concur, That his Excellency the Governor be requested to transmit a copy of these Resolves and the accompanying Report to the Executive of the United States, and of the several States, and to each of the Senators and members of the House of Representatives from Massachusetts, in the Congress of the United States.

House of Representatives, March 11, 1841.—Passed.

GEORGE ASHMAN, *Speaker.*

In Senate, March 12, 1841.—Passed.

DANIEL P. KING, *President.*

March 13, 1841.—Approved.

JOHN DAVIS.

Commonwealth of Massachusetts,
Secretary's Office, March 17, 1841.

I HEREBY certify that the preceding are true copies of the original Resolves.

JOHN P. BIGELOW, *Secretary of the Commonwealth.*

In Senate, March 27, 1841.

Read, and referred to the North-Eastern Boundary Committee.
Sent down for concurrence.

DANIEL SANBORN, *Secretary.*

House of Representatives, March 29, 1841.

Read, and referred in concurrence.

GEORGE C. GETCHELL, *Clerk.*

STATE OF MAINE.

In Senate, March 30, 1841.

Ordered, That the foregoing Report and Resolves be laid on the table, and 1,000 copies be printed for the use of the Legislature.

[Extract from the Journal.]

ATTEST, DANIEL SANBORN, *Secretary.*

No. 24.

Mr. Fox to Viscount Palmerston.—(Received July 15.)

My Lord, *Washington, June* 27, 1841.

I HAVE recently received several communications from the Governor-General of British North America, and from the Lieutenant-Governor of New Brunswick, upon matters connected with the Disputed Territory, and upon the subject of further apprehended acts of aggression within that territory on the part of the people of Maine. The same intelligence will, no doubt have been already conveyed to Her Majesty's Secretary of State for the Colonies; I shall nevertheless transmit to your Lordship by the ensuing packet, copies of the communications which have been addressed to me.

I have to state, at the same time, that I am now again in negotiation with the United States' Government, upon the subject of an amended arrangement for the provisional custody and occupation of different portions of the Disputed Territory, by a limited force on each side of regular troops, to the exclusion of the irregular armed posse now employed by the State of Maine, upon the principles laid down in your Lordship's several instructions to me of last year. Mr. Webster seems much disposed to entertain rational and moderate views upon all this subject; but I still doubt whether it will be found possible to bring the State Government of Maine to accede to any reasonable agreement. I shall, of course, conclude no provisional arrangement without first obtaining the sanction of the Governor-General.

I have, &c.,
(Signed) H. S. FOX.

No. 25.

Viscount Palmerston to Mr. Fox.

Sir, *Foreign Office, July* 19, 1841.

I HAVE received and laid before the Queen your despatch of the 27th ultimo, stating that you had recently received several communications from the Governor-General of British North America, and from the Lieutenant-Governor of New Brunswick, upon matters connected with the Disputed Territory, and upon the subject of further apprehended acts of aggression within that territory, on the part of the people of Maine ; and also stating that you were then again in negotiation with the United States' Government, upon the subject of an amended arrangement for the provisional custody and occupation of different portions of the Disputed Territory by a limited force, on each side, of regular troops, to the exclusion of the irregular armed posse now employed by the State of Maine.

I have also received from the Colonial Department copies of communications upon these subjects from Sir Charles Colebrooke to the 14th of June, and from Lord Sydenham to the 10th of June.

With reference to the communications which you have had from Lord Sydenham upon these matters, I have to instruct you to represent strongly to the United States' Government, the extreme inconvenience and danger of the present state of things. The armed posse from Maine continues in occupation of a post at the mouth of the Fish River, in the valley of the St. John, which it holds in decided violation of the agreement entered into by Major-General Sir John Harvey and Major-General Scott ; and the British Authorities would have been perfectly justified by that agreement in expelling that armed posse by force. But its continuance there can hardly fail to lead to collision, and if this should happen, Her Majesty's Government will certainly not shrink from the duty of asserting the rights of Her Majesty's Crown, and of affording just protection to Her Majesty's subjects.

Her Majesty's Government would, however, most earnestly press upon that of the United States the expediency of causing the civil posse of Maine to be withdrawn entirely from the Disputed Territory, and of letting that territory be provisionally occupied by regular troops of Great Britain and of the United States. The former being posted in the valley of the St. John, and the latter in the valley of the Roostook.

I am, &c.,
(Signed) PALMERSTON.

No. 26.

Viscount Palmerston to Mr. Fox.

Sir, *Foreign Office, August* 24, 1841.

HER Majesty's Government received with very great regret the Second American Counter-Draft of a Convention for determining the Boundary between the United States and the British North American Provinces, which you transmitted to me last autumn in your despatch of the 15th of August, 1840, because that Counter-Draft contained so many inadmissible propositions, that it plainly showed that Her Majesty's Government could entertain no hope of concluding any arrangement on this subject with the Government of Mr. Van Buren, and that there was no use in taking any further steps in the negotiation till the new President should come into power.

Her Majesty's Government had certainly persuaded themselves that the draft which, in pursuance of your instructions, you presented to Mr. Forsyth on the 28th of July, 1840, was so fair in its provisions, and so well calculated to bring the differences between the two Governments, about the boundary, to a just and satisfactory conclusion, that it would have been at once accepted by the Government of the United States, or that if the American Government

had proposed to make any alterations in it, those alterations would have related merely to matters of detail, and would not have borne upon any essential points of the arrangement; and Her Majesty's Government were the more confirmed in this hope, because almost all the main principles of the arrangement which that draft was intended to carry into execution had, as Her Majesty's Government conceived, been either suggested by, or agreed to, by the United States' Government itself.

But, instead of this, the United States' Government proposed a second Counter-Draft, differing essentially from the draft of Her Majesty's Government, and containing several inadmissible propositions.

In the first place, the United States' Government proposed to substitute for the preamble of the British Draft, a preamble to which Her Majesty's Government cannot possibly agree, because it places the whole question at issue upon a wrong foundation, upon the Treaty of Ghent, instead of upon the Treaty of 1783; and for this reason, besides other objections to the wording of it, Her Majesty's Government cannot consent to the preamble of the last American Draft, but must adhere to the preamble of the last British Draft presented in July, 1840.

The next alteration proposed by the American Counter-Draft, is in Article IInd of that Draft, by which it would be stipulated, that the Commissioners of Survey shall meet, in the first instance, at Boston. To this Her Majesty's Government cannot consent, because Boston is not a convenient place for the purpose, and because their meeting in a town within the United States would in various ways be inconvenient. Her Majesty's Government must, therefore, still press Quebec as the best point to start from, because it is the nearest to the western end of the Disputed Territory—the point at which Her Majesty's Government propose that the operations of the Commissioners shall begin.

In the IIIrd Article of the American Counter-Draft, reference is again made, by a quotation, to the Treaty of Ghent, and to that reference Her Majesty's Government must again object.

In that same IIIrd Article a new method is proposed for determining the point at which the Commissioners shall begin their survey. But Her Majesty's Government are of opinion that there are the strongest reasons for beginning the survey from the head of the Connecticut River. For up to a certain distance eastward from that point, the former Commissioners of the two Governments found highlands which they agreed in considering the highlands of the Treaty; and it is only from a point some way eastward of the head of the Connecticut that the two lines of Boundary claimed by the two Governments respectively begin to diverge. It seems, therefore, natural, that the Commissioners should begin their survey from the head of the Connecticut, and no good reason has been assigned by the United States' Government for not consenting to such an arrangement. It is obvious, moreover, that by starting from the western end of the Disputed Boundary Line, much time may by possibility be saved. For, if it should happen that from the point where the two lines of boundary, claimed by the two Governments respectively, begin to diverge, there should be found, by local examination, only one range of highlands, corresponding with the words of the Treaty, it is manifest that whether that range should be found to trend away in the direction of the line claimed by Great Britain, or should be ascertained to take a course in conformity with the American claim, the Commissioners in either case would, in the outset, find a clue which might guide them in their further researches. Her Majesty's Government, therefore, disagree to this IIIrd Article as proposed by the United States' Government, and again press the IIIrd Article as it stands in the British Draft of July, 1840.

The VIIth Article of the American Counter-Draft proposes that the Commission, which was originally intended as a Commission to explore the country, should become a Commission to examine archives; but those different kinds of duties would in their nature be incompatible with each other. The Commissioners will find that an accurate examination of the country will occupy all their time, and will be a work of intense labour; and to impose upon them besides the duty of searching the public records at Washington and in London, would only impede them in the performance of their proper duties.

That which the Commissioners are to be appointed to examine is the face of the country, and by comparing the features of the country with the description contained in the Treaty of 1783, they are to mark out the Boundary on the ground. If either Government should think that any documents which may be in its possession can throw light upon any questions to be solved by the Commissioners, it can, of its own accord, lay such documents before the Commission. But Her Majesty's Government cannot possibly agree that such documents, whether they be maps, surveys, or anything else, shall be deemed by the Commissioners to be other than *ex parte* statements, furnished in order to assist the Commission in its own investigations, unless such maps, surveys, or other documents, shall be acknowledged and signed by two Commissioners on each side, as being authentic evidence of the facts upon which they may bear; and Her Majesty's Government must insist upon the stipulation to this effect, which is contained in the British Draft of July, 1840. But the wording of this VIIth Article of the American Counter-Draft is in this respect objectionable, for, under the guise of an engagement that each party shall furnish the other with documents for mutual information, it tends to enable the United States' Government to put upon the records of the Commission, as authentic, any maps, surveys, or documents, which it may think advantageous to the American case, however incorrect such maps, surveys, or other documents, may be.

But of all the propositions made by the American Counter-Draft, none can be more inadmissible than that contained in Article X. For that Article again proposes that Mitchell's Map shall be acknowledged as evidence bearing upon the question to be decided; whereas everybody who has paid any attention to these matters, now knows that Mitchell's Map is full of the grossest inaccuracies as to the longitude and latitude of places; and that it can be admitted as evidence of nothing but of the deep ignorance of the person who framed it. Her Majesty's Government can never agree to this proposal, nor to any modification of it.

To the XVIth and XVIIth Articles of the American Counter-Draft, Her Majesty's Government must decidedly object. The XVIth Article reproduces in another form the association of Maine Commissioners with the Commission of Survey; and to this, in any shape whatever, Her Majesty's Government, for the reasons already assigned, must positively decline to consent.

The XVIIth Article of the American Counter-Draft tends to introduce the State of Maine as a party to the negotiation between the Government of Great Britain and the Government of the United States. But to this, Her Majesty's Government cannot agree. The British Government when negotiating with the United States, negotiates with the Federal Government, and with that Government alone; and the British Government could not enter into negotiation with any of the separate States of which the Union is composed, unless the Union were to be dissolved, and those States were to become distinct and independent communities making peace or war for themselves.

With the Federal Government Her Majesty's Government would be ready and willing to negotiate for a Conventional Line; indeed, the British Government has more than once proposed to the Federal Government to do so; and whenever the Federal Government shall say that it is able and prepared to enter into such a negotiation, Her Majesty's Government will state the arrangement which it may have to propose upon that principle.

Such being the view which Her Majesty's Government take of the Counter-Draft proposed in August of last year by Mr. Forsyth, it only remains for me to instruct you to bring under the consideration of Mr. Webster the Draft which you presented to Mr. Forsyth in July, 1840; and to say, that Her Majesty's Government would wish to consider Mr. Forsyth's Counter-Draft as *non avenu*, rather than to give it a formal and reasoned rejection; and that Her Majesty's Government would prefer replacing the negotiation on the ground on which it stood in July of last year, entertaining as they do an ardent hope that the present Government of the United States may, upon a full and fair consideration of the British Draft, find it to be one calculated to lead to a just determination of the questions at issue between the two Governments. If Mr. Webster should agree to this course, and should approve of the Treaty as it stands in the British Draft of July, you are instructed to propose to him the

King of Prussia, the King of Sardinia, and the King of Saxony, as the three Sovereigns who should name the three members of the Commission of Arbitration.

It seems desirable to choose Sovereigns who are not likely, from their maritime or commercial interests, to have feelings of jealousy towards either Great Britain or the United States. It is desirable to choose Sovereigns in whose dominions men of science and of intelligence are likely to be found, and it seems to Her Majesty's Government that in both these respects the three Sovereigns above mentioned would be a proper selection. But if Mr. Webster should decline acceding to this course, and should think it necessary that he should receive an official answer to Mr. Forsyth's Counter-Draft, you will then present to him a note drawn up in accordance with the substance of this despatch.

I am, &c.,
(Signed) PALMERSTON.

No. 27.

Mr. Fox to Viscount Palmerston.—(*Received August* 29.)

(Extract.) *Washington, August* 8, 1841.

IN my despatch of the 27th of June, I had the honour to inform your Lordship that I was once more in negotiation with the United States' Government upon the subject of an amended arrangement for the provisional custody and occupation of the Disputed Territory, by a limited force, on each side, of regular troops, to the exclusion of the irregular armed posse at present employed by the State of Maine.

I have now the honour to inclose the copy of a despatch which I have addressed to the Governor-General of British North America, detailing the progress of the negotiation up to this time, and submitting for his Excellency's consideration the last definite proposal received from the United States' Government, with my own observations upon that proposal.

I further inclose copies of several documents referred to in my despatch to the Governor-General: First, an official letter which I addressed to the late Secretary of State, Mr. Forsyth, on the 17th August of the last year, 1840, containing an informal memerandum of the terms upon which I proposed that an amended arrangement should be concluded: Secondly, an informal memorandum delivered to me by the present Secretary of State, Mr. Webster, on the 9th of June of this pear, being the draft of an official letter which by direction of the President, he proposed to address to me, and upon which he invited me to offer to him my own observations in reply: Thirdly, a memorandum which I accordingly delivered to Mr. Webster, on the 11th of June, containing my observations upon the draft of his letter, and setting forth the views which I believed would be entertained by Her Majesty's Government, and by the Governor-General, upon the matter in negotiation. I have to observe that these last papers are of an informal character, and of course are not to be considered as complete official notes, but only as the materials out of which the official notes, to be hereafter interchanged between Mr. Webster and myself, shall be framed, if the terms of the arrangement can be agreed upon.

As soon as I receive the Governor-General's reply, I shall lose no time in endeavouring to bring the negotiation to a conclusion.

Inclosure 1 in No. 27.

Lord Sydenham to Mr. Fox.

Sir, *Government House, Kingston, July* 13, 1841.

WITH reference to my despatches of the 20th March, 25th June, and 6th October, I would request to be informed whether you have latterly received any communication from the Federal Government respecting the

proposed convention for regulating the jurisdiction over the Disputed Territory, pending the settlement of the Boundary Question.

As Sir W. Colebrooke reports to me that the people of Maine show every disposition to continue their encroachments on the territory, and as it is impossible for them to do so without an almost certainty of collision between them and the Authorities of New Brunswick, it would be exceedingly desirable, were it possible, to complete such a convention. It is also not improbable that the present Government might be better disposed than Mr. Van Buren's to agree to this measure.

I have, &c.,
(Signed) SYDENHAM.

Inclosure 2 in No. 27.

Mr. Fox to Lord Sydenham.

(Extract) *Washington, July* 27, 1841.

I HAVE the honour to acknowledge the receipt of your Lordship's letter of the 13th instant, referring to the negotiation for regulating the temporary jurisdiction over the Disputed Territory. I have been for some time past in communication with the present Secretary of State, Mr. Webster, upon this subject; and I have now at length received from him a definite proposal which I have to submit to your Lordship's consideration.

But, in the first place, I herewith inclose the copy of a letter (not, I believe, hitherto forwarded to you,) which I addressed to the late Secretary of State, Mr. Forsyth, on the 17th of August of last year, transmitting to him an informal memorandum of the terms upon which I proposed that an amended arrangement should be concluded. The letter and memorandum were framed in conformity with my instructions from the Foreign Office, and with the opinions and wishes expressed in your Lordship's despatches to me upon the same subject, of March and June, 1840. Mr. Forsyth did not return any written answer to my communication, but informed me verbally, that the President did not desire to enter upon any such negotiation at that moment; and so the matter dropped with the last administration.

When I first resumed the subject of the same negotiation with the present Administration, I found Mr. Webster not very desirous of moving in the business, at least not before the main convention for joint survey and arbitration should be concluded between the two Governments. But since he has communicated by correspondence with Maine, and personally with the Maine delegation in Congress, he is become more disposed to enter upon the subject; and he appears to hold more reasonable views on this question than I have been accustomed to meet with from Americans. It seems, besides, that the Government and leading people of Maine are now themselves desirous of withdrawing the armed civil posse from the Disputed Territory, and of replacing it by a force of regular United States' troops, if the change can be effected without the semblance of an abandonment of pretensions on the part of the State.

Mr. Webster delivered to me, on the 9th of June, the inclosed memorandum bearing that date, being the draft of an official letter, which, by direction of the President, he proposed to address to me, and requested to have my observations upon the contents of it. I presented to him in reply the memorandum, also herewith inclosed, dated the 11th of June, in which I fully set forth our views and pretensions. Both these, I have to observe, are informal papers, and are to be considered, not as complete official notes, but only as the materials out of which an interchange of official notes shall hereafter be framed, if the terms can be agreed upon.

Mr. Webster made no further reply to me upon the subject until a few days ago, when he informed me verbally, that he had no objections to offer to the terms of my memorandum, excepting only to my declaration, that if the United States placed a force in Fort Fairfield, at the mouth of the Fish River, Her Majesty's Authorities might probably send a force into that part of the Madawaska settlements which lies to the south of the River St. John's. Upon

this particular point Mr. Webster very explicitly said, that it would be impossible for the United States to consent to the stationing of a British military force south of the St. John's; and that no terms could be agreed to if we insisted upon that point. He said that a small United States' force will be placed in Fort Fairfield, in lieu of the armed posse, and that we may then, on our part, place any force we please opposite to Fort Fairfield, on the north bank of the St. John's, and anywhere else along the north bank, facing those parts of the Madawaska settlements that lie to the south of the St. John's; and this, Mr. Webster professes to think, will enable us to give the desired moral protection to our Madawaska subjects on both sides of the St. John's, without risk of collision between the troops of the two countries, which risk of collision would, he thinks, be incurred, if a British military force should appear on the south bank of the river.

From all that has passed between Mr. Webster and myself, I do not think we shall be able to obtain better terms than the above, and I am anxious to learn, as soon as possible, your Lordship's opinion and wishes upon the subject. Many advantages will follow from the withdrawal of the lawless and insubordinate civil posse of Maine, and from the full latitude we shall enjoy of making whatever arrangements we please on the north of the St. John's, which is to us, geographically, the most important part of the territory. On the other hand, I am apprehensive that, under the proposed arrangement, attempts will still be made by the State officers of Maine to interfere with the jurisdiction over our Madawaska settlers, south of the St. John's; and I can scarcely see by what means, short of military force, this can be prevented. Mr. Webster declares that the United States' troops shall have orders not to support the civil officers of Maine in any attempt at jurisdiction within our Madawaska settlements; but this, I fear, will not restrain the people of Maine; and we can hardly expect that the United States' troops should actively interfere to suppress the attempts of the civil officers of Maine to exercise their pretended jurisdiction. Upon the whole, this point of the exercise of jurisdiction in the southern portion of the Madawaska settlements is the most embarrassing part of the question; and upon this I particularly solicit your Lordship's opinion for my guidance. I have fully explained to Mr. Webster that I can make no final arrangement without your sanction and approval.

I have desired Mr. Moore to forward these despatches from New York to Kingston by a special messenger, who will wait your Lordship's orders.

Mr. Webster seems very anxious that I should be able te give him a definite reply before the departure from Washington of the Maine delegation at the close of the present extra session of Congress.

I have, &c.,
(Signed) H. S. FOX.

Inclosure 3 in No. 27.

Mr. Fox to Mr. Forsyth.

Sir, *Washington, August* 17, 1840.

WITH reference to the negotiation pending between Her Majesty's Government and the Government of the United States, for the establishment of Commissions of Survey and of Arbitration, with a view to the final settlement of the boundary dispute; and, in consideration of the period which may, probably, elapse between the establishment of those Commissions and the final result of their labours, I am directed to invite the serious attention of the Government of the United States to the expediency of providing beforehand, by some temporary but distinct arrangement, against the danger of local collisions within the Disputed Territory, which might occur during the period referred to.

Her Majesty's Government are of opinion, that such a measure is urgently called for, with a view to prevent the friendly relations between the two

countries from being interrupted by the indiscreet acts of local authorities, or the attempts of unauthorized and irresponsible parties.

Having already had the honour to communicate to you, at a personal conference, the views of Her Majesty's Government, and of the superior British Colonial Authorities, in relatian to the present subject, I herewith inclose an informal written memorandum of the substance of what I then suggested, requesting that I may be favoured with a knowledge of the opinion and wishes of the President thereupon. If the basis of the proposed agreement shall be approved of, I shall be prepared to submit to your consideration some further points of detail, more especially with regard to the appointment of Commissioners, as referred to in the 3rd clause of the inclosed paper, and to the nature and extent of the duties to be assigned to them.

I avail myself, &c.,

(Signed) H. S. FOX.

MEMORANDUM.

THE fairest terms upon which the proposed arrangement can be concluded, appear to be, that each party shall be placed as nearly as possible in the situation in which they stood, when the agreement between Sir John Harvey and Governor Fairfield, in the spring of 1839, was entered into, care being, however, taken to supply the deficiency which has been found to exist in that agreement, with respect to the then existing limits of possession and jurisdiction, and also to obtain the guarantee of the General Government for the due execution of the conditions. The limits and terms of possession and jurisdiction were understood by the British Authorities to be, "that the civil posse of Maine should retain possession of the valley of the Aroostook, the British denying their right; the British Authorities retaining possession of the valley of the Upper St. John, Maine denying their right." The correctness of this interpretation seems to have been confirmed by General Scott, through whose mediation the arrangement was concluded. The conditions, therefore, to be confirmed in a new agreement will be:—

1st. That whilst the State of Maine retains possession and jurisdiction over the Disputed Territory up to the valley of the Aroostook, that valley included, the British Authorities shall, on their part, retain possession and jurisdiction over the valley of the St. John; and, of course, that the State of Maine shall withdraw from the post taken up in contravention of this arrangement, at Fort Jarvis, on the Fish River.

2ndly. That all movements beyond these limits of armed force on either side, whether of regulars, militia, or armed posse, shall cease, as well as the erection of strong buildings, and the cutting of roads.

3rdly. That Commissioners shall be named by the two Governments to see that the stipulated conditions are duly carried into effect.

Inclosure 4 in No. 27.

Mr. Webster to Mr. Fox.

MEMORANDUM.

ON mentioning to the President the substance of our last conversation, he expressed his satisfaction in learning that you were in daily expectation of receiving communications from your Government respecting the Convention now in progress for a joint commission to settle the Boundary Question. He is anxious that the completion of this Convention, of which he finds not only the basis, but the main particulars already agreed to by the parties, should be hastened as much as possible. It would be very desirable that it should be concluded and submitted to the Senate at its present Session; so that, if ratified, Congress might immediately pass the necessary law for carrying it into effect.

However amicable may be the disposition of the two Governments, a

question of this kind, while it remains unsettled, keeps alive continual causes of excitement and irritation, creates frequent occasions on the one side or the other, and may give room for interests to spring up, such as may not a little embarrass both Governments hereafter. For these reasons, the President is most earnest in his desire, that, since a Convention for a joint commission is the measure already assented to, the parties may proceed to its completion with all practicable despatch.

This is deemed a fit occasion to recur to the subject of the occupation of the Disputed Territory, during the time which may elapse before the final decision on the title. Complaints have been made on both sides, of infringements of the arrangement entered into in the spring of 1839, between the Governor of Maine and the Lieutenant-Governor of New Brunswick, although happily no actual collision has hitherto occurred. The State of Maine has, to this time, kept up her civil posse, to protect the territory against lawless depredation. But the necessity of maintaining this posse involves the State in considerable expense; and since the principal question is now in a train for settlement, under the authority of this Government and that of Great Britain, the President thinks, that to those Governments, respectively, the entire care of protecting the territory should be confided, who would, of course, cause that duty to be performed by persons acting under their own immediate orders, and directly responsible to them. The President, therefore, proposes to relieve the civil posse of Maine, by placing small detachments of United States' troops in the two positions which portions of that posse now occupy.

The President understands, that occupation of any part of the Disputed Territory, under arrangements heretofore made, or now made, or to be made is not to be regarded, by either party, as giving any new strength to the title or claim of either, or as taking a military possession; but that such occupation is to be understood to have for its objects, as was stated by you in our last conversation, the peace of the borders, and the preservation of the property, for the benefit of whichever of the parties may be found ultimately entitled to it. It is not intended that any detachment of troops, on the part of the United States, shall be placed farther north than the spot now occupied by one part of the posse of Maine, at Fish River; it being understood that the detachments of British troops will be continued in their present position, on the left or north bank of the St. John's River. The distance of these positions from each other, and still more the discipline of the troops, will, it is trusted, prevent danger of collisions; while the positions themselves are so selected that trespasses on any part of the Disputed Territory may be prevented.

A respectful attention has been paid to a suggestion heretofore made by you, that the Authorities of the United States should occupy the valley of the Aroostook, and those of the British Government that of the St. John's. But this would be in some considerable degree indefinite, as it might not be easy to ascertain, without trouble and expense, the highlands which separate those valleys. But if the understanding be, that the British Authorities shall hold the possession of that part of the Disputed Territory which lies north of the St. John's, the United States, in the meanwhile, denying the British right to it; and the Authorities of the United States shall hold possession of the part south of the St. John's; the British Government, in like manner, denying the American right to it,— an arrangement will be accomplished which promises quiet on the border, and the security of the territory against trespasses.

I have great pleasure in communicating to you, thus frankly, the motives which have led the President to relieve the civil posse of Maine, by the substitution of a small detachment of United States' troops, to take its place in the two positions which it now occupies.

June 9, 1841.

Inclosure 5 in No. 27.

Mr. Fox to Mr. Webster.

MEMORANDUM.

I HAVE no doubt that I shall receive before long the answer of Her Majesty's Government to the last project of Convention, &c., offered by the Government of the United States. I am certain that Her Majesty's Government will use no unnecessary delay; but it is nevertheless very possible that the present short session of Congress may close before the Convention can be concluded; in any case, the Commission to be appointed under the proposed Convention could not now go into operation until the spring or summer of next year, 1842. It is to be hoped no evil will result from this delay; but, if any should, it must be attributed to the unexpected rejection, by the American Government, of the last previous Draft of Convention offered by Her Majesty's Government; which Draft was framed in exact accordance with the terms that were understood to have been already agreed to by the United States.

With respect, in the mean time, to the provisional custody of the different parts of the Disputed Territory, (which forms the other portion of your letter,) Her Majesty's Government at home, and the Colonial Authorities of North America, have long been desirous to amend and place upon a more definite and satisfactory footing the temporary arrangement now subsisting. Her Majesty's Government would not, I believe, be averse from concluding an arrangement, by which the several parts of the territory should be placed provisionally in the custody of British and United States' regular troops, respectively, within specified limits, and to the exclusion altogether of the armed civil posse of Maine now employed. I had several communications with Mr. Forsyth upon this subject, and delivered to him an informal memorandum, dated August 17, 1840, of the terms upon which I should consider myself authorized to assent to the arrangement. But the plan proposed in your letter, although satisfactory in some points, greatly exceeds those terms. I do not believe that Her Majesty's Authorities would consent to the stationing of an United States' force at the post called Fort Jarvis at the mouth of Fish River, Her Majesty's Government considering that that post was established by Maine in direct contravention to all the existing agreements, and in derogation to the authority and jurisdiction which have always been held by Great Britain. Her Majesty's Government expect that the station at the mouth of Fish River shall be relinquished altogether, under any new arrangement that may be agreed upon: and I am under the impression, that if, without the assent of the British Government, an American force should be placed there, Her Majesty's Authorities will find themselves obliged to strengthen considerably the British military force within that part of the Madawaska settlements which lies to the south of the St. John's, for the protection of Her Majesty's subjects there residing; and these movements would occasion much risk of dangerous collision between the forces employed by the two parties.

With respect to the proposal of making the channel of the St. John's the temporary line of demarcation, it no doubt presents, geographically, many advantages; but, politically, it is open to objection, if strictly adopted. The Madawaska settlements, peopled wholly by British subjects, cover both banks of the St. John's for some distance along its course; and I apprehend that no temporary arrangement would be consented to by Great Britain, which excluded any part of those settlements from British jurisdiction and authority; such jurisdiction and authority having never ceased to be exercised there, The presence in any part of those settlements of an American force would occasion conflicts of jurisdiction; and such conflicts, if supported or engaged in by the regular troops of the two parties, would lead to very serious consequences.

I offer you the above informal remarks upon the subjects treated of in your proposed letter to me. I should not feel authorized to reply to your

proposal definitively and officially, until I have received the opinion of the Governor-General Lord Sydenham, with whom I shall immediately communicate upon the subject.

June 11, 1841.

No. 28.

Mr. Fox to Viscount Palmerston.—(Received August 29.)

My Lord, *Washington, August* 8, 1841.

I HAVE the honour herewith to inclose copies of a series of communications, with their respective inclosures, which I have recently received from his Excellency the Governor-General of British North America, and from the Lieutenant-Governor of New Brunswick, upon various incidental matters connected with the present state of the Disputed Territory. The first part of these communications was referred to in my despatch to your Lordship of the 27th of June; they are now continued up to the 27th of July, which is the date of the last letter that I have received from the Lieutenant-Governor of New Brunswick

I have, &c.,
(Signed) H. S. FOX.

Inclosure 1 in No. 28.

Sir William Colebrooke to Mr. Fox.

Government House, Fredericton,
Sir, *New Brunswick, May* 10, 1841.

1 HAVE the honour to inclose, for your Excellency's information, copies of two letters which I have had occasion to address to Lord Sydenham, relating to the prosecution before the magistrates at Madawaska, of a man named Baker and another, who have been convicted of having enticed some soldiers of the 56th Regiment to desert, and also coucerning our relations with the Americans of the State of Maine in respect to the Disputed Territory.

I have, &c.,
(Signed) W. M. COLEBROOKE.

Inclosure 2 in No. 28.

Sir W. Colebrooke to Lord Sydenham.

Government House, New Brunswick,
My Lord, *Fredericton, May* 1, 1841.

I HAVE the honour to inform your Lordship that I have this day received a report from Mr. Mc Lauchlan, the Warden of the Disputed Territory, that he had arrested a person named Baker, and three others, with a charge of having enticed several soldiers to desert from the detachment of the 56th Regiment stationed at the Madawaska; that he had brought them before himself and another magistrate, and had fined Baker, on conviction, 20*l.*, who paid the money, and was discharged, though declining, as an American citizen, to acknowledge the jurisdiction.

I have called on Mr. Mc Lauchlan to make me a special report of these

proceeds, and to repair to Fredericton to afford explanations in a case which gives occasion to reference from the Authorities in Maine, the residence of Baker being near the Fish Rivers.

I have, &c.,
(Signed) W. M. COLEBROOKE.

Inclosure 3 in No. 28.

Sir W. Colebrooke to Lord Sydenham.

Government House,
My Lord, *Fredericton, New Brunswick.*

REFERRING to my letter of the 1st instant, I have the honour to inclose to your Lordship, copies of two letters addressed to me by the Warden of the Disputed Territory.

Being in expectation of his arrival with a further report of his proceedings in the case of Baker, I did not enter into the circumstances of the case, in reference to which, so far as I am informed, the conduct of the Warden has been judicious.

It appears that Baker, an American of the United States, is the same person who was brought to trial in the Supreme Court of this province, in the year 1828, and found guilty of sedition in an attempt to subvert the British Authority in the Disputed Territory.

He has continued to reside in the same situation, about seven miles from the block-house erected on Fish River by the Americans, during the last year, and where, I am informed, a small number of persons from the State of Maine are still maintained.

Baker and three other persons residing with him, were arrested by a warrant from Mr. Mc Lauchlan, on the 21st ultimo, and tried on the 25th before himself and another magistrate, on a charge of assisting seven soldiers of the 56th Regiment to desert. He pleaded not guilty, and declined to make any defence, on the ground that, as an American citizen and on American territory he did not acknowledge the jurisdiction of the Court.

Baker and his servant were convicted and discharged on payment of the fine imposed. As the deserters took their route through the American post, it is probable they were assisted by the American posse; and if evidence to this effect had been obtained, it would have been equally the duty of the Warden to have apprehended those persons in the exercise of the undoubted jurisdiction with which he is invested.

It is to this circumstance that I would wish to draw your Lordship's attention.

After the correspondence which took place between His late Majesty's Government and the Government of the United States, in respect to the case of Baker, it is not probable that his complaint of the issue of the present proceedings against him will be attended to by the General Government at Washington, although it may be noticed by the authorities in the State of Maine, from whom he is understood to hold a commission; but if any of the armed posse should be apprehended for an infraction of the laws, it might give rise to renewed excitement, especially if the Warden should have occasion to require the assistance of the troops in support of his authority.

Not anticipating any immediate occurrence of this nature, and expecting shortly to see Mr. Mc Lauchlan, I do not think it necessary to give him any instructions in addition to those of Sir John Harvey, of the 25th of February. It is, however, impossible to answer for the conduct of the people of Maine, who are ready to avail themselves of any opening to advance their pretensions, and to embarrass the British Government during the pending negotiations, which I cannot but hope will be brought to a satisfactory issue in the course of the present summer.

I have, &c.,
(Signed) W. M. G. COLEBROOKE.

Inclosure 4 in No. 28.

Sir W. Colebrooke to Mr. Fox.

Government House, Fredericton,
Sir, *New Brunswick, May* 15, 1841.

IN reference to my letter of the 10th instant, I have the honour to transmit to you the copy of a further communication which I have addressed to Lord Sydenham upon the subject of our relations upon the frontier, and the claims of Her Majesty's subjects in the Madawaska settlement.

I have, &c.,
(Signed) W. M. G. COLEBROOKE.

Inclosure 5 in No. 28.

Sir W. Colebrooke to Lord Sydenham,

My Lord, *Fredericton, New Brunswick, May* 11, 1841.

MR. Mc LAUCHLAN, the Warden of the Disputed Territory, arrived in town yesterday from Madawaska, and has communicated to me the proceedings in the case of Baker and others, referred to in my letter to your Lordship of the 8th instant. From the minutes of the Warden, taken before himself and another magistrate, it appears that Captain Ryan, who is in charge of the American armed posse stationed at the mouth of the Fish River, was present at the house of Baker when the deserters were in it.

The apprehension which I expressed, that the Americans might be implicated in acts which would subject them to the penalties of the law, has been strengthened by the circumstance.

From the report of the Warden, of the 9th of November, on the subject of the town meeting held by the Americans in the settlement, it appears Captain Ryan publicly declared himself to be invested with authority as a magistrate; and Mr. Mc Lauchlan considers that, if required to act in support of his own authority when any of the party might commit acts of aggression, he would be resisted in a manner to render it necessary to require the support of the troops: a proceeding which would doubtless revive the hostility of the people of Maine, and lead to collision with them.

Mr. Mc Lauchlan informs me he has reason to believe that it is intended by them, during this present summer, to run a road to the banks of the St. John, between the Great and Little Falls, and that elections will be held in the settlement, as in the last year. He delays, however, to report officially on the subject, until he has acquired more precise information; but threats have been held out to him that, in the event of his interference with such a proceeding, he would be arrested and sent to Augusta.

It is certain that the land-agent is selling lands in the Restook; that the settlement of the country is in progress by the Americans, and will be accomplished with a rapidity which would render it extremely difficult, if not impracticable, to disturb them.

Although Mr. Mc Lauchlan has of late effectually checked the cutting of timber in the Disputed Territory by the people of the province, he was lately informed by the land-agent, that he was about to grant licenses to the Americans to cut what he called "burnt timber," to which the Warden objected, alleging that it would lead to the burning of the woods and the cutting of the timber, on the plea that it was burnt; and considering that the alleged grounds for the employment of an armed posse in the Disputed Territory, was to prevent the destruction of the timber by Her Majesty's subjects, this proceeding must be regarded as indicating that other views are contemplated in the occupation.

Under all these circumstances, it is important at this time to consider of the measures to be taken for the maintenance of pacific relations between the two countries, pending the negotiations which are in progress.

In the consideration of the subject, I have referred to your Lordship's letters to Sir John Harvey.

In that of the 23rd of November last, you have stated that your instructions from Her Majesty's Government are not to permit Maine to occupy or possess land to the north of the St. John's, and to maintain in perfect security the communication by the Madawaska, between Fredericton and Quebec, and that whatever is indispensable for the purpose must be done; and in your Lordship's letter of the 4th of July, you distinctly declared, that Her Majesty's subjects on both sides of the St. John's River were entitled to the protection of the troops stationed at the Madawaska.

On the 20th of February, the Warden applied to Sir John Harvey for instructions for his guidance, not having received any instructions subsequent to the arrival of Her Majesty's troops in the settlement; to which Sir John Harvey replied, on the 20th of February, as follows: "That it was not the intention of Her Majesty's Government to relinquish, during the pending negotiations, any part of the jurisdiction over the Madawaska settlements; secondly, that the settlement was considered as extending up the River St. John as far as any inhabitants have been located and established, and would continue to be so considered; and thirdly, that in the event of an American armed posse entering the Madawaska settlement, either above or below the Fish River, it would be the duty of the Warden to put himself in communication with the officer in command of the Queen's troops, who had received instructions for his guidance."

The Warden was directed to apply for special instructions on any occasion which might call for interference out of the line of his ordinary duties as Warden and a magistrate. As the jurisdiction of the Warden had been exercised for so long a time over the whole Disputed Territory, and as it is still exerted in preventing Her Majesty's subjects from cutting timber in it, and as this prevention was the plea on which the American armed posse was first introduced, to limit now the jurisdiction of the Warden to the banks of the Fish River, would risk a renewal of collision of the posse with our lumberers, who, on any relaxed vigilance of the Warden, would probably renew their operations. The temptation is strong, from the fact that the most valuable timber is drawn from the Disputed Territory.

If the Americans should cut the timber, the people of the province would complain of being excluded, but as the whole would necessarily be transported by the St. John's River, where it would be liable to seizure, there is no immediate occasion for interference.

From the position of the armed posse at the confluence of the Fish River and the St. John's, the duties of the Warden in protecting the inhabitants of the Madawaska settlement will require much circumspection. In the erection of their block-house, called Fort Jarvis, they cleared land adjoining the improvement of one of the Madawaska settlers, which he claimed; and if, in opening the projected road, they should further proceed to encroach on the lands of the settlers, much embarrassment would ensue, as I find that, in contemplation of the adjustment of the Boundary, when the question was referred to the King of Holland, the British Government had discontinued granting lands to the settlers, who have, however, continued to colonize on both banks of the St. John's as far as the St. Francis, or sixteen miles higher than the American block-house, the settlement having become populous. Grants of land on both banks appear to have been made to the first settlers in 1786 and subsequently; although the difficulty, under actual circumstances, of defining the boundaries of ungranted lands on the south side of the Fish River may be an obstacle to conferring titles for their occupancies to those who have taken up lands without grants, I anticipate that, without such confirmation, the further encroachment of the Americans may be looked for, and their proceedings in settling the lands on the Restook will fully justify the British Government in securing the interests of their subjects who have so long been settled at the Madawaska, and whose conduct has entitled them to protection. It may be further observed, that by an act passed by the Legislature of this province in 1833, the Madawaska is distinctly recognized as a town or parish of the county of Carleton, and is declared to embrace all that part of the "county which lies to the northward of the towns or parishes (of Perth and Andover) on both

sides of the River St. John, and to be called known, and distinguished by the name of 'Madawaska.'"

The advance, therefore, of the American armed posse to the St. John's, at the mouth of the Fish River, and which immediately followed the removal of the 11th Regiment, has been extremely embarrassing, and it may be apprehended, will lead to their continued assertion of a right of jurisdiction along the right bank, which the British Government, in justice to its subjects, will be bound to resist.

In the Warden's report of the proceedings at the town meeting, in November last, he noticed the peaceable conduct of the Acadian settlers, who took no part whatever with the Americans; and although their appeal for protection against those proceedings had been delayed to obtain signatures, it manifests the feeling to which the conduct of the Americans has given rise.

It will therefore become a question how far the maintenance of pacific relations on the frontier will be practicable, unless the General Government of the United States may be prepared to co-operate, as before, with Her Majesty's Government in arresting the encroachments of the State of Maine, which are calculated to produce collision; and if this should be impracticable, to employ a body of regular troops to control the irregular force which is not wholly withdrawn, and may at any time be augmented.

The regular troops, if stationed at the Restook, and Her Majesty's troops at the Madawaska, would afford a guarantee for the strict observance of existing engagements between the two Governments pending the negotiations, which does not at present exist, and which could, under no circumstances, be left to depend on the irregular forces of the State of Maine, even if their disposition to encroachment had not been fully manifested.

As soon as the country is open, and the roads are practicable, I propose to proceed to Madawaska, and to inspect the frontier line, when I will again address your Lordship on these important subjects.

I have, &c.,
W. M. G. COLEBROOKE.

Inclosure 6 in No. 28.

Sir W. Colebrooke to Mr. Fox.

Government House,
Sir, *Fredericton, June* 2, 1841.

WITH reference to my letter to your Excellency of the 18th ultimo, I do myself the honour of inclosing to you the copy of a further communication which I have this day addressed to Lord Sydenham on the subject of our relations with the Americans on the frontier.

I have, &c.,
(Signed) W. M. G. COLEBROOKE.

Inclosure 7 in No. 28.

Sir W. Colebrooke to Lord Sydenham.

My Lord, *Fredericton, New Brunswick, June* 2, 1841.

I HAVE had the honour to receive your Lordship's letter of the 21st ultimo, marked "Confidential," and, in pursuance of your request, I have given instructions to the Warden of the Disputed Territory, enjoining on him and the other magistrates of the division, the observance of the strictest caution in the exercise of their jurisdiction where the American posse may be concerned.

I inclose a copy of these instructions, referring to those of Sir John Harvey; but I must candidly avow to your Lordship, that in a review of the proceedings since 1838, I can feel no assurance that a collision with them can be

avoided; and unless the Boundary Question should be soon settled, I apprehend that the people of Maine will again attribute the delay, as they have done on former occasions of excitement, to the British Government, and which is calculated to lead to excesses in a population so little amenable to authority.

I am bound also to observe to your Lordship, that a strong feeling exists not only amongst the Acadian settlers at Madawaska, but generally throughout the province, as to the inefficacy of the concessions made to the Americans, and the undue advantage they have taken of the conciliatory disposition manifested towards them; and I am strongly of opinion, that if the negotiations are likely to be protracted, the employment of the regular troops of both States would be a measure of wise precaution, and probably the only one that would effectually guard against a collision.

I have, &c.,
(Signed) W. M. G. COLEBROOKE.

P.S.—I inclose to your Lordship the extract of a letter from M. Langevin, the Catholic priest at Madawaska, to Sir John Harvey, which may be considered to convey the sentiments of the people with whom he is connected.

(Signed) W. M. G. C.

Extract of a Letter from M. Langevin to Sir John Harvey.

Madawaska, 15 *Juin*, 1841.

QUANT aux affaires politiques, nous vivons tantôt dans l'espérance et tantôt dans la crainte de ce qui va se passer par rapport à la ligne; mais advienne ce que pourra, nous aimons mieux la guerre que de céder un pouce de terrain de Madawaska aux Américains.

Inclosure 8 in No. 28.

Lord Sydenham to Mr. Fox.

Sir, *Government House, Kingston, June* 8, 1841.

I HAVE the honour to transmit to you herewith, the copy of a despatch addressed to me by the Lieutenant-Governor of New Brunswick, on the 11th ultimo, together with a copy of my despatch to him of the 21st May, and an extract of my answer to his present despatch.

I trust that the further information which it was expected to obtain, and in anticipation of which I have hitherto delayed to address you, may show that some mistake exists as to the intentions of the people of Maine. Judging, however, from their former proceedings, it is but too probable that they are truly represented, and I therefore deem it expedient to possess you of these despatches, in order that you may, if possible, avail yourself of an opportunity to draw the attention, unofficially, of the United States' Government to the rumours which prevail of the intentions of Maine. They may perhaps, thus forewarned, be able to arrest such proceedings, should they be really meditated, and avert the necessity of any formal application, which would become indispensable under these circumstances.

They will readily perceive that Great Britain cannot acquiesce in any further encroachments by the State of Maine, or any further interference with Her Majesty's subjects on the banks of the St. John's. If, indeed, the people of Maine are permitted to extend their settlements in the Disputed Territory, as they have hitherto done, the claims of Great Britain will be virtually decided without the intervention of either Government; and against this result we are bound to take effectual precautions.

I have, &c.,
(Signed) SYDENHAM.

Inclosure 9 in No. 28.

Sir W. Colebrooke to Lord Sydenham.

[See Inclosure 5 in No. 28, p. 146.]

Inclosure 10 in No. 28.

Lord Sydenham to Sir W. Colebrooke.

Sir, *Government House, Montreal, May* 21, 1841.

I HAVE the honour to acknowledge the receipt of your Excellency's despatch of the 8th instant.

My official despatch of the 17th instant will have communicated to you my approval of the course pursued by the Warden of the Disputed Territory, in the case of Baker, to which reference is again made by your Excellency in your present letter. The offence committed by that person could not with propriety be passed over. He had already been made amenable to the laws of the province; and even under the limits assigned under Sir John Harvey's Convention, and maintained by him, there can be no doubt that he and those residing near him, fall under the jurisdiction of Her Majesty. In the event, therefore, of attention being given to any complaint he may prefer to the American Government, which I agree with you, however, in thinking unlikely, our answer is easy and direct.

But the case which you put as one of possible occurrence, namely, that of the implication of any of the American posse at Fish River, in similar offences demanding the exercise of his authority over any one of that body by the Warden in like manner, is one of a different character, and of a very delicate nature.

I entertain the most decided opinion, that the Americans ought never to have been permitted by Sir John Harvey to form that establishment which was in direct and open violation of the Convention made by himself; but it has been suffered, and thus the curious anomaly is presented of an armed posse, in the pay and under the authority of a Foreign State, being stationed within a district over which Her Majesty claims and has exercised jurisdiction. Whilst, therefore, it is true that the authority of the Warden extends, even according to the interpretation above referred to, over the fort at Fish River, it would, in my opinion, be extremely imprudent and unwise to call it in question unless we are prepared to carry it to its full extent, which would really be the removal of the American posse altogether. A case might arise of so grave a character, in the shape of insult or injury to Her Majesty's subjects along the St. John's, as would necessitate interference with this force and justify the collision which must attend it, but every endeavour should be used to avoid it, and certainly the offence contemplated as likely to call for it, is one of the last which would be a sufficient motive for what might be attended with such serious consequences.

I would, therefore, request your Excellency to enjoin the strictest caution on the Warden, with regard to his conduct in this respect, and to direct him in the special case in question to abstain from any interference with the American civil posse. Whilst it is incumbent upon him to afford protection to the inhabitants of the settlements in the event of their being aggrieved, and to prevent the assumption and exercise of jurisdiction over them by any American authority, it is no less desirable, under the peculiar state of the question, carefully to avoid any step which may, without grave cause, renew agitation, or, above all, bring on a collision.

I take the opportunity of informing your Excellency that a portion of the

troops now at Madawaska will be withdrawn to the barrack at the Dégelée, in conformity with an arrangement desired by the Commander of the Forces, on military grounds.

I have, &c.,
(Signed) SYDENHAM.

Inclosure 11 in No. 28.

Lord Sydenham to Sir W. Colebrooke.

(Extract.) *Kingston, June* 8, 1841.

I HAVE the honour to acknowledge the receipt of your Excellency's despatches of the 11th, 15th, and 27th of May, on the subject of the Disputed Territory, and the proceedings adopted by the Warden for its protection. I had abstained from answering you before, in expectation of receiving the further intelligence, which the concluding sentence of your despatch of the 11th of May led me to expect.

From my despatch of the 21st ultimo, your Excellency will have learned my views in regard to the exercise by the Warden of any authority over that part of the Disputed Territory now in possession of the State of Maine. I still continue to think that every exertion should be made not inconsistent with the national honour and the safety of Her Majesty's subjects, to prevent a collision; but it is impossible to allow the people of Maine to carry out the scheme which you suppose to be in contemplation, without an entire sacrifice of British interests. I trust that the further information which Mr. Mc Lauchlan is seeking, will shew that some mistake exists as to their intentions, if not, I shall immediately, upon receiving your letter and further report, apply to Mr. Fox, with a request that he will at once appeal to the Federal Government to prevent acts on the part of Maine, which are contrary to the existing arrangements between the countries, and which, if persisted in, must inevitably lead to collision. I shall, without waiting for the report, inform that gentleman of the rumours which prevail, in order that he may take an opportunity of bringing them privately before the United States' Authorities, with a view to their prevention.

In the meantime, the instructions which were addressed by the Secretary of State and myself to Sir John Harvey will sufficiently point out to your Excellency the course to be pursued, to protect the inhabitants of the Madawaska settlement, and to keep open the communications between the Lower Provinces and Quebec.

In regard to the cutting timber, the Warden should continue, as heretofore, to prevent any of Her Majesty's subjects from infringing in this way on the existing agreement, and any timber cut by citizens of Maine, should, without fail, be seized on its passage down the St. John's. It would probably be expedient to make known the intention of the British Authorities in this respect, as a means of deterring the American population from any proceeding of the kind.

Inclosure 12 in No. 28.

Sir W. Colebrooke to Mr. Fox.

Sir, *Government House, Fredericton, June* 9, 1841.

I HAVE the honour to inclose to your Excellency, for your information, the copy of a despatch which I have this day addressed to Lord Sydenham, with a communication I have received from the Warden of the Disputed Territory.

I hope that early intimation may be given to me of any military movements which may be intended upon the frontier of this province.

I have, &c.,
(Signed) W. M. G. COLEBROOKE.

Inclosure 13 in No. 28.

Sir W. Colebrooke to Lord Sydenham.

My Lord, *Fredericton, New Brunswick, June* 9, 1841.

I HAVE received this day a despatch from the Warden of the Disputed Territory of which I inclose to your Lordship a copy, and of my reply to it.

Your Lordship will have been prepared, by my previous communications, for the interference of the Americans with the settlers at the Madawaska, and I regret that a magistrate of this province should have been so far misled as to have entered into the transactions alluded to in complying with the demand of the land agent for the payment of dues on the timber.

I have referred to the Attorney-General on the subject; but it must have been known to the American Agent, that the licence to cut timber in the Disputed Territory could not exempt it from seizure, if attempted to be introduced into this province.

I hope to receive instructions from your Lordship or Her Majesty's Minister at Washington, of any arrangement which may be made respecting the intended employment of troops on the frontier, and of the relief of the armed posse at the Fish River.

I have, &c.,
(Signed) W. M. G. COLEBROOKE.

P.S. I inclose copy of the Attorney-General's Report just received.

Inclosure 14 in No. 28.

Mr. Mc Lauchlan to Sir W. Colebrooke.

May it please your Excellency, *Grand Falls, June* 4, 1841.

PERMISSION having been given by his Excellency the Governor and Council in March last, upon the recommendation of the Surveyor-General, for allowing the settlers of Madawaska, as well as other persons, to haul and take to market any old white pine timber in their possession, by paying a duty of 4*s.* to 5*s.* a ton into the crown-land office; it now appears, by a letter I have received from Mr. Coombs, a magistrate of Madawaska, a copy of which I have the honour to transmit to your Excellency, showing, that he has purchased from the settlers residing on the St. John's, above the block-house occupied by the American armed posse at the entrance of the Fish River, a quantity of timber, about 500 tons, part of which I find old, and part new, and for which he is obliged to pay to the land agent of the State of Maine 5*s.* per ton, previous to his being allowed to remove the same.

I am informed by Mr. Coombs, the indulgence granted by our Government to the settlers of Madawaska was previously allowed by the land-agent of Maine to that portion of the settlement above the Fish River; and further, that permission had not only been given to remove the old timber, but to manufacture new, through the woods where timber had been iujured by fire.

Mr. Coombs has also stated to me, that in a conversation he had a few days ago with the officer in charge at the Fish River, that the civil armed posse was shortly to be removed, and the block-house occupied by a military force; and that no jurisdiction, on the part of the Civil Authorities of Madawaska, would be permitted by the State of Maine beyond the Fish River. I find Mr. Coombs is of opinion, that the instructions recently received by the assessors of county rates from Her Majesty's Attorney-General, for assessing all the property through the settlement, which must include that in possession of the American armed posse, will lead to a collision between the two Governments, as, no doubt, some of the peace-officers, in the execution of their duty, will be arrested and sent on to Houlton or Bangor.

I have, &c.,
(Signed) JAMES A. Mc LAUCHLAN.

Inclosure 15 in No. 28.

Mr. Coombs to Mr. Mc Lauchlan.

Sir, *Madawaska, May* 31, 1841.

I HEREWITH inclose you a receipt from Captain Rines, Deputy land-agent at Fish River, for 642½ tons of timber, at 5*s.* per ton duty, which was manufactured on lands occupied by, and purchased by me from, the settlers in the vicinity of Fish and St. Francis Rivers, the said timber being principally old timber, and the remainder made of trees partially burnt over whilst clearing land.

I, therefore, beg that you will lay this communication before Her Majesty's Government for consideration, and trust that I may be allowed to carry said timber to market free of any further duty.

I have, &c.,
(Signed) L. R. COOMBS.

Receipt of Captain Rines.

Fish River, May 29, 1841.

RECEIVED of L. R. Coombs 642 dollars and 50 cents in full, for the stumpage of 642½ tons of white pine timber, cut on the public lands in the vicinity of the St. Francis Rivers, by the settlers, viz. :—

	Tons.
Messrs. Johnson and Savage - -	420
Nathaniel Bartlett - - -	50
Dominick and Kendall - - -	111
Augustus Pickard - - -	40
J. H. Ryan - - - -	21½
Total -	642½

(Signed) STOVERT RINES,
Deputy Land-Agent of the State of Maine.

Inclosure 16 in No. 28.

Sir W. Colebrooke to Mr. Mc Lauchlan.

Fredericton, New Brunswick,
Sir, *June* 9, 1841.

I HAVE received your letter of the 4th instant, inclosing to me an application you had received from Mr. Coombs, a magistrate of Madawaska, dated the 30th ultimo, to be allowed to bring to market, free of duty, certain timber for which he had paid the American agent, but which he had purchased from the settlers residing on the St. John's, above the American block-house at the entrance of the Fish River, who had cut it, under permission given by the Lieutenant-Governor in Council in March last. You also inform me that certain instructions, recently received by the assessors of county rates from the Attorney-General, for assessing all property through the settlement, which, as you state, (must include that in possession of the American armed posse,) would lead to a collision between the two Governments.

I have referred to the Attorney-General for his explanation upon the foregoing subjects; but, as I conclude from the date of your letter, that you had not received my instructions of the 2nd instant, I need only refer you to them for your guidance; it being obviously important, that the assessors should not be allowed to interfere in any measure with the Americans at the block-house, by proceeding to assess their property at that place.

In respect to the application of Mr. Coombs, I cannot at all recognize the transaction between himself and the American land-agent. If the timber is the property of British settlers, it would be admissable only on the terms and conditions of the licence from this Government, and not in virtue of any authority to cut it by the American land-agent; and if obtained otherwise than by authority from hence, it is liable to seizure under the special commission granted to you.

You will not fail to report to me by an express messenger, any occurrence of importance at the Madawaska, giving me immediate intimation of the arrival of any troops at the block-house, and of the relief of the armed posse.

I have, &c.,
(Signed) W. M. G. COLEBROOKE.

Inclosure 17 in No. 28.

Mr. Peters to Sir W. Colebrooke.

May it please your Excellency, *Fredericton, June* 9, 1841.

I HAVE the honour to return the inclosed papers.

With respect to that part of Captain Lauchlan's letter which relates to the timber claimed by Mr. Coombs, and for which he (Mr. Coombs) states he has paid what he calls "stumpage" to the American deputy land-agent, (by which term I understand him to mean, licence to cut the same within the Disputed Territory), it does appear to me that under existing circumstances, the fact that the timber was cut under such licence, must of itself prevent the Government from allowing it to pass; as the doing so would be considered as a sanction to the American claim to the Disputed Territory in question. The occupation of the same by the armed posse, wrongful as it is, was professed to be solely to prevent trespassers, and to save the territory from devastation, until the final settlement of the question in dispute, and not to give them permission to give licences which this Government withholds.

If Mr. Coombs' case had been simply the purchase of timber cut under the order of the Governor and Council in March last, there would be no difficulty; but when, from his own showing, the said timber (or some part at least) was cut by authority of the State of Maine, and beyond what was intended by that order, and which, I presume, is now so intermixed as to prevent a distinct separation, I do not see how it can be allowed to pass free.

I also consider that any of the timber in question, which was not cut under the licence in March last, was illegally cut, and, as such, the right of property therein is not legally vested in the trespasser.

Captain Mc Lauchlan has no power, as Warden of the Disputed Territory, to seize the timber; but he holds a commission under the Great Seal of the province, giving him such an authority.

The communication from the assessors at Madawaska did not state for what purpose the assessment was ordered. It was stated to be for parish rates, and, therefore, I am unable to refer your Excellency to the particular provincial statute. The Court of Sessions have power to assess the inhabi tants in different counties, "for money to support the poor, to pay county contingencies, to build jails, and court-houses, and buildings for the safe-keeping of the county records," and, occasionally, for other county purposes; and it would require that I should be furnished with a copy of the assess warrant, before I could point out the particular Act to your Excellency.

I have, &c.,
(Signed) CHARLES J. PETERS,
Attorney-General.

Inclosure 18 in No. 28.

Sir W. Colebrooke to Mr. Fox.

Sir, *Fredericton, June* 19, 1841.

I HAVE the honour to inclose to your Excellency copy of two despatches I have addressed to the Secretary of State for the Colonies, on the subject of the defence of the frontier and the settlement of the Boundary Question.

I have, &c.,
(Signed) W. M. G. COLEBROOKE.

Inclosure 19 in No. 28.

Sir W. Colebrooke to Lord John Russell.

My Lord, *Fredericton, New Brunswick, June* 14, 1841.

REFERRING to my despatch dated 9th June, I have the honour to report to your Lordship, that on the 10th instant, I proceeded to Woodstock with the object of inspecting the site of the barracks proposed to be erected at that place, and of forming an opinion of the necessity of proceeding with the work.

The township of Woodstock, which is situated on the St. John's River, is the most prominent settlement in that quarter, and the elevated ground selected for the barrack is extremely well chosen for the defence of the position.

After inspecting the ground I proceeded to the frontier line opposite to the American settlement of Houlton.

This settlement, which is increasing rapidly, is distant about ten miles from Woodstock, and a military post has been formed which is occupied by a body of the troops of the United States.

The post is retired about two miles from the frontier, and is overlooked from an eminence within the British territory called Parkes' Hill.

Roads having been opened from Woodstock in various directions, and extending to the frontier, several thriving settlements have been formed; and as a doubt exists whether these settlements may not, in some cases, be found to be beyond the line as recently retraced by the American surveyors, much anxiety prevails; and I regretted to understand, that the feelings of the people on both sides of the border had been, of late, considerably excited.

The British settlers, being aware of the influence which those of the State of Maine are able to exert upon their Government, are not disposed to rely upon the pacific disposition of those in authority; and I confess that I am apprehensive that no adequate security at present exists for the maintenance of tranquillity. I am, therefore, of opinion, that as a measure of precaution as well as of defence, the establishment of a body of regular troops at Woodstock is desirable; by giving confidence and a sense of security to the settlers, it will tend to allay the excitement which at present prevails, and to prevent those movements on the part of the people of Maine, which might disturb the peace of the frontier.

It is not now a question whether the valuable lands within the line should be reclaimed and settled, or left in a wilderness state with a view to defence. The country is now in progress of settlement on both sides of the line, and it appears to me to be of the utmost importance, that while the American population is rapidly augmenting, the settlement of the British territory should not be retarded.

The Assembly having passed a resolution in the last session to enable the Government to purchase the land required for the intended barracks, the tenders have been recently approved in Council; and I beg leave to recommend to your Lordship that the work should be proceeded with, as soon as it may be practicable.

From the various information I have recently received, I am strongly impressed with a conviction that the only practicable means of effecting a

settlement of the long-pending Question of the Boundary Line, will be for the Government of England and the United States to appoint competent persons to draw a line of mutual convenience which should divide the two countries, leaving to arbitration the various claims to pecuniary compensation arising from the surrender of lands on either side. The settlement of the Americans upon the lands south of the Restook River, would render them extremely reluctant to resign any part of that valuable territory; but I have reason to believe that they would at present agree to a line being drawn from the point where the north line crosses the Restook to the confluence either of the St. Francis, or of the Fish River with the St. John's; by such a line the British settlers on both banks of the St. John's would be protected,—a measure which is very desirable, both in justice to them and in consideration of the moral effect which an abandonment of them would have within the province. It is not necessary that I should inform your Lordship that while the inhabitants of this province entertain a strong feeling against any concession being made to the Americans, those of the neighbouring States of the Union are equally strenuous in their claim to the Territory in dispute, and that their influence might be effectually exerted in defeating the plan of the General Government for the settlement of the boundary on any basis which would involve a renewal of the question of right By the proposed line the communication with Quebec would also be adequately secured, and a better boundary line secured than that of the river of Woodstock. I found that the Governor of Maine had left the place but a few hours previous to my arrival, having come there in the course of his tour through the new settlements. From Major Ruxton, who has recently arrived at this place from Canada by the way of Boston, I learn that the question is much discussed at the present time by the Americans, and not always in a friendly spirit.

I have, &c.,

(Signed) W. M. G. COLEBKOOKE.

Inclosure 20 in No. 28.

Sir W. Colebrooke to Lord John Russell.

My Lord, *Government House, June* 18, 1841.

WITH reference to my despatch, dated June 14, recommending an early settlement of the Boundary Question by drawing a line which might be agreed upon as mutually convenient, I beg to observe that I have not failed to consider the advantages of a line of separation drawn from the due north line at Mars' Hill to the confluence of the St. Francis or Fish River with the St. John's.

Circumstances might at one time have induced the Americans to assent to such a line, and, if now attainable, it would undoubtedly be preferable to the line which I have proposed from the point where the north line intersects the Restook; but the settlement of the lands south of that river by the people of Maine would probably lead them to oppose it, and such opposition would, as I apprehend, effectually prevent the Government of the United States from acceding to it.

The encroachments which have taken place, and the embarrassment they have occasioned, induce me to consider that no time should be lost in effecting such a settlement as may now be practicable, and that would not compromise the just rights of the settlers on both banks of the St. John's River at Madawaska, who have a just claim to the protection of the British Government.

There is another question which has been mooted regarding the navigation of the St. John's by the Americans.

The project alluded to in the Report of the British Consul in Maine, inclosed with your Lordship's despatch of the 27th of May, of cutting a canal to unite the waters of the Allegash with those of the Penobscot, would indicate that the Americans are looking to other means of transporting the lumber to their markets.

The St. John's would, however, still be the most convenient channel for the valuable timber cut near the Restook; and if any equivalent advantage should be obtained in the settlement of the boundary, I am of opinion that the privilege might be accorded to the Americans of floating their timber down the St. John's, it being understood that the privilege should be strictly limited to that object.

I have, &c.,
(Signed) W. M. G. COLEBROOKE.

Inclosure 21 in No. 28.

Sir W. Colebrooke to Mr. Fox.

Government House, Fredericton,
Sir, *New Brunswick, June* 26, 1841.

I DO myself the honour to inclose to you, for your information, the copy of a letter which I have this day addressed to Lord Sydenham on the state of our relations with the Americans on the frontier of this province.

I have, &c.,
(Signed) W M. G. COLEBROOKE.

Inclosure 22 in No. 28.

Sir W. Colebrooke to Lord Sydenham.

My Lord, *Fredericton, N.B., June* 25, 1841.

ON the 23rd instant I had the honour to receive your Lordship's letter, dated Kingston, the 8th instant, and by the same opportunity I received one from Mr. Mc Lauchlan, dated Madawaska, the 19th.

Since the dates of my letters now acknowledged by your Lordship, I have successively addressed you on the 2nd, 9th, and 19th instant, and the communications of the Warden, which I herewith inclose, will put your Lordship in possession of the present state of affairs upon the frontier.

When I wrote to your Lordship on the 11th of May, it was my intention to have proceeded at an early period to Madawaska; but on further consideration I was induced to postpone that intention, unless circumstances should occur to render it necessary; and I am of opinion that in the existing circumstances of our relations with the Americans, my presence could only have the effect of bringing on questions with the inhabitants, for the solution of which I was unprepared.

Your Lordship is aware that I considered it my first duty, in assuming charge of this Government, to make myself acquainted with the correspondence which has been held by my predecessor with your Lordship, and with Her Majesty's Government, on this intricate and important subject.

I took occasion to bring under your consideration the difficulties resulting from the position which the Americans had been permitted to assume; and from the responsibility devolving on me in the protection of Her Majesty's subjects and the administration of the laws, I expressed an apprehension that collisions could not be avoided without the adoption of timely measures of precaution by the Supreme Authorities.

It was my object to impress on your Lordship that my responsibility in reference to the question of the Boundary arose from the exercise of the jurisdiction of this province over the Disputed Territory, and more especially over the Madawaska settlement; and that the American posse having placed themselves at the Fish River within that jurisdiction, and in fact assumed it over the territory above their post, rendered it impracticable for the Warden and the other magistrates to exercise an authortty in that quarter without

collision. In point of fact, referring to the letter of the Governor of Maine to Sir John Harvey, of the 15th of December, 1840, it is quite evident that he distinctly claimed and asserted his intention to maintain that jurisdiction; and although, in conformity to your Lordship's instructions, Sir John Harvey informed the Warden, that "the inhabitants on both banks of the Madawaska were to be protected," he did not disclaim the pretensions of the Americans in respect to the settlement above the Fish River; and that the Warden has never felt himself authorized to do any act in that quarter which would, as he was aware, revive the question, or induce a collision.

On a recent occasion of the annual assemblage of the militia, the Acadian and English settlers from the Upper Madawaska turned out, whilst the French and American settlers disregarded the summons,—a result which is the natural consequence of a disputed jurisdiction; and I concur with Mr. Mc Lauchlan in opinion, that an attempt to levy the county rate in that quarter, while it would be resisted by some, would bring on a collision with the authorities of the State of Maine.

To be assured of this, it may be sufficient to refer to the letter of the Governor of Maine above-mentioned, and to the report of their Legislature in the month of March last, wherein it is stated, that "the territory contiguous to the mouth of the Fish River, on both sides of the St. John's, is not considered in any proper sense as included in the Madawaska settlement, which is confined to the immediate vicinity of that river, and does not extend even to the mouth of the Merumpticook; and although obliged to yield to the continuance of the illegal occupation at the proper original settlement of the Madawaska, they cannot allow its being extended to the Fish River, or upon the south bank of the St. John's, above the western bend, up to which Maine has at least regained and made good her ground."

By this assumption, so far as it has been partially acquiesced in, the interests of some of Her Majesty's subjects are involved, in the same manner that occurred in the case of the British settlers on the Restook in 1839.

By the separate proceedings of the British and American surveyors, the questions at issue have only hitherto been further complicated; and by the recent connexion of the north line by the American surveyors, the granted lands of several British settlers which were considered to be within that line, are now declared to be excluded.

I adduce these facts, in order to exemplify to your Lordship the consequences of delay in the definitive settlement of the Boundary by the two Governments; and important as may be the question as to the preservation of a line of communication between the British provinces, it is even more important as affecting the rights of Her Majesty's subjects, who claim the protection of the laws; for it must be obvious that the consequences which would result either from the enforcement of the laws, or from their suspension, where the jurisdiction may be disputed, are alike serious.

It is, therefore, that I would earnestly impress on your Lordship, that if the territorial claims of the two countries canuot be definitively adjusted, a convenient line should be drawn, which would at least define the extent of the jurisdiction of the respective Governments.

By the Report of the Legislature of Maine, above referred to, it would appear that the temporary arrangement of 1839, in itself imperfect, was never fully recognized in that State; and that the reservation of the Governor of Maine, in his agreement of the 25th of March, 1839, coupled with the declaration of that Legislature in the present year, has practically superseded it.

This would undoubtedly be quoted in the event of any complaint of the infraction of the agreement by the Americans. I cannot doubt that the two Governments must be conscious of the danger of leaving an intermediate territory subject to a disputed jurisdiction, and the subjects of both under doubtful allegiance to either, the effect of which could only be to induce the settlement of such territory, which is too inviting to be neglected, by outlaws from both countries, instead of the more respectable inhabitants of each, leading to border aggressions and to collisions which might involve the nations in hostilities.

When the jurisdiction is defined, the course would be to enforce the laws of either country within the respective limits, and to demand the restoration of offenders who may take refuge beyond them; a course from which both parties are withheld where the civil jurisdiction is in dispute, from the risk of recognizing a right or producing a collision.

There is another subject connected with the question, to which it is necessary that I should advert.

In 1839, measures were taken to prevent the cutting of timber in the Disputed Territory, and an act was passed under which the Warden was commissioned to seize any such timber which might be cut by British subjects. The American posse was also stationed there with the same ostensible object. Applications were subsequently made to the Government for the admission of timber which had been previously cut in 1838 and 1839, which was allowed; and a limited permission was also granted to the settlers at the Madawaska to cut timber in the lands occupied by them. Under these regulations, large quantities of timber were introduced in 1839 and 1840, bonds being taken for a duty of 4*s*. per ton upon it. My letter of the 9th instant will have apprized your Lordship that the American land-agent had levied a duty of 5*s*. per ton upon timber so cut at Madawaska; and from a subsequent application made to me, I have reason to believe that a similar duty has been levied upon all the timber introduced, on the alleged ground that it was cut in the winter of 1838 and 1839.

Mr. Mc Lauchlan is of opinion, that the quantity of timber from the Disputed Territory, now floating to St. John's, amounts to 10,000 tons; and as there is no practicable means of distinguishing timber cut in those years, and subsequently, it is obvious that the restriction imposed on the cutting of the timber is practically evaded by the Americans, who derive a large revenue from it. Mr. Mc Lauchlan adds, that he has no reason to think that the English lumberers have been engaged in these operations.

I have no doubt that the great demand for this timber at St. John's, and the apparent hardship of excluding that which had already been cut, led to the regulation; and as the timber has been purchased by persons within the province, it will be necessary that notice should be given of the enforcement of the restriction.

I have appointed the Council to assemble on Monday, the 28th instant, when the necessary measures will be taken.

The effect of excluding the timber will, I hope, lead the Americans to seek an early adjustment of the questions at issue; and if the claims to the respective portions of the territory were settled, or even a line defining the jurisdiction, I should see no objection to the readmission of the timber, on payment of a moderate duty, it being understood that the subjects of either Government should have permission to cut timber within their respective limits.

Till the regulations can be rescinded in Council, and a proclamation issued, I have required, in justice to our lumberers who have cut timber in the provinces subject to duty, that bond for the whole amount of the duties should be taken, without regard to the charges imposed by the Americans, and a declaration from the owners that the timber was cut in 1838 and 1839, previous to the agreement of the 25th of March. It may be proper to remark, that it had been the practice till then, to levy equal duties on the timber cut in the Disputed Territory and within the province, and to carry the amount of the former, when recovered on the bonds, to the account of a separate fund hereafter to be rendered when the Boundary Question should be settled.

The restriction on the importation of timber will be inconvenient to the merchants, but its admission is unjust to the British lumberers, and impolitic pending the negotiations.

It only remains for me to add to these lengthened details, that I will endeavour, as far as possible in the execution of the trust confided to me, to guard against collisions on the one hand, and the compromise of the rights of Her Majesty's subjects on the other.

In doing this, I am unable to foresee the occasions which may require that I should act, or abstain from acting. Your Lordship has observed, that the settlement of the Americans at the Fish River ought not to have been admitted, but that, under existing circumstances, it would not be advisable to

disturb them. There can be no doubt that, according to the laws of this province, they are legally within its jurisdiction, and that they are claiming, with the full sanction of their own Legislature, a jurisdiction over part of the district to which our authority has extended.

The land-agents of Maine and Massachusetts, I am informed, have been recently there to regulate the distribution of the charge of their establishments, those States having equal claims on the territory they may acquire, the value of each alternate township on the Restook being accounted for by Maine to Massachusetts.

The co-operation of those States, and indeed of others, is also apparent from the tenor of their Legislative Reports and Resolutions in the present year.

I have, &c.,
(Signed) W. M. G. COLEBROOKE.

Inclosure 23 in No. 28.

Mr. Mc Lauchlan to Mr. Reade.

Entrance of the Grand River Madawaska,
Sir, *June* 11, 1841, *Friday*, 11 *o'clock*, A.M.

I HAVE just had the honour to receive by express his Excellency the Lieutenant-Governor's despatch of the 9th instant, and I avail myself of the return of the person to Woodstock, to state to you, for the information of his Excellency, that I shall immediately communicate with the assessors of county rates, and desire them on no account to interfere with the American armed posse at the Fish River in their assessment of the parish of Madawaska, which takes place some time this month. With respect to the further instructions of his Excellency, I have only to say, that I shall strictly act up to them in every respect.

I have, &c.,
(Signed) J. A. Mc LAUCHLAN,
Warden.

P.S.—Your two letters bearing date the 2nd instant I had the honour to receive the 8th instant.

Inclosure 24 in No. 28.

Mr. Mc Lauchlan to Sir W. Colebrooke.

May it please your Excellency, *Madawaska, June* 19, 1841.

WITH reference to my communication to your Excellency of the 4th instant, I have again the honour of renewing that subject, and which I am induced to do from the circumstance of the reports that have reached me touching the probable result, should an assessment be made in the Madawaska settlement above the entrance of the Fish River.

In my letter to your Excellency's Private Secretary, of the 15th instant, I stated, for your Excellency's information, that the land-agent for the State of Maine and Massachusetts had passed through the settlement to that post at the Fish River, and where it now appears they were apprized of the intention of the Provincial Authorities to assess the inhabitants on the River St. John above the Fish River. This, I am informed, called forth their disapprobation, as well as a remark, that should the British Government attempt to exer-

cise jurisdiction above their block-house, it would not only be resisted, but a military force sent to occupy that section of the country.

I have therefore thought it advisable to address the assessors on the subject, a copy of which I beg to transmit to your Excellency; and as Her Majesty's Attorney-General requires my attendance at the Supreme Court at Fredericton next week, I shall then have the honour of bringing the subject again personally before your Excellency. But, in the mean time, I have to acquaint your Excellency that no assessment will be made in the settlement until the pleasure of your Excellency be known.

I have, &c.,
(Signed) J. A. Mc LAUCHLAN.

Inclosure 25 in No. 28.

Mr. Mc Lauchlan to the Assessors of Madawaska County and Parish Rates.

Gentlemen, *Madawaska, June* 19, 1841.

SINCE addressing you by desire of his Excellency the Lieutenant-Governor, on the 11th instant, circumstances have transpired which induce me to believe, should any assessment be made by you on the inhabitants of Madawaska residing above the American armed posse at the Fish River, must lead to a serious misunderstanding between Her Majesty's Government and that of the United States.

I have therefore to request that you will, for the present, defer making any assessments in that part of the settlement, until I am again afforded an opportunity of bringing the subject under the consideration of his Excellency.

I have, &c.,
(Signed) J. A. Mc LAUCHLAN,
Warden of the Disputed Territory.

No. 29.

Mr. Fox to Viscount Palmerston.—(Received August 29.)

My Lord, *Washington, August* 11, 1841.

SINCE writing my despatch of the 8th instant, I have received the inclosed despatch from Lord Sydenham, in reply to the communication which I had addressed to his Excellency upon the present state of the negotiation for regulating the provisional custody and occupation of the Disputed Territory.

I have, &c.,
(Signed) H. S. FOX.

Inclosure in No. 29.

Lord Sydenham to Mr. Fox.

Government House, Kingston,
(Extract.) *August* 3, 1841.

MR. MOORE transmitted to me yesterday, by a special messenger, your despatch of the 27th of July.

I hear with pleasure that the Government of the United States have at length resumed the consideration of the best means for maintaining tranquillity and preventing further encroachments in the Disputed Territory pending the adjustment of the question of sovereignty, and that the propriety of effecting that object, through a force under the control of, and responsible to, the Central Government on either side, to the exclusion of the civil posse, has been admitted by the Secretary of State.

But the satisfaction which I should otherwise feel, is greatly diminished by the statement of the terms upon which, as it appears from your despatch, and from the projet of a note inclosed in it, Mr. Webster proposes to effect such an arrangement, which are such as I should neither feel authorized by my instructions to sanction, nor indeed could recommend Her Majesty's Government to agree to.

Mr. Webster's proposal goes not merely to the retention by the United States of the block-house at the mouth of the Fish River, and the establishment there of a military force in the place of the civil posse at present in occupation of that post, but to confine the occupation of the Territory in dispute by Her Majesty's forces to the north bank of the St. John's, thereby virtually excluding them from affording protection, if required, to Her Majesty's subjects on the south bank of that river, on which, as you have justly stated, a large population is extended, whose claims for such protection could not be overlooked or neglected.

Such a proposition I consider wholly inadmissible. The Madawaska settlement, as you are aware, extends along both banks of the river; and it would be impossible to refuse to Her Majesty's subjects, whether resident on the one or the other bank, that protection to which they are justly entitled, or to abandon that jurisdiction which has been uninterruptedly exercised ever since Canada became part of the British Empire.

The troops are, it is true, now stationed on the north bank of the river, and will probably remain so; but the moral protection which Mr. Webster professes to think would still be afforded by their presence there, would undoubtedly fail, if such an arrangement, which is one adopted at present purely with a view to the convenience of lodging the troops, were made obligatory, and it could be inferred that they were debarred from that active interposition which they are now directed to afford, in case of need, to the inhabitants resident on the one bank as well as on the other. No security whatever could be given, that any attempted exercise of jurisdiction by the State of Maine within that settlement on the south bank of the river, against which we have always protested, and which Her Majesty's civil servants have been instructed to resist by force, if necessary, would be prevented; and it is most improbable that such would be the case, if the duty of prevention were abandoned to the United States' Authorities, however well disposed they might be to perform it.

If, therefore, this condition be considered indispensable by Mr. Webster, an arrangement becomes quite impossible; and I must also add, that the pretension on his part appears perfectly unjustifiable, for it exceeds any which has hitherto been seriously advanced, even by the State of Maine itself.

The arrangement made between Sir John Harvey and the Government of Maine, and confirmed by General Scott, as is correctly stated in the draft of your note, which you have been good enough to transmit, limited the temporary jurisdiction of each party, on the one side, to the valley of the Restook, and on the other, to that of the St. John's; and although the block-house at the mouth of the Fish River was most improperly, and in direct

violation of that contract, erected by the Maine Authorities, it was contended that the Madawaska settlements did not extend to that point; and that circumstance was, to a certain degree, alleged in justification of the establishment of that post.

Whilst, therefore, I remain persuaded of the importance of arriving at an arrangement with the United States' Government, which shall remove the custody of this territory from the interference of the Government of Maine, I see no possibility of admitting this new condition; and if it be insisted on, I have no alternative, unless otherwise instructed by Her Majesty's Government, than to take such measures as may appear necessary to check any further encroachments on the part of Maine, even at the hazard of collision.

That object, however, is of so much consequence, that if this difficulty can be removed, and Mr. Webster is disposed to treat upon another basis, I am of opinion that we may depart, in some degree, from the terms which were stated in my despatch of the 25th of June, 1840, and which are in accordance with Sir John Harvey's agreement, namely: the valley of the St. John's on the one hand, and that of the Restook on the other; and I should be disposed to agree to the occupation of Fort Jarvis by the troops of the United States, confiding to them the exercise of jurisdiction over the southern bank of the river above the Fish River, but leaving to us that below its mouth.

No. 30.

Viscount Palmerston to Mr. Fox.

Sir, *Foreign Office, August* 31, 1841.

I HAVE to acknowledge the receipt of your despatches of the 8th and 11th instant, inclosing copies of your correspondence with Lord Sydenham, and of the papers therein referred to, relative to the present state of your negotiation with the Government of the United States, for regulating the provisional custody and occupation of the Disputed Territory.

I have to state to you, in reply thereto, that Her Majesty's Government concur in opinion with Lord Sydenham, that it would not be right or safe to agree to any arrangement which should preclude Her Majesty's troops from moving, if necessary, into that part of the valley of the St. John which lies south of the river; but Her Majesty's Government are of opinion, that it would be highly inexpedient to consent to an arrangement by which United States' troops should be permitted, with the consent of the British Government, to occupy any position in the valley of the St. John. The agreement made between Sir John Harvey and General Scott is perfectly clear, and is as fair as it is clear; and you are instructed to adhere to that arrangement, which leaves the Americans in occupation of the valley of the Aroostook, and the British in occupation of the valley of the St. John. If this basis of arrangement were once agreed to, no difficulty could be experienced in defining the boundary between those two valleys sufficiently for the purpose.

I am, &c.,

(Signed) PALMERSTON.

No. 31.

Mr. Fox to Viscount Palmerston.—(Received October 1.)

(Extract.) *Washington, September* 12, 1841.

IN my despatches of August the 8th and of August the 11th, I had the honour to forward to your Lordship copies of various correspondence between the Governor-General of British North America and myself, and between the United States' Government and myself, upon the subject of a proposed amended arrangement for the provisional custody and occupation of the Disputed Territory, by a limited force, on both sides, of regular troops, to the exclusion of the armed civil posse of the State of Maine.

I have not found it possible to conclude any satisfactory agreement with the United States' Government upon the general provisions, taken together, of the amended arrangement desired by Her Majesty's Authorities. The only measure at present adopted by the United States' Government, will be the substitution of two companies of United States' regular troops, in the place of the armed civil posse of the State of Maine, at the two posts occupied by the Americans in the Disputed Territory. I consider that this change will be of great advantage, both with a view to the preservation of peace on the border for the present, and with a view also to the safe and prompt delivery of the territory, if the British title thereto shall be eventually established. At the same time I have stated to Mr. Webster, in my official letter herewith inclosed, dated the 6th instant, that I am not prepared to say what view Her Majesty's Government will take of the movement of the United States' troops, adopted, as it now is, as a separate measure, without refereuce to those other provisions, of an amended arrangement, which were proposed by the British Government, and without reference, either, to the well-grounded and reiterated remonstrances of Her Majesty's Authorities against the establishment of the American post called Fort Jarvis, at the mouth of Fish River.

I had reason to complain of the conduct of the American Government in prematurely ordering the two companies of regular troops to be moved into the Disputed Territory, pending the negotiation of the other parts of the proposed arrangement. Mr. Webster, it will be seen, has given some explanation of the matter in his letter to me, herewith inclosed, of the 4th instant. I am persuaded that the equivocal conduct of the Government in this particular has not been owing to intentional bad faith, but to the state of discord and disorganization of the public departments at Washington during the present political and ministerial crisis.

I learn from reports in the newspapers, that the two companies of United States' troops, appointed to occupy the posts on the Aroostook and at Fish River, left the American station of Houlton, in Maine, for their new destination on the 31st of last month. The orders, therefore, which, in consequence of my communications with Mr. Webster, were dispatched from hence on the 2nd instant, to suspend the movement, will, as I apprehended, have arrived too late.

I should be in daily expectation of receiving further communications from Lord Sydenham upon the subjects treated of in this despatch, if it were not for the very severe accident which I lament to hear his Lordship has suffered by a fall from his horse.

Inclosure 1 in No. 31.

Mr. Webster to Mr. Fox.

Department of State, Washington,
September 4, 1841.

Sir,

I HAVE laid before the President the communication which you did me the honour to place in my hands a few days since. He directs me to say to you that he thinks there must be some misapprehension on the part of Lord Sydenham, as to the motives which have led him to comply with the wishes of the State of Maine, to relieve its civil posse by small detachments of United States' troops.

The Government of the United States entertains the opinion that the Disputed Territory, during the time which may elapse before the final settlement of the title, should be protected from trespass and depredation by the Authorities of the Governments of the United States and Great Britain; in this opinion it appears that Her Majesty's Government entirely concur. The facts which the President found to be actually existing were, that the State of Maine was maintaining a civil posse at the mouth of the Aroostook, and another at the mouth of Fish River. The British Government had certainly complained of the establishment of this last-mentioned posse, as being contrary to the agreement entered into between the Governor of Maine and Sir John Harvey in the spring of 1839, and, on the other hand, the Government of

Maine complained, not less loudly, of infractions of the same agreement by the British Authorities, especially in the augmentation of their military force on the north side of the St. John's. As the whole matter related to a subject which would be but of temporary, and, as it was to be hoped, of short duration, the President thought that instead of discussing further the grounds of those mutual complaints, it would be for the benefit of all parties, that the civil posse of Maine should be withdrawn, and their places supplied by troops of the United States. In the beginning of July, as you will remember, I made an informal communication of these views to you, not, as Lord Sydenham seems to suppose, for the purpose of entering upon a formal negotiation for a convention on the subject, but for that of stating frankly, and in the most friendly manner, the President's opinion as to what was the best mode to be adopted by him, and suggesting to the British Government what occurred to him as worthy of its consideration as measures having the same general end.

You expressed the opinion that the British Government in Canada might see objections to a part of what the President proposed to do; but under the impression that both parties were agreed in the expediency of substituting as soon as possible, a regular force for the armed posse now in possession; and considering the advanced state of the season, it was thought necessary, at the Department of War, not to delay the movement of the two companies. There was no purpose in this, of acting suddenly or prematurely, or during the pendency of any negotiations upon the subject. For, as I have already stated, my informal communication to you was not intended as the commencement of a regular negotiation, but only as friendly information of the steps which the President thought proper to take, and a suggestion of what might be considered as proper on the side of the British Authorities as concurrent measures. It may be proper to observe here, that orders were given from the War Department for one of the field officers at Houlton to proceed with those companies; and as he would naturally meet with the commanders of the British posts, to explain to them, so far as necessary, the object of the movement.

The main fear expressed by Lord Sydenham appears to be, that part of the Madawaska Settlement which lies south of the St. John's, might be in danger by this occupation of the post at the mouth of the Fish River. When, in the communication already referred to, I suggested the propriety of confining the British forces to the north side of the St. John's, it was not intended to affect, in any degree, the question of the extent of the Madawaska Settlements, or the exercise of British jurisdiction, wherever heretofore that jurisdiction had been habitually exercised. The river was mentioned as a natural boundary which could not be mistaken, and proper, therefore, as the line between the posts of the respective Governments. It might have been added, that although neither Government accepted the award of the King of the Netherlands, yet the boundary recommended by him might be worthy of regard as a limit of the temporary possession held by the two Governments.

It is presumed not to be the purpose of either party to extend its jurisdiction over parts of the Disputed Territory where it has not heretofore actually existed. The officers commanding the United States' detachments will have orders to confine themselves to the objects which alone the Government has in view in placing them at their posts, and not to take upon themselves to interfere in any question of civil jurisdiction whatever. It is to be hoped that the observance of strict discipline by the troops on both sides, and a spirit of moderation and forbearance among the people along the frontier, will relieve both Governments from the difficulties and dangers on the subject of the temporary occupation of the Territory in dispute.

I have, &c.,

(Signed) DANIEL WEBSTER.

Inclosure 2 in No. 31.

Mr. Fox to Mr. Webster.

Sir, *Washington, September* 6, 1841.

I HAVE the honour to acknowledge the receipt of your letter of the 4th instant, upon the subject of the movement of two companies of United States' regular troops to certain posts in the Disputed Territory, in the place of the armed civil posse of the State of Maine now stationed there.

I shall lose no time in forwarding your communication to Her Majesty's Government in England, and to his Excellency the Governor-General of British North America.

Her Majesty's Authorities, I am persuaded, will concur with me in duly appreciating the friendly intentions of the President, as well as the conciliatory form in which you have conveyed to me his views and your own upon this occasion. I am likewise sensible of the advantages that may be expected to result from the employment, upon the service in question, of a detachment of regular troops, responsible to the General Government alone, instead of an irregular armed force under the orders of a State Government, of whose conduct Her Majesty's Authorities have had the strongest reason to complain. The change will, it is to be hoped, conduce to the maintenance of peace upon the border for the present, and will also eventually secure the safe and prompt delivery of the territory to whichever party shall establish its rightful title thereto.

At the same time, I am not prepared to say what view Her Majesty's Government will take of this movement of the United States' troops adopted as a separate measure, without reference to those other provisions of an amended arrangement for the provisional custody and occupation of the Disputed Territory, which, in pursuance of my instructions, I had proposed to the United States' Government, in communications heretofore addressed both to Mr. Forsyth and to yourself,—and without reference, either, to the well-grounded and reiterated remonstrances of the British Authorities against the establishment of the American post at Fish River.

With regard to the suggestion of adopting the channel of the River St. John as a temporary boundary between the two parties, I must at once state, that Her Majesty's Authorities can, under no circumstances, consent to relinquish the exercise of British jurisdiction through the Madawaska settlements, which extend along the south bank, as well as along the north bank of the St. John's; and that the right will be reserved of provisionally stationing a force of British troops in any part of those settlements, either south or north of the St. John's, where it may be found necessary for the due protection of the inhabitants. There seems no reason, however, to fear that this should lead to collision between the troops of the two nations, if the orders which you inform me are to be furnished to the United States' Commanding Officers, are, as I have no doubt they will be, carefully obeyed.

I avail myself, &c.

(Signed) H. S. FOX.

No. 32.

Mr. Fox to the Earl of Aberdeen.—(*Received October* 30.)

My Lord, *Washington, October* 12, 1841.

UPON receiving Lord Palmerston's despatch of the 24th of August relating to the North-Eastern Boundary Negotiation, I had a conference with Mr. Webster upon the subject. I found him entirely unacquainted with the last previous movements of the two Governments in that negotiation, and, consequently, unprepared with a definite answer to the proposals contained in Lord Palmerston's despatch. In order to understand the meaning of that despatch, it was absolutely necessary that Mr. Webster should make himself acquainted with the details of the last previous proposals of the two Governments, contained respectively in the British Draft of Convention presented by me to Mr. Forsyth on the 28th of July, 1840, and in the American Counter-Draft delivered to me shortly afterwards by Mr. Forsyth, and forwarded to Her Majesty's Government in my despatch of August 15, 1840. Under these circumstances, I gave to Mr. Webster a copy of Lord Palmerston's despatch, which copy, together with the two documents above-mentioned, namely, the British Draft, and the American Counter-Draft of Convention of 1840, he has carried with him to his residence in Massachusetts, where he is now staying. I hope that upon his return to Washington in the course of next month, he will be prepared to resume the negotiation. From several conversations which I have had with Mr. Webster, I am induced to believe that as far as his own wishes and opinion go, he would be very willing to conclude the dispute at once by a compromise, and by the adoption of what has generally, in the course of the negotiation, been termed a conventional line of boundary. But I am not yet aware what particular terms of compromise would satisfy Mr. Webster: nor, which is of equal moment, what means he would possess of rendering such terms of compromise as he might accept, acceptable also to the State of Maine.

I have, &c.,
(Signed) H. S. FOX.

MAP

TO ILLUSTRATE THE BOUNDARY

ESTABLISHED BY

THE TREATY OF WASHINGTON,

OF THE 9TH AUGUST, 1842,

BETWEEN

HER MAJESTY'S COLONIES OF NEW BRUNSWICK AND CANADA,

AND

THE UNITED STATES OF AMERICA.

Presented to the House of Commons, by the Queen's Command, in pursuance of their Address of the 27th of March, 1843.

British Claim	*Blue.*
American Claim	*Yellow.*
Award of the King of Holland . . .	*Green.*
Boundary by Treaty of 1842	*Red.*

LONDON:
PRINTED BY T. R. HARRISON, ST. MARTIN'S LANE.

MAP

TO ILLUSTRATE

The Boundary line established by the Treaty of Washington,

OF THE 9TH OF AUGUST, 1842

Between Her Majestys Colonies of

NEW BRUNSWICK AND CANADA

—AND THE—

UNITED STATES OF AMERICA

British Claim
American Claim
Award of the King of Holland
Boundary by Treaty of 1842

Amount in Acres ceded to the United States ... 3.413.000
Amount in Acres retained by Great Britain ... 3.337.000

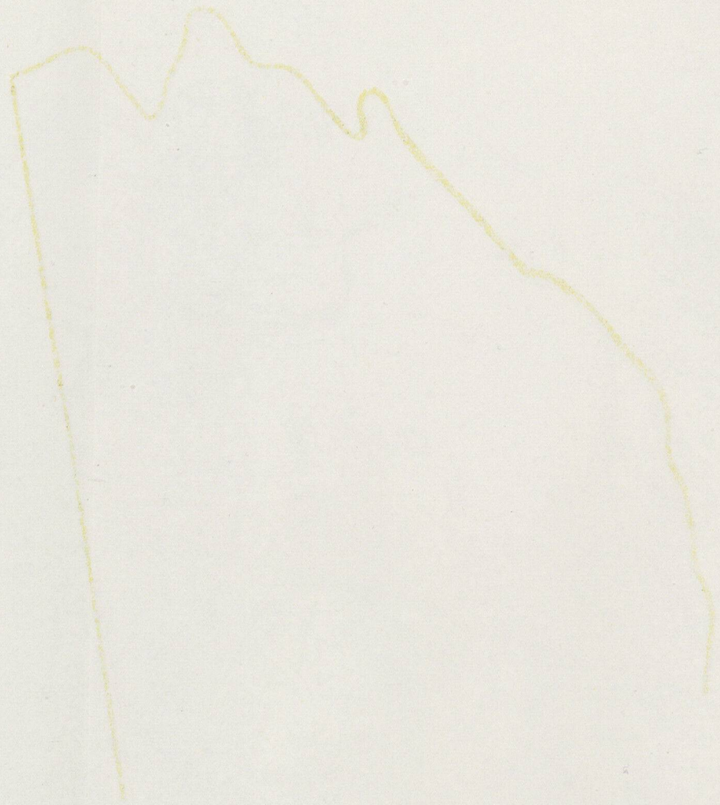
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British Parliamentary Papers
Colonies Canadian Boundry
2
Sessions 1842-51

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Map to Illustrate the Boundary and before Correspondence Respecting the Operations of the Commission for Running and Tracing The Boundary Line

(38)



CORRESPONDENCE

RESPECTING THE

OPERATIONS OF THE COMMISSION

FOR

RUNNING AND TRACING

THE BOUNDARY LINE

BETWEEN

HER MAJESTY'S POSSESSIONS IN NORTH AMERICA AND THE UNITED STATES,

UNDER THE

VIth Article of the Treaty signed at Washington, August 9, 1842.

With Map annexed showing the Country in which the operations have been carried on.

Presented to the House of Commons by Command of Her Majesty.
1845.

LONDON:
(38) PRINTED BY T. R. HARRISON.

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Correspondence respecting the operations of the Commission for running and tracing the Boundary Line between Her Majesty's Possessions in North America and the United States, under the Sixth Article of the Treaty signed at Washington, August 9, 1842.

No. 1.

The Earl of Aberdeen to Lieutenant-Colonel Bucknall Estcourt.

Sir, *Foreign Office, March* 31, 1843.

I TRANSMIT to you a commission which the Queen has been graciously pleased to grant to you under the royal signet and sign manual, constituting and appointing you the Commissioner on the part of Her Majesty, to meet a Commissioner to be appointed by the President of the United States, and with such Commissioner to run and trace those parts of the Boundary Line between the British possessions in North America and the United States, described in the First Article of the Treaty of the 9th of August, 1842, which will be required to be run and ascertained, and to mark the said line by proper monuments on the land.

I am, &c.,
(Signed) ABERDEEN.

No. 2.

The Earl of Aberdeen to Lieutenant-Colonel Estcourt.

Sir, *Foreign Office, March* 31, 1843.

AS you are about to proceed to the United States in order to undertake the important duties confided to you as Her Majesty's Commissioner for tracing, in conjunction with the Commissioner of the United States, the Line of Boundary between Her Majesty's dominions in North America and the United States, as provided by the Treaty of Washington of the 9th August, 1842, the time is arrived at which it is right that I should give you such instructions as may be necessary for your guidance in the proper discharge of those duties.

You will, in the first place, proceed to Boston, accompanied by Mr. James Featherstonhaugh, one of the surveyors, and Mr. Scott, the secretary and draughtsman attached to your Commission, leaving Captains Broughton and Robinson, and Lieutenant Pipon to follow you by the mail packet of the 18th April. Those officers, accompanied by as many of the Sappers who are attached to the Commission as may be thought necessary, should be directed, after their arrival at Halifax or at Boston, as may be deemed expedient, to wait the receipt of instructions from you for their guidance in their ulterior proceedings.

You will probably find it convenient again to make use of the build-

ing at the Great Falls of the River St. John, which was employed by the late Commission of Survey as a depôt for storing their instruments, &c. In case you should decide on applying that building once more to this use, you will give the requisite orders for preparing it accordingly.

After your arrival at Boston, you will repair without unnecessary delay to Bangor, in the State of Maine, the place of meeting appointed by the Treaty, where you will put yourself into communication with the United States' Commissioner as soon as he arrives there. The 1st of May is the day of meeting appointed by the Treaty, but, if both the Commissioners reach Bangor before that time, there is no reason why they should not enter at once into a preliminary discussion of the objects to be undertaken by them.

At your first interview with the United States' Commissioner, after having mutually produced and verified the powers under which you respectively act, you will at once declare to him that it is the earnest desire of Her Majesty's Government that the Commissioners of the two Governments should on all occasions act together with the utmost harmony and cordiality, and that you have accordingly been instructed to meet the United States' Commissioner in a spirit of perfect fairness and openness, and to seek by every proper means in your power to remove difficulties and facilitate the progress of the operations committed to your care.

The great object which Her Majesty's Government have at heart is to accelerate as much as possible the completion of the Line of Boundary as laid down in the First Article of the Treaty of Washington. They are satisfied that by good will and activity on both sides the greater part, if not the whole, of that Line may be so far *scientifically* completed in one season as to enable Her Majesty's Government to dispense with the further services of several of the gentlemen of science employed on the task, especially on the astronomical portions of it, leaving the remainder of the work to be finished in the succeeding season.

With this object, and under this confident expectation alone, Her Majesty's Government have been induced to incur the great expense of sending out so strong and well appointed a Commission as that of which you are the head.

You will urge this point earnestly upon your American colleague, and omit no efforts to induce him to unite his endeavours with yours in pushing on the joint work with the greatest practicable celerity.

With the view of attaining greater rapidity of action by narrowing the sphere of preliminary discussion and arrangement between the Commissioners, Her Majesty's Government thought it advisable recently to instruct Her Majesty's Minister at Washington to state to the Government of the United States that the British Commissioner would be instructed to suggest to the Commissioner of the United States the expediency of entering on and prosecuting their joint operations precisely in the successive order laid down in the Treaty of Washington, reserving, however, to themselves the power of ordering the execution of those operations to be carried on at several points of the Line at once.

This scheme, although not imperative on the two Governments, or their Commissioners, still appears to Her Majesty's Government to offer the fairest chance of a steady and rapid prosecution of the work, and you will accordingly, at your first conference with the United States' Commissioner, propose it as a general plan of proceeding.

If, however, on further consideration on the spot, and after having discussed the matter with the United States' Commissioner, you should see good reason to prefer some other scheme of proceeding, you will not consider yourself bound to insist upon, or adhere to, the above plan.

In case your suggestion is acquiesced in by the United States' Commissioner, you will propose that, after agreeing upon the general line and mode of operations to be undertaken, both the Commissioners should proceed at once to the first point mentioned in the Treaty, namely, the monument at the source of the River St. Croix ; that they should there give all necessary directions for tracing the Boundary Line between that point and the point of intersection of the North Line, as laid down in 1817—18,

with the River St. John; and that, having set a sufficiency of hands on that part of the Boundary to complete it, the Commissioners themselves should then repair to the said point of intersection at the River St. John, and proceed without delay to trace the Line of Boundary along that river and the River St. Francis.

While this part of the work is in progress, parties of British and American surveyors, attended by their assistants, might, either jointly or separately, be detached, first, to the point at the outlet of the Lake called in the Treaty Pohenagamook, in order to fix its position astronomically; secondly, to the point on the north-west branch of the St. John, described in the Treaty as ten miles distant from the main River St. John. Thirdly, surveyors might be directed also to examine the country between the point on the north-west branch of the St. John and the main river, with a view to acquire a certain knowledge of the direction in which the ten-mile straight line would be carried from one river to the other. Fourthly, a party might, at the same time, be sent to explore with accuracy the district lying between the point on the north-west branch of the St. John and the highlands designated in the Treaty, in order to ascertain in an authentic manner the distance between that point and the crest of those highlands, so as to enable the Commissioners, on their arrival at that part of the Boundary, to order at once, on the knowledge thus acquired, that the various points described in the Treaty should be authoritatively established, and the Line of Boundary drawn from the one to the other.

The same process might be adopted with equal utility with respect to the parallel of 46° 25′ north latitude on the south-west branch of the St. John, and the straight line to that point from the point on the north-west branch; as also to the remainder of the Line of Boundary as far as the Metjarmette Portage.

By such a scheme of separate and simultaneous action, executed to as great an extent as our surveying force would admit, much time would be gained; and all the scientific and essential parts of the work might very possibly, as I have above hinted, be completed in one season.

You cannot, therefore, too strongly and earnestly press the expediency and advantage of such a plan on the consideration of the United States' Commissioner.

Having thus sketched out a general outline of the mode of proceeding which Her Majesty's Government consider best calculated to insure the rapid completion of the whole work, I proceed to give you instructions on the details of that work.

In order the more clearly to present to your view the manner in which Her Majesty's Government conceive and desire that your operations should be conducted, I shall divide into five sections the various portions of the Line of Boundary to be traced, in the successive order in which they are described in the Treaty of Washington.

1. The first section will include the north line from the monument at the source of the St. Croix to its point of intersection with the River St. John.

2. The second section will include the line along the Rivers St. John and St. Francis to the outlet of the Lake Pohenagamook.

3. The third section will include the line from the outlet of the Lake Pohenagamook to the north-west branch of the River St. John.

4. The fourth section will include the line from the north-west branch of the St. John to the south-west branch of the same river; and thence to the intersection of the 45th parallel of north latitude with the River Connecticut.

5. The fifth section will include the line along the last-mentioned parallel of latitude, as hitherto received and understood, to the St. Lawrence.

1. With regard to the first section, or north line from the monument at the source of the River St. Croix to the intersection of that line with the River St. John, the Treaty provides that that part of the Line of Boundary shall be traced as follows:—

"Beginning at the monument at the source of the River St. Croix, as designated and agreed to by the Commissioners under the 5th Article of the Treaty of 1794 between the Governments of Great Britain and the United States; thence north, following the exploring line run and marked by the surveyors of the two Governments in the years 1817 and 1818, under the Fifth Article of the Treaty of Ghent, to its intersection with the River St. John, and to the middle of the channel thereof."

Her Majesty's Government do not apprehend that this part of the Line of Boundary will meet with much difficulty in the execution. Many parts of the Line, as marked in 1817, 1818, are, it is believed, perfectly well known, and traceable without trouble; and although in some parts the posts, or other marks which were placed by the Commissioners at that time along the exploring line surveyed by them, may have been partially removed, or effaced, or overgrown, yet it is believed that a sufficient knowledge of the line which they designated may be readily attained.

The grants of lands made of late years by the Government of Maine to its citizens along that assumed frontier, and which were based on the received line in question, will much tend to elucidate its general direction. And the settlements made also on the British side of the same line by the inhabitants of New Brunswick will equally facilitate the acquirement of the desired knowledge.

You will make every effort to ascertain with as much accuracy as may be attainable, the exact direction of the old line explored and marked out by the joint Commissioners in 1817, 1818; and having satisfied yourself of the general correctness of the information which you may have collected, it will be requisite that, in conjunction with the United States' Commissioner, you should give orders for running and marking out the same line afresh in such manner as you shall jointly deem expedient.

The monument at the source of the St. Croix being a point already established, it will not be necessary, in the first instance, to determine afresh its precise astronomical position. That operation, if required at all, may at all events be reserved until the return of the surveyors from tracing the western parts of the Boundary Line.

The point of intersection of the north line, as assumed by the Treaty, with the River St. John, should be at once accurately ascertained and laid down. But, as it is obvious that no mark denoting the point of intersection can be conveniently placed in the middle of the river, it will be necessary that two corresponding marks should be placed to designate that point, the one on the right and the other on the left bank of the river.

2. I now proceed to the second section above enumerated, namely, that part of the Line of Boundary from the above-named point of intersection to the outlet of the lake called in the Treaty Pohenagamook.

The Treaty provides that this part of the Boundary shall be laid down as follows:

"Thence" (*i. e.*, from the point of intersection of the north line with the St. John's) "up the middle of the main channel of the River St. John to the mouth of the River St. Francis; thence, up the middle of the channel of the River St. Francis, and of the lakes through which it flows, to the outlet of the Lake Pohenagamook."

The main channel of a river is, necessarily, that channel through which the main body of its waters flows. This channel will, it is presumed, be generally ascertainable without much difficulty in most parts of the River St. John. Where, however, it is not clearly discernible, or where there are two or more channels, divided by islands, of nearly equal volume, the selection must be made, and the point determined, between the Commissioners by mutual agreement, and on the grounds of fair compromise.

Along the whole of the channel so determined the Line of Boundary must be traced and laid down in the maps which will be prepared according to the provision of Article VI of the Treaty of Washington.

It is of less consequence that this line should be run with punctilious

nicety, since, wherever it is required, the Treaty provides (Article II) that the navigation of the river shall be free and open to both parties. This provision, it is hoped, will tend greatly to facilitate the arrangements of the Commissioners with respect to this part of the Line of Boundary, and to remove any difficulties which may arise.

The same principle of adjustment which is applied to the River St. John should be of course equally applied to the River St. Francis, since, although the word " main," as applied to the channel, is omitted in the Treaty in speaking of that river, it is obvious that its omission was merely accidental, and that the same principle of delimitation which was provided in respect to the St. John was equally intended with respect to the St. Francis.

The apportionment of the islands lying in the bed of the two rivers may possibly be here and there subject to some little difficulty, where the main channel of either river is a matter of question.

Where the main channel is plainly discernible, the islands lying to the right of the line drawn along it, in descending either river, will of course, as a general principle, belong of right to the United States, while those lying to the left will belong to Great Britain.

Cases, however, may occur, in which it may be for the interest of both parties that this point of right should be waved by mutual agreement, and a principle of reciprocal accommodation be substituted for it.

In a despatch addressed by Lord Ashburton to this office, after the signature of the Treaty of Washington, in August, 1842, it is stated " that it was fully understood between the negotiators, that the question of the distribution of the islands should be dealt with equitably and with the least possible contention, consulting, where it can be done, the interests of the inhabitants, with whose farms the islands, which are not generally large, may be connected."

By these principles the Commissioners should be guided; and there can be little doubt that, by a candid and liberal observance of them on both sides, all difficulties which may arise in the adjustment of this part of the Boundary will be speedily removed.

Wherever the point of the main channel of either the River St. John or the River St. Francis is doubtful, the same scheme of mutual agreement and accommodation, which has been above recommended for the determination of the Boundary Line, in such an event, must be adopted with regard to the distribution of the islands.

By these principles, therefore, you will regulate your conduct in both cases. But if, contrary to our hopes and expectation, you should find the Commissioner of the United States indisposed to act on those principles, you will insist on an adherence to the strict principle of right on both sides, by which, wherever the main channel of either river is plainly discernible, all islands lying on one side of the centre of that channel should be adjudged to Great Britain, and all on the other side to the United States; reserving, for reference to your Government, all cases of doubt which cannot be amicably adjusted between the Commissioners themselves.

It is highly desirable that such cases should not be allowed to delay or interfere with the prosecution of your labours in other parts of the work intrusted to you.

There is good reason for supposing that the lake designated in the Treaty as the Lake Pohenagamook, does not in reality bear that name; but a lake nearer the mouth of the St. Francis seems to be known by a somewhat similar appellation.

The lake, however, intended by the Treaty, is so clearly laid down in the map of the United States' Surveyors, Renwick, Graham, and Tallcot, which was before the negotiators at the time of signature, and on which they caused the Line of Boundary intended by them to be generally traced, that no mistake can well occur on that point.

That map, although not to be taken as an authentic deed or document officially annexed to the Treaty, must nevertheless be considered as indicating generally the intentions of the negotiators; and may always be appealed to by you as a *general* evidence of those intentions.

By consulting the copy of it which is hereto annexed you will at once perceive the position of the lake intended by the negotiators of the Treaty.

For your further information on this point I inclose a copy of a report and map submitted to the Lieutenant-Governor of New Brunswick by Mr. Wilkinson, who surveyed, in the course of last autumn, that part of the Line of Boundary described in the Treaty of Washington, and who confirms the opinion above expressed with regard to the lake intended by the negotiators of the Treaty.

3. I now come to the third section above enumerated, namely, that part of the Line of Boundary from Lake Pohenagamook to the point on the north-west branch of the River St. John.

The Treaty provides that this part of the Boundary shall be laid down as follows:—

"Thence," (*i. e.* from the outlet of the Lake Pohenagamook) "south-westerly, in a straight line, to a point on the north-western branch of the River St. John, which point shall be ten miles distant from the main branch of the St. John, in a straight line, and in the nearest direction: but if the said point shall be found to be less than seven miles from the nearest point of the summit or crest of the highlands that divide those rivers which empty themselves into the St. Lawrence from those which fall into the St. John then the said point shall be made to recede down the said north-west branch of the River St. John, to a point seven miles in a straight line from the said summit or crest."

This is an essential part of the Boundary, to which much attention must be paid by you. The practical determination and delineation of it will probably be attended with difficulty and labour.

Fortunately, it seems to have been already pretty clearly ascertained, that from the main River St. John to the point on the north-west branch of the St. John, and thence to the crest of the dividing highlands, there will be found a considerably greater distance than the ten and seven miles required; consequently, we may hope that in this point, at least, the difficulty of demarcation will be materially lessened.

The governing principle of this part of the Line, to the full carrying out of which we must look, is, that the point to be established on the north-west branch of the St. John be at least seven miles from the nearest point of the summit or crest of the dividing highlands.

In proceeding to mark out this part of the Boundary the Commissioners will have, first, to settle which is the river intended by the Treaty as the north-west branch of the St. John.

Having determined this point, they will next have to agree upon the point on the main stream of the St. John, from which the straight line, ten miles in length, is to be drawn in the nearest direction to the point on the north-west branch of the St. John.

This being accomplished, they will have to ascertain authentically whether the last-mentioned point is seven miles distant from the nearest point of the summit or crest of the highlands designated in the Treaty.

If this fact shall have been already established in the affirmative by means of the joint or separate preparatory survey ordered by the Commissoners, as suggested in the early part of this despatch, the straight line may be traced at once from the Lake Pohenagamook to the point thus ascertained on the north-west branch of the St. John; and that point may be definitively laid down.

If, however, it should turn out to be less than seven miles distant from the nearest point of the crest of the highlands, it must be in that case brought down the north-west branch of the St. John until the stipulated distance of seven miles be obtained,

That the distance of the point on the north-west branch of the St. John to which the line from Lake Pohenagamook is to be drawn, should be at least seven miles from the crest of the dividing highlands is essential; but it is comparatively immaterial whether the line from the north-west branch of the St. John to the main St. John be a little more or a little less than ten miles in length. Provided that object be proximately attained, Her Majesty's Government will be satisfied.

Therefore it will not be necessary that you should be very particular as to the selection of the precise point of the River St. John from which that line is to be drawn; and you will consider yourself at liberty to agree to the adoption of any point which may seem to fulfil with proximate correctness the purposes of the Treaty.

You will do well, however, to weigh with great care any proposition which may be made to you by the United States' Commissioner involving a departure to any extent from the letter of the Treaty, or suggesting any considerable compromise with respect to the Line of Boundary in this particular quarter, at the same time that you will evince every disposition, on your part, to remove, by mutual concession, any difficulty which may arise between you respecting it.

On these matters much must depend on the good feelings and good understanding which may subsist between the two Commissioners.

If, contrary to our hopes, you should find in your American colleague a disposition to exact too much or to concede too little, you will in that case insist upon the accurate delineation of every part of the Line of Boundary in that quarter, as provided by the Treaty; and if you fail to arrive at a mutual settlement of the points in dispute, you will take them for reference to your Government.

For the scientific mode of tracing the Boundary Line and laying down the various points, especially in this difficult part of it, I cannot do better than refer you to the annexed memorandum which has been drawn up from the valuable suggestions of Professor Airy, Her Majesty's Astronomer Royal.

4. I now proceed to treat of the fourth section of Boundary, or that part of the Line from the north-west to the south-west branch of the River St. John; and thence to the intersection of the understood 45th parallel of north latitude with the River Connecticut.

The Treaty provides for the tracing of this part of the Boundary as follows:

"Thence," (*i. e.*, from the north-west branch of the River St. John) "in a straight line, in a course about south, eight degrees west, to the point where the parallel of latitude of 46° 25′ north intersects the south west branch of the St. John; thence southerly by the said branch to the source thereof in the highlands at the Metjarmette Portage: thence down along the said highlands which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the head of Hall's Stream; thence down the middle of said stream, till the line thus run intersects the old line of Boundary surveyed and marked by Valentine and Collins previously to the year 1774, as the 45th degree of north latitude, and which has been known and understood to be the line of actual division between the States of New York and Vermont on one side and the British Province of Canada on the other: and from said point of intersection west along the said dividing line, as heretofore known and understood, to the Iroquois or St. Lawrence River."

In this part of the Boundary the river intended by the Treaty as the south-west branch of the St. John is so clearly indicated by the words "to the source thereof at the Metjarmette Portage," that no doubt or difficulty can well arise in ascertaining and laying it down. Having done so, the parallel of 46° 25′ north must be accurately established upon it by means of astronomical observation; and the straight line described in the Treaty must then be traced to that point from the previously established point on the north-west branch of the St. John.

In tracing the Line from the source of the south-west branch of the St. John at the Metjarmette along the highlands which divide the rivers which empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean to the head of Hall's Stream, it will be sufficient to adopt the broad principle of a *general* division of the two classes of waters above described, the one from the other, without attending too scrupulously to that division in detail.

With this view you will propose to the United States' Commissioner that the Line should be traced, so far as it may be found practicable, along

the dividing ridge or crest of the highlands, in such a manner as to separate all the larger streams of the one class of waters from the other; but that no account should be taken of every little brook or rivulet which may be found to flow one way or the other.

To draw the Line with scrupulous nicety round the head of every little streamlet would occupy much time without producing any satisfactory result. All that is required is that the whole course of every stream of any magnitude should be secured to the party to which, under the Treaty, it of right belongs.

Hall's Stream, it is presumed, is sufficiently well known not to admit of question. The Line of Boundary will therefore have to be traced down the middle of that stream, and down the middle of the Connecticut River, to its intersection with the old and hitherto received parallel of 45th degree of north latitude, as described in the Treaty.

From that point there can scarcely be any difficulty in completing the Line of Boundary by tracing and marking it out along that old parallel, which, though astronomically incorrect, has been considered as the Boundary between the dominions of Great Britain and the United States ever since the Treaty of 1783, and has formed the basis of all contiguous grants of land, and settlements made by the subjects and citizens of both countries on each side of it respectively.

It will, however, be requisite that the Commissioners should verify and authenticate every part of that old Line, in order to avoid all future dispute.

When the Commissioners shall have completed their task of tracing the Boundary in its whole extent, from the monument at the source of the River St. Croix to the River St. Lawrence, it will be necessary, in conformity with the stipulation contained in the VIth Article of the Treaty of Washington, that they should " make to each of their respective Governments, a joint report or declaration, under their hands and seals, designating such Line of Boundary;" and that they should " accompany such report or declaration with maps, certified by them to be true maps of the new Boundary."

With this stipulation you will strictly conform.

It appears, however, to Her Majesty's Government, that in case the Commissioners should unfortunately have not been able to agree to the whole Line of Boundary, it would, nevertheless, be desirable, as tending to save much future trouble, that they should, at all events, make joint reports, and present joint maps, of such parts as they may have agreed upon.

Should the unexpected contingency of partial disagreement therefore occur, you will consider yourself authorized to make a proposition to the above effect to the United States' Commissioner.

Under any circumstances, however, you will take particular care to draw up correct and authentic maps and plans of every part of the Boundary ascertained by the British surveyors.

Her Majesty's Government consider that it will be desirable that each party, British and American, although acting and working together, should pay its own expenses respectively, in order to avoid the delays and embarrassments incident to joint accounts in such matters. The proceedings of the Commission may, it is apprehended, be so ordered as to insure a fair equality of expense on both sides.

The employment of woodsmen and other subordinate assistants will be left entirely to your own discretion. You will, of course, be careful, in this, as in all matters connected with the Commission, to observe as strict economy as may be compatible with rapidity and accuracy in the execution of the operations to be performed.

You will keep this Office constantly and circumstantially informed of all your proceedings. Should difficulties arise between you and the Commissioner of the United States, you will employ every reasonable effort in your power to overcome them; and you will not refer any point of difference home for the decision of Her Majesty's Government, until you have exhausted every means of amicable adjustment on the spot.

In case you should deem it advisable in such cases, you will have

recourse to the mediation of Her Majesty's Minister at Washington with the Government of the United States. It will also be proper that you should, from time to time, keep that gentleman acquainted generally with the progress which you are making in the work intrusted to you.

You will also place yourself in communication, whenever it may be necessary, with Her Majesty's Colonial Authorities, either in Canada or in New Brunswick.

I am, &c.,
(Signed) ABERDEEN.

Inclosure in No. 2.

Memorandum, drawn from suggestions by Professor Airy.

IT will probably occur in several parts of the Boundary Line to be traced and laid down, that astronomical determinations of the same thing will be required, at or about the same time, from the British and from the American astronomers, with a view to the comparison of those determinations. In these cases, the British astronomer ought, if possible, to arrange that his determination shall be made at least as early as that of the American astronomer's.

2. In all cases whatever, the observations should be reduced as quickly as possible. Thus the observations for the errors of chronometers, whether made with the transit instrument or with the altitude and azimuth instruments, should be reduced immediately; the observations for latitude, made at night, should be reduced the next morning; and so for others. And the selection of stars and other objects of observation, is to be made, and the general plan of observations to be arranged with special reference to this rule.

3. The astronomer should also consider it a matter of great importance to keep all his observations and calculations arranged in the most clear and distinct shape possible; so that if any discussion with the American astronomers should arise in the Boundary Country itself, or if it should be necessary to publish any part or the whole of the observations and computations, the manuscript books may be found in a state which will admit of examination or printing by other persons, without a moment's delay.

4. Every entry of observation, and every calculation, should be fairly made out in duplicate.

5. The first part of the Line of Boundary to be traced under the Treaty of Washington, is the north line, from the monument at the head of the River St. Croix to the River St. John, which, by the terms of the Treaty, is to follow an exploring line, run and marked in 1817 and 1818. In the event contemplated by the Treaty, it is probable that no astronomical observations will be required,

6. Should astronomical observations, however, be required, there are two plans of operation, both unexceptionable in a scientific point of view, and between which a selection may be made. One is the determination of the difference of longitude between the monument and an assumed north end, with the view of shifting that north end until the difference shall vanish. The other is, the laying down a north line from hill to hill, by planting a transit instrument in each place, adjusting it accurately to the pole, by transits of circumpolar stars, and then fixing (by signal) a mark on the next hill, corresponding to the position of the transit wire. It will be extremely desirable that the same method should be adopted by the British and by the American astronomers; and for this purpose, it may be necessary that the British astronomer should confer with the American.

7. The next part in which it is contemplated that astronomical operations may be called for, is in the tracing of the straight line from the outlet of the Lake Pohenagamook to a certain point on the north-west branch of the St. John. The difficulty of tracing this line by survey being considerable, it will be the duty of the astronomer to collect accurate

information respecting the facilities for carrying pocket chronometers from one extremity to the other (by canoe on the river, or any other way), in order to determine the difference of longitude; which, with the difference of latitude (about which there is no difficulty), would give the direction in which a line must start from either extremity, in order to strike the other extremity.

8. The next point is a determination of a point on the south-west branch of the St. John, at which the latitude shall be 46° 25′. This is obviously to be done by taking a station satisfying, as nearly as the astronomer can judge, the condition laid down in the Treaty; then determining its true latitude, and then shifting the station until the latitude is found to agree well with that of 46° 25′, required by the Treaty.

As this operation is plain, and its necessity unequivocal, the attention of the astronomer should be specially called here to the recommendation under Article 1.

9. The next part is the Boundary anciently but incorrectly traced as the 45th degree of north latitude, in which (as in that treated under Article 5) the old line is to be adhered to. With regard to this contingency, the same course is to be followed as that laid down in Article 5. If the Commissioner should judge that astronomical operations are advisable, two courses are open, which, in an astronomical view, are unexceptionable, and between which a selection must be made. One is, to determine by trials of latitude (in the same manner as in Article 8), a series of points whose latitude is accurately 45 degrees. The other is, to determine one point whose latitude is accurately 45 degrees; to determine also a north line with the transit instrument, to lay down from this an east and west line by the altitude and azimuth instrument, and to carry on this line from hill to hill (with the proper allowance for the difference between a parallel of latitude and a great circle). It will be desirable here, that the same course should be pursued by the British and by the American astronomers.

10. With regard to the determination of the latitudes and longitudes of points selected to serve as bases for a future survey of the country; it is needless to call the attention of the astronomer to the methods of determining the latitude; but it is proper to point out the cautions which will be required, in order to make the longitudes worthy of credit. Two methods only can be resorted to with success: one, the observation of transits of the moon's limb, combined with the observation of transits of the principal fixed stars, or moon culminating stars; the other the observation of the moon's distance from the sun and stars, by means of a sextant or other reflecting instrument. The labour entailed by the former of these methods, is so small, that it is proper, at all events, that the astronomer follow it, as long as he shall remain at one of these posts, giving great attention to the state of adjustment of the transit, and observing, if possible, as many transits after full moon as before full moon. But the second is probably the method on which he must principally rely; and for this the following cautions are indispensable: that at each set of observations, the astronomer observe distances of one object east of the moon, and of another object west of the moon, at nearly equal distances; and that he obtain as many sets of observations before full moon, as after full moon. It is unnecessary to point out that his time must in all cases be accurately known, and that the moon's zenith distance must be measured with tolerable exactness.

11. The necessity for immediate calculation of the observations (as enjoined in Article 2) does not exist here to the same extent as for the observations which apply to the tracing of the Boundary Line. Nevertheless, it is desirable that the computations be carried at once, as far as they can be carried, consistently with general convenience; since it is only by comparing results, when the circumstances of observation are fresh in the memory, that many errors can be discovered, and since the preservation of the results in the memory or in manuscripts of small extent, will be a considerable guarantee against the loss of this labour, by the destruction of the more bulky books of observations and computations.

No. 3.

The Earl of Aberdeen to Lieutenant-Colonel Estcourt.

Sir, *Foreign Office, March* 31, 1843.

IN addition to the general instructions which I have conveyed to you in my despatch of this date, I have further to desire that in the course of the execution of those instructions, you will not fail to examine minutely, in a military point of view, every part of the Line of Boundary which will be surveyed by yourself or the officers under your orders, and to note down any point which, in the course of the operations, may strike you as worthy of being remarked upon, and brought to the notice of your Government.

You will carefully keep a record of all such matters, with a view to their communication to the Commander-in-chief.

You will also of course prepare maps and plans of all parts of the country surveyed by the British surveyors.

I am, &c.,
(Signed) ABERDEEN.

No. 4.

Lieutenant-Colonel Estcourt to the Earl of Aberdeen.—(Received May 15.)

My Lord, *Boston, April* 19, 1843.

I HAVE the honour to inform your Lordship that we landed this morning at this place, and that I have communicated my arrival to Mr. Fox, Sir Charles Metcalfe, and Sir William Colebrooke.

I have just now had a visit from Mr. Smith, the Commissioner of the United States, from whom I have learnt that the strength of his assistants will be equal to that on our side; and I think, from the conversation I have had, that Mr. Smith will be equally ready with myself, to send the astronomers and surveyors forward to the Upper St. John and St. Francis, to prepare, as I have proposed, a survey of that portion of the country, which will enable us to decide upon the points required by the Treaty, with, I hope, but little delay.

From all I can learn of the state of the country, both at Halifax and at this place, I do not think it probable we shall be able to take the field very early. This winter has been, on this side of the Atlantic, remarkable for its severity and duration. In the mean time, I shall make every practicable preparation, so as to expedite the work as much as possible, when we do begin our operations.

I have, &c.,
(Signed) J. B. BUCKNALL ESTCOURT, *Lt.-Col.*,
British Commissioner.

No. 5.

Lieutenant-Colonel Estcourt to the Earl of Aberdeen.—(Received May 29.

My Lord, *St. John, May* 12, 1843.

I HAVE the honour to inform your Lordship that I met Mr. Albert Smith, the American Commissioner of Boundary, on the 1st of May, at Bangor, where we opened the Commission intrusted to us, and agreed upon a general plan of proceeding, by which I hope a fair rate of progress will be ensured to our operations.

The season is so late that we found it necessary to adjourn from

Bangor, agreeing to meet again at Houlton on the 1st of June, with our parties.

In obedience to your Lordship's instructions, I did not fail to declare to Mr. Smith, the earnest desire of Her Majesty's Government, that the two Commissioners should, on all occasions, act together with the utmost harmony and cordiality; and that I was instructed to meet the United States' Commissioner in a spirit of perfect fairness and openness, and readiness, by all proper means, to smooth difficulties. Mr. Smith professed the same feeling on his side, and I feel very confident that he will act upon it.

The general plan of operations to which we have agreed, is to send all our scientific gentlemen to the Great Falls of the St. John, and to leave them to survey the river from thence upwards to the Lake Pohenagamook on the St. Francis, the astronomers fixing convenient stations at different points, and the surveyors laying down the course of the river with the islands, and the course of the deep channel. Whilst this is in progress, the two Commissioners will trace the North Line according to the terms of the Treaty, and, having done so, establish the cutting parties. They will then leave the cutting parties to continue that operation, and proceed themselves to the outlet of the Lake Pohenagamook.

The officers and the sappers who came out by the "Hibernia," arrived safely here on Monday last the 8th instant.

Mr. Featherstonhaugh has been here some time; he came on immediately after our arrival at Boston, and has been extremely useful in making preparations for us. Whenever the river will admit of it the whole party will remove to the Great Falls; but as yet there is no possibility of tracking up the St. John on account of the great flood of water.

I have, &c.,
(Signed) J. B. BUCKNALL ESTCOURT.

No. 6.

Lieutenant-Colonel Estcourt to the Earl of Aberdeen.—(*Received July* 28.)

Grand Falls of St. John, New Brunswick,
My Lord, *July* 7, 1843.

ACTING upon the instruction I received from your Lordship, I have engaged the services of Mr. Wilkinson of this province, for the Boundary Commission.

The terms of the engagement are, 25*s*. currency, about 20*s*. sterling, per diem.

Mr. Wilkinson is to have the direction of the cutting and survey of the north line. He has already four parties at work between the intersection of the St. John and the Aroostook.

I am sure he will be enabled to render great service to the Commission.

I have, &c.,
(Signed) J. B. BUCKNALL ESTCOURT.

No. 7.

Lieutenant-Colonel Estcourt to the Earl of Aberdeen.—(*Received August* 14.)

My Lord, *Woodstock, July* 22, 1843.

IT is right I should give your Lordship some account of the progress of the Commission.

On the 16th of June, accompanied by Mr. Lally, a gentleman deputed

for the duty by the American Commissioner, and by Mr. Scott, I began the exploration of the North Line.

We followed the old cut-out line of 1817, from the monument at the source of the St. Croix, tracing it by the old stumps, by the young growth, and by a certain dip in the upper line along the tops of the trees against the sky, which indicated where a cut had been made.

This line we followed, until, about a mile north of the south branch of the Meduxnikeag, we came to a small open green space of about half an acre, beyond which no further traces could be found.

We then crossed over eastwards to Major Graham's line in search of some marks to carry us on ; but found none. However, upon making a cast again to the north-west we hit upon a line of old blazes which carried us to the intersection of the St. John, about half a mile west of Major Graham's line. This line was without doubt the explored line of Colonel Bouchette and Mr. Johnson, because we frequently found trees marked as they had marked them, a record of which we fortunately had with us ; Mr. Wilkinson having sent me a copy of the original field notes of Colonel Bouchette which Mr. Odell, in whose possession they are, had lent to him.

To ascertain if possible the history of the cut-out line, which was held to be the boundary by the British, though denied by the Americans, and to connect the blazed line, which had brought us to the St. John, with the monument, it was necessary to return and trace that line south from the point where we had become certain that it was the true Exploring Line.

This we therefore did, striking upon it at the north branch of the Meduxnikeag, and running it south, until it became identical with the cut out line at about the ninth mile from the monument. We thus had traced a complete line reaching from the monument to the St. John, of which about fifty miles of the northern portion were undoubtedly the Exploring Line of Colonel Bouchette and Mr. Johnson. I did not however feel quite satisfied that the evidence was so complete as to warrant my consenting to the southern portion of the Line, especially as some few British settlers were located upon the old cut-out line, and had their boundary upon it.

I therefore searched for evidence as to where the " Exploring Line" really did run in the southern portion.

The field notes of Colonel Bouchette described the point where it crossed the south branch of the Meduxnikeag to be where two rapid streams fall into that river on the north shore within eight feet of each other. Such streams we hit upon, when following the line of blazes south, and found also blazed trees close to the water-mark both on the north and south shores.

Testimony obtained from people who were anxious to impress me with a belief that the cut-out line was the true one, tended to prove that on the contrary the exploring line was *not* the cut-out line, and that in fact it coincided with the line we had found. I did not however give up the point until I had communicated with Mr. Campbell, the assistant surveyor under Colonel Bouchette, who, with Mr. Turner on the American side, had actually cut the line known as the cut-out line. He sent me his field notes and his plan, both of which confirmed the line we had traced south to be the " Exploring Line."

The plan marks nine chains from the cut-out line to the Exploring Line at the twenty-mile post.

The field notes state that when it was agreed to cease cutting on the 4th of October, 1817, Mr. Campbell measured from his twenty-mile stake to the Exploring Line of Colonel Bouchette, and found it nine chains sixteen links. All this agrees with the measurement I had myself made before I received Mr. Campbell's field notes.

Therefore we have satisfactorily traced the Exploring Line from the monument to the St. John, and ascertained by evidence that we have not been mistaken.

Mr. Smith has a party of about twenty-five men employed in cutting

from the monument northwards, and they have reached close on the thirteenth mile.

I have four parties cutting on the St. John and Aroostook under Mr. Wilkinson, and they have, I should suppose, completed about twenty miles. I have not however seen them for a fortnight, having been occupied on the Meduxnikeag in examining the difficulty I have related.

The boats with provisions and the instruments reached the Grand Falls on the 18th of June; when Captain Robinson and Lieutenant Pipon began their astronomical observations to determine the difference of longitude between the Grand Falls and the mouth of the Madawaska. By this time they have got on to the mouth of the St. Francis.

Mr. Featherstonhaugh, who has rendered me very great service in making our necessary preparations, is now surveying from the St. Francis downwards, whilst Captain Broughton is surveying from the Grand Falls upwards.

I return myself on Monday northwards, and expect the American Commissioner to follow me in a week to go on to Lake Pohenagamook. Such is the distribution of our party and the progress of our operations.

On the American side I find every readiness to get forward amongst the gentlemen charged with the survey. They have during the three last years completed almost all that is necessary in astronomy for them to do on the St. John, and therefore they proposed to send forward a party of surveyors to the North-West Branch. To that course I readily assented, hoping, that when we come to that part, they will have fixed some point as agreeing with the terms of the Treaty, and that we shall be able with little delay to verify it, and establish it as the point to which the south-west line is to run.

They have left in company with Mr. Featherstonhaugh and Captain Broughton three surveyors, and by their joint operations a map will be constructed, which will guide the American Commissioner and myself in drawing the Line of Boundary along the St. John and in distributing the islands.

Trusting that this account of our proceedings will be satisfactory to your Lordship,

I have, &c.,

(Signed) J. B. BUCKNALL ESTCOURT, *Lt.-Col.*

No. 8.

Lieutenant-Colonel Estcourt to the Earl of Aberdeen.—(*Received September* 14.)

Camp at the Mouth of the St. Francis,
August 20, 1843.

My Lord,

I HAVE the honour to inform your Lordship that the outlet of Lake Pohenagamook has been agreed upon. I proceeded thither last week in company with an officer deputed to the duty by the American Commissioner.

The termination of the lake is so bold, that there was no difficulty in declaring where the outlet should be fixed. A stake was accordingly driven deep into the shore as a guide to the surveyors.

I reached this place on my return yesterday, Saturday, and to-morrow shall take advantage of the rain, which is falling heavily, to go up to the North-West Branch.

The St. John had become very low, and the navigation almost impracticable between this point and the North-West Branch.

The St. Francis is deep and still in great part of its course, the waters being kept back by many rapids, which, however, are generally short and not difficult.

I have, &c.,

(Signed) J. B. BUCKNALL ESTCOURT, *Lt.-Col.*

No. 9.

Lieutenant-Colonel Estcourt to the Earl of Aberdeen.—(*Received January* 14, 1844.)

My Lord, *Washington, December* 26, 1843.

I DO not propose to make your Lordship a report of the proceedings of this Commission from the period at which my last communication ended until I return to Quebec, and until the whole of the operations which belong to the first year have been terminated. They are not yet quite finished for the winter overtook us and interrupted the transmission of the chronometers by the river. Captain Robinson and Lieutenant Pipon were therefore obliged to suspend their work, and remain waiting until the ice on the St. John should be able to bear a sleigh. In the meantime they have housed themselves at their stations, which are, Captain Robinson on the St. John, at the intersection of the line cut by the American party in order to measure the ten miles to the North-West Branch,—it is about a mile below the mouth of the North-West Branch; and Lieutenant Pipon at the mouth of the Great Black River.

The comparison of chronometers having been completed between those stations, the first year's work will have been accomplished, and we shall have the means of ascertaining the difference of longitude between the outlet of Lake Pohenagamook and the point on the North-West Branch, and, therefore, we hope of running a line between them in March. It will be a trial line, and it is not to be expected that it will be quite correct; but Captain Robinson and Lieutenant Pipon have been so careful and so successful in their astronomical operations that we look with confidence to a good result of the calculations which will guide the true direction of the South-West Line.

Your Lordship will understand that the operations of this year will have been shortly as follows:

The North Line from the monument to the St. John River, explored, cut out from end to end thirty feet wide, surveyed, and marked, almost, not quite, with cast-iron monuments.

The survey of the St. John from the Grand Falls to the St. Francis, and the apportioning of the islands.

The survey of the St. Francis and the Lake Pohenagamook.

The fixing of the outlet of Lake Pohenagamook.

The measuring of the ten miles from the St. John to the North-West Branch.

The survey of the country towards the St. Lawrence, to ascertain the state of the case as regards the seven miles required by the Treaty.

The fixing within a few feet of the point on the North-West Branch.

And a chain of astronomical observations from the Grand Falls to the outlet of Lake Pohenagamook, and from thence to a point near the mouth of the North-West Branch, where the line cut and measured for the ten miles intersects the St. John.

The proceedings of next year will be carried over a very large portion of country at the same time. We propose to run the South-West Line, the South Line, to survey the highlands, and perhaps to examine the 45th parallel of latitude at the same time. The whole is perfectly feasible if your Lordship will approve of a greater strength of Sappers to be added to the Commission.

The six non-commissioned officers of that corps we have now are disposed of thus:

Each astronomer has two attached to him, and each surveyor one.

Next year each astronomer will still require two, but for the highlands each surveyor will require eight, making sixteen; two are already at their disposal, therefore we want fourteen.

I ask for this addition in the confident expectation that the whole of our work will come very close to an end next year. I do not think entirely to an end, but still very nearly so.

Each of the Sappers will have to work by himself, and therefore should

be competent to survey, and to run lines of levels. That will be their principal duty.

In urging this addition, I must remark to your Lordship, that the real expense of wages incurred by employing Sappers is less, considerably, than by employing people in the country; besides that, they are infinitely more efficient and trustworthy. By their conduct and acquirements the Sappers we have had with us have drawn forth the praise and admiration of the American party. The Americans have no persons to stand in the place of them. People with equal acquirements in this country are paid four dollars a-day, whilst the wages of even the common labourers we both employ are equal to those of the Sappers. It is therefore satisfactory for the accuracy of the work, and good economy, to employ non-commissioned officers of Sappers for all the minor survey.

The operations on the highlands will be conducted in two directions; each party will consist of British and Americans; their work will be so arranged that each assistant shall work by himself, and therefore that each party may cover as much ground as their numbers will admit.

In case your Lordship should approve of my application, I beg to recommend that the men be sent out in a sailing vessel, so as to arrive at Quebec about the opening of the navigation. The first vessels commonly leave Liverpool in March, which would be in ample time, for I do not think they will be actually required until the middle of May. They should, however, run no risk of being later than the 15th of May.

I have, &c.,

(Signed) J. B. BUCKNALL ESTCOURT, *Lt.-Col.*

No. 10.

Lieutenant-Colonel Estcourt to the Earl of Aberdeen.—(*Received February* 19.)

My Lord, *Quebec, January* 23, 1844.

THOUGH the operations of the first season have not, in fact, been brought quite to an end, yet, as the year has closed, and as we have so nearly finished as to make the completion certain, I will not delay a narrative of the Commission from the date of my despatch from Woodstock, July 22nd.

That informed your Lordship of our having succeeded in tracing the old Explored Line of Colonel Bouchette and Mr. Johnston. Progress had already been made in cutting it out. The southern portion was undertaken by Mr. Smith, from the monument to the Presqu'isle River, and the northern by me from thence to the St. John.

I placed Mr. Wilkinson in charge of our share with four cutting parties, afterwards increased to five. The Line which has been cut is thirty feet wide, with a way down the middle cleared of all logs, by which to haul the monuments to their places.

The trees having old blazed marks have been left standing in the clearance about fifteen feet high. The whole cutting was finished in two months, that is, by the end of August.

The Line was then surveyed by Mr. Wilkinson, in conjunction with Mr. Lally, on the part of the American Commission.

In drawing the Line which was to be the actual Boundary, the surveyors were directed to straighten it as much as possible, taking care only to keep within the thirty feet of the cutting, and making, as far as possible, the angles, where a new direction was taken, to coincide with the miles.

The marks adopted are plain cast-iron posts, made at a foundry at Boston, six feet high, four inches square at top and six at bottom. They are hollow, and fit over a cedar stake.

The survey of Mr. Wilkinson and Mr. Lally was not finished until December 6th. They were, for the last five weeks, exposed to severe weather, heavy falls of snow, and severe frosts.

The monuments were conveyed by boats up the St. John to con-

venient points, and carried into the Line by waggons and sleighs, along openings which have been cut at different times by lumberers.

This then is the history of the operations on the North Line.

I return now to an earlier date.

Within a few days of the arrival of our party at Fredericton, Captain Broughton was directed to make his way with one sapper to the mouth of the St. Francis, and build there a log hut, as a store for provisions: after which he was to survey the River St. John from thence downwards. The rest of our party went by boats up the St. John to the Grand Falls, as soon as the water had sufficiently subsided in the river. They reached the Grand Falls on the 18th of June.

Captain Broughton had effected his object at the mouth of the St. Francis, and had made some progress in his survey, by the 1st of July, when it became desirable that he should return to the Grand Falls, and survey from thence upwards, in conjunction with the American party, whilst Mr. Featherstonhaugh, also with an American party, took up Captain Broughton's survey.

These parties were directed to sound about the islands, so as clearly to establish the course of the deep channel. The care and exactness with which this was done, facilitated afterwards the apportionment of the islands. Duplicate charts were prepared of the islands, in detail, and were signed by Captain Broughton and Lieutenant Lee, the officer intrusted with the work on the American side. These were laid before Mr. Smith and myself. Upon them we drew the Line we deemed to be the Boundary; and having both signed them, we each retained a set, as authentic documents of our decision.

These charts were ready by the 12th October, on which day I met Mr. Smith by appointment, at the Grand Falls; and on the 13th instant the assignment of the islands was completed.

The line of the deep channel was followed in all the cases, except one called La Septième Isle, where the difference of depth on the two sides, was one-tenth of a foot; that was in favour of the United States. But that was deemed too small a quantity to constitute a claim; I therefore proposed to Mr. Smith that it should be given to the side on which lived the majority of the owners. Reference was made to the field-notes of the surveyors; when it appeared, as Mr. Smith and I understood, that out of four owners, two lived on the American side, one on the island, and one on the British side. Accordingly, the island, by the rule we had established, was assigned to the United States. In consequence of a doubt which has since been cast upon the correctness of our information, it has been agreed to consider that island as still unapportioned. It is probable, however, that our decision will not be altered. It appears that Mr. Smith and I misunderstood the note, that no owner resides on the island, but that three, instead of two, live on the American side, and one on the British.

Throughout all these proceedings I beg to state that I have met with a frank and liberal disposition from the American Commissioner, as well as from all the gentlemen employed under him.

I will now relate my own movements after my arrival at the Grand Falls from Woodstock.

I had agreed to meet Mr. Smith again, at the outlet of the Lake Pohenagamook, to settle that point in the Treaty.

Accordingly, I proceeded up the St. John and St. Francis, and met Captain Johnston of the United States' Topographical Engineers, who was deputed by Mr. Smith to act for him.

The establishing that point on the 15th August has already been reported to your Lordship.

After an examination of the lake, and of a portion of the St. Francis above the lake, I descended the St. Francis again, and ascended the St. John to the North-West Branch. There I found that the American party, which had gone up early in July, had cut an experimental line, on which to measure the ten miles required by the Treaty; but it had turned out to be nearer eleven than ten miles, and they were, therefore, about to cut another line. They had made a survey of a portion of the

St. John, near the mouth of the North-West Branch, and of the North-West Branch itself.

My object was to examine the country with reference to the seven miles stipulated in the Treaty, and to fix upon a convenient site for a principal depôt of provisions. This last was easily found on the opposite side of a lake, which opened upon us, just above the point likely to prove that which would be fixed for the Boundary on the North-West Branch.

But now a serious consideration presented itself, of how to supply this depôt. We had seen how soon in the summer the water subsides in the St. John, leaving not sufficient depth to float a canoe; we had also seen how difficult a river it is to navigate, especially with boats heavily laden. The current is strong—the rapids are frequent, and two of them are at times very formidable. We had ascended, as fast as we could, yet it had taken six days from the mouth of the St. Francis.

It was evident then, if the depôt at the North-West Branch was to be supplied by the river, that it would prove not only extremely difficult, but also very expensive.

By reference to the map, St. Thomas appeared to be the nearest point on the St. Lawrence to the station selected for the depôt. It seemed to be also the direction in which to examine the country to ascertain the state of the case, as regarded the seven miles of the Treaty. I theref re determined to cut a communication with St. Thomas, beginning on the St. Thomas side, so as to carry in provisions as the cutting party advanced.

This was already the end of August; the North Line was to be finished by the 31st of that month. Mr. Scott, therefore, hastened down the river to the Madawaska, met the cutting parties, whom Mr. Wilkinson was now directed not to discharge, brought them across the Tamiscouata Portage, and up the shore of the St. Lawrence to St. Thomas.

In the mean time, directed by a compass, having taken the best course a small map could give, I struck into the forest and reached St. Thomas on the fourth day. There I found a road, which, some years before, had been opened from St. Thomas directly back into the woods; it was twelve miles long, and for that distance would serve our purpose.

Mr. Scott and his party arrived on the 14th September. I gave him the charge of opening the communication I desired. It required both judgment and exertion, because another party under Mr. Featherstonhaugh had been ordered up to the North-West Branch with only a limited supply of provisions; and they were to depend upon Mr. Scott and the communication he was about to open. He overcame the difficulties which he had continually to encounter, and reached the lake of the depôt in time.

Mr. Featherstonhaugh ascended with the above party from the St. Francis, constructed the buildings necessary for a winter depôt, and then set about to survey, in reference to the seven miles of the Treaty.

The road being within six miles, as we supposed, of its completion, I pushed through the woods again to the lake, lighted a large fire on the top of a hill close by, to give Mr. Scott the direction in which to cut, and then descended the St. John to meet Mr. Smith, for the apportionment of the islands, as I have related.

After that, I returned to the lake on the North-West Branch. It is called by the Indians Lake Ishæganalshegeck. Mr. Scott had finished his road, which proved to be about forty miles long, and was engaged in bushing out paths, and clearing at the tops of certain prominent hills, which were to be stations for triangulation in Mr. Featherstonhaugh's survey.

All this being finished, the men were re-conducted to St. Thomas and discharged on 22nd November.

A high remarkable hill, which stands in front of the dividing ridge of the highlands, was fixed by triangulation, and found to be more than nine miles distant from the point on the North-West Branch. The dividing ridge itself must, therefore, be at a still greater distance, not less, I imagine, than twelve miles, judging from the appearance of the country, of which we obtained, from different hills, a very good view.

All the operations were finished, and we left the woods by 25th November, at which time the snow was about two feet deep.

I now proceed to relate the operations of Captain Robinson and Lieutenant Pipon.

They arrived at the Grand Falls with the instruments on the 18th June, and commenced their observations immediately.

They were to establish differences of longitude between the following stations :—

1. Grand Falls.
2. Mouth of the Madawaska River.
3. Mouth of the St. Francis.
4. Outlet of Lake Pohenagamook.
5. Mouth of the Great Black River.
6. Point on the North-West Branch.

The observations have occupied the whole season. Six interchanges of chronometers were obtained between each pair of stations, and the results have been, I understand, very satisfactory.

In all this the British astronomers worked alone. Major Graham did not come up till late in the season, in consequence of domestic affliction. In fact, he had already the previous year done much of that which we had to do this season. He might, therefore, be considered in advance of us.

The last change of station for astronomical observations was that of Captain Robinson, from the mouth of the St. Francis to the point on the St. John where the second line cut by the American party intersects that river.

He arrived there after a very difficult journey ; the weather had become extremely cold ; he had to encounter severe snow storms ; ice formed on the men's poles as they worked ; in fact they suffered a good deal.

Shortly after Captain Robinson arrived at his station the river became unnavigable, and, consequently, no further communication could take place between him and Lieutenant Pipon, who remained at his station at the mouth of the Black River.

They built themselves log-houses, and waited for the ice on the river to become strong enough to bear a sleigh.

During this time Captain Robinson had the American ten mile line measured accurately. His measurement differs from that of the American party. They make it 10 miles and 110 feet ; whereas, by his measurement it is 10 miles and 363 feet. In shortening it, however, as I do not propose to insist upon great exactness, there will be no difficulty in satisfying both sides.

To conclude, then, that which relates to the astronomical operations, I am glad to be able to say, that in about ten weeks after the arrival of Captain Robinson at his station, *i.e.*, about the 10th January, the river froze sufficiently to admit of the interchange of the chronometers by sleighs. One comparison had been effected at the beginning of last week.

We shall, I hope, shortly have the means of calculating the direction of the long south-west line between Lake Pohenagamook and the North-West Branch. As soon as that is the case Captain Robinson and Lieutenant Pipon will leave the woods.

I may here be permitted to call the attention of your Lordship to the perseverance of these two officers, who have continued observations, requiring skill and delicacy, through very severe weather, and during the night, the thermometer ranging as low as 25° below zero.

The Sappers attached to the Commission will remain in the woods, and taking advantage of the frozen state of the rivers and lakes they will carry surveys along their courses as far from their log-huts as the weather and climate will permit.

I have now related all the operations of the Commission up to the present time.

It may, perhaps, be convenient that I should detail to your Lordship the organisation by which these operations have been carried on.

Proposing to make each officer efficient by himself and able alone to

conduct the work which might be assigned to him, I determined, in the first place, to give to each a party and equipment sufficient for that purpose.

I calculated that each officer would require three bateaux for moving and for his survey. The men necessary to manage these would be sufficient for his camp and for any work he might require; twelve bateaux were therefore procured for the six officers.

Thirty-six men were hired, who were axemen and canoemen.

No alteration was afterwards found desirable in this arrangement.

Two depôts of provisions were formed at the Grand Falls and at the mouth of the St. Francis.

Two issuers were engaged to take charge of them.

To keep up communication an Indian was engaged, whose business it was to move up and down from end to end of the line of operations, touching at each party as he passed, and at the post office at Madawaska.

The cutting parties, composed of young men from the neighbourhood chiefly of Woodstock, generally the sons of farmers, were organized into parties of sixteen, under a foreman. Each party was made complete in its own equipment after the manner of lumberers.

The number of parties were five, An officer had the superintendence of the whole. On the north line that officer was Mr. Wilkinson; between St. Thomas and the North-West Branch it was Mr. Scott.

To carry the chronometers for comparison in the astronomical observations three Indians were employed, because Indians are the most skilful canoemen. One was stationed at the camp of each officer, and the third midway between them.

After October 13th the depôt at the Grand Falls was removed to Lake Ishæganalshegeck, where provisions were carried from St. Thomas, in single-horsed carts in the autumn, and in sleighs since the snow has rendered it practicable.

When the navigation of the St. John closed the Indians were discharged; but as soon as it became sufficiently frozen to bear a sleigh, three Canadian carioles, a small species of sleigh, were hired, and placed, as the Indians had been during the summer, to carry on the interchanges of the chronometers.

I come now to the plans for next season.

I have the honour to inform your Lordship that I have been to Washington to arrange with Mr. Smith and Major Graham a plan of operations. It was considered by us advisable to make that the place of meeting for the purpose, in order to have communication with the Government of the United States and with Mr. Fox.

The plan upon which we have agreed is as follows:—

Before the snow leaves the ground, and whilst the rivers and lakes are still frozen, I have proposed to run the line between Lake Pohenagamook and the North-West Branch. The American gentlemen cannot take part in this so early in the season as March; but great advantages will result if the operation prove successful; because the country through which the south-west line will run, is intersected with lakes and rivers, which would much impede the work in summer. Also it will be of great importance to be able to set the cutting parties to work early to open the line to the proper width.

The 1st of June is named as the day on which the two Commissioners are again to meet.

Mr. Wilkinson and some officer of the American party will finish what may have been left on the north line. After that they will place the monuments on the islands.

On the 1st of June also the parties destined for the survey of the highlands will meet on the frontier on the Kennebec Road. They will conduct their surveys right and left, towards the Metjarmette Portage and towards Hall's Stream.

For clearing the Line it is agreed that Mr. Smith should undertake the highlands from the Metjarmette Portage to Hall's Stream, whilst

I am to undertake from Lake Pohenagamook to the Metjarmette Portage.

This is the general plan of proceeding, for which we are both to prepare.

On our side those preparations consist chiefly in storing provisions at—

1. Lake Pohenagamook.
2. North-West Branch, *i. e.*, Lake Ishæganalshegeck.
3. Height of land on the Kennebec Road.
4. Lake Megantic.

Before the close of the St. Lawrence provisions were with this view taken to—

1. Point Lewis.
2. St. Thomas.
3. Rivière du Loup.

During the winter they will be taken from Point Lewis to the height of land on the Kennebec Road and Lake Megantic.

From St. Thomas to Lake Ishæganalshegeck.

From Rivière du Loup to Lake Pohenagamook.

There will also be formed during the winters small depôts on the two Black Rivers, and on a long lake which lies between them; they will be formed where the Line crosses those waters.

After the south-west line is traced I expect to be obliged to stop proceedings for a time. The rains and the melting of the snow will probably lay the country under water.

I have, &c.,

(Signed) J. B. BUCKNALL ESTCOURT, *Lt.-Col.*

No. 11.

The Earl of Aberdeen to Lieutenant-Colonel Estcourt.

Sir, *Foreign Office, March* 4, 1844.

I HAVE received and laid before the Queen your despatches of the 22nd of July of last year, and of the 23rd of January of the present year, in which you report in detail the whole proceedings of the Boundary Commission, since the 16th of June last.

I have much satisfaction in informing you that Her Majesty's Government view with high approbation the energy and ability with which the operations of the Commission have been conducted, both by yourself and by all the officers and gentlemen under your orders; and Her Majesty's Government are no less gratified by the report which you make of the perfect harmony and friendliness of feeling which has invariably prevailed between you and your American colleague.

It is needless for me to urge on persons who have already exhibited such persevering diligence the necessity of continuing in the same course of activity, in order to bring the labours of the Commission, if possible, to a close by the end of this season. Her Majesty's Government feel that they may entirely confide in you and your officers for doing all that depends on you for effecting an object which they have so much at heart.

In order to increase your powers of execution, the additional Sappers requested by you in your despatch of the 26th of December, 1843, have been placed at your disposition, not without some little inconvenience to other branches of the service, by the Master-General of the Ordnance. It was found, however, impossible to assign to you fourteen non-commissioned officers; but eight non-commissioned officers and six picked privates will proceed to join you by the earliest opportunity which may offer.

The additional instruments, also, which you have desired, will be sent out to you by the same opportunity.

I am, &c.,

(Signed) ABERDEEN.

No. 12.

Lieutenant-Colonel Estcourt to the Earl of Aberdeen.—(Received May 29.)

My Lord, *Quebec, May* 8, 1844.

I HAVE the satisfaction to be able to communicate to your Lordship the successful tracing of the south-west line between Lake Pohenagamook and the North-West Branch, to effect which we have been in the woods since the 1st of March.

Captain Robinson took his station at the north-west branch and Lieutenant Pipon at Lake Pohenagamook. Mr. Scott conducted the cutting party of Captain Robinson.

On the 17th of April the heads of the lines came in sight of each other. They were prolonged until abreast of each other, when the distance between them was found to be only 340 feet, being an actual error of 170½ feet, a quantity so small for the nature of the operation, that it will be considered a result reflecting great credit upon the two officers, upon whose observations and calculations the work depended. I mean Captain Robinson and Lieutenant Pipon.

The whole length of the Line is 64½ miles.

Mr. Scott ran a line 42½ miles and Lieutenant Pipon's men 22 miles. The observations upon which the direction of the Line was calculated, your Lordship will remember to be those made during the winter, which in fact were not completed until the first week in February.

The error of 170½ feet is now in process of correction, indeed it is probably already corrected.

The next operation will be to cut the Line to the proper width; but that is easy of execution. It will be under the superintendence of Mr. Wilkinson, and will be finished by the middle or end of July.

During the months of February, March, and part of April, two Sappers were successfully employed in surveying on the ice the River Mataway-quam, which falls into the North-West Branch, and the Great Black River.

I have, &c.,
(Signed) J. B. BUCKNALL ESTCOURT, *Lt.-Col.*

No. 13.

The Earl of Aberdeen to Lieutenant-Colonel Estcourt.

Sir, *Foreign Office, June* 3, 1844.

I HAVE received your despatch of the 8th ultimo, in which you report the proceedings of the English portion of the Commission since you recommenced active operations in March.

Her Majesty's Government have been much gratified in learning the successful result which combined science and energy have effected in tracing the Line from Lake Pohenagamook to the north-west branch of the St. John in the short space of time which has elapsed since you entered again upon your duties; and I have much pleasure in conveying to you, and through you, to Captain Robinson, Lieutenant Pipon, Mr. Scott, and the men serving under them, the entire approbation of Her Majesty's Government.

I am, &c.,
(Signed) ABERDEEN.

No. 14.

The Earl of Aberdeen to Lieutenant-Colonel Estcourt.

(Extract.) *Foreign Office, July* 3, 1844.

HER Majesty's Government are apprehensive lest the Boundary operations on the part of the United States should have been suspended or obstructed, by the circumstance of no funds having been assigned by Congress for the use of their Commission, during the present season. Should that turn out to be the case, I have to desire that you will put yourself in immediate communication with the United States' Commissioner, either personally or by letter, as you may deem most expedient, and that you will propose to him that you and your officers and men should continue the survey and tracing of the Line from the north-west branch of the St. John forwards, as far as the 45th parallel of latitude; and, should there be time, along the old 45th parallel, as provided by Treaty, in the same manner as you have executed that part of the Line between Lake Pohenagamook and the north-west branch of the St. John's, and subject of course to the same control and supervision on the part of the United States.

You will further propose that, although in the first instance, you would be obliged to defray the expenses of these operations, those expenses should be eventually borne in just proportions by both countries, for which purpose you would submit your accounts to the United States' Commissioner, and, when approved, demand the repayment of one-half of the sum expended.

No. 15.

Lieutenant-Colonel Estcourt to the Earl of Aberdeen.—(*Received August* 30.)

(Extract.) *Height of Land, July* 24, 1844.

I HAVE the honour to acknowledge your Lordship's despatch dated July 3, received this night.

The delay in making the appropriation necessary for continuing the operations of the American Commission, has retarded them up to this moment. But a party destined for the survey of the High Lands arrived here last week, and expect Mr. Smith daily. I hear too, that some of their stores have gone up the St. John. It is not probable, however, that Mr. Smith will find himself in possession of the means of completing the cutting of the Boundary Line throughout the High Lands this year. I shall, therefore, under the authority of your Lordship's instructions just received, propose to take part in that operation.

I am glad to find I have followed your Lordship's wishes, in continuing the survey, even though not yet joined by the American party. The officers of the British Commission have not ceased to push their operations forward, since they recommenced the first week in June. The latitude 46° 25′ on the South-West Branch has been fixed by Lieutenant Pipon, and I have long since desired that the Line should be run between the North-West and South-West Branches, without waiting for the assent of the American Commissioner, feeling sure that, as the extremities of the Line are to be determined by astronomical observations, or by actual measurement on the ground, and that the Line is to be a straight line, no great error can well be committed. I have had no very recent communication from Lieutenant Pipon or Captain Robinson, but I have no doubt progress has been made in running that line.

In this quarter the survey has made as much progress as can have been expected. Captain Broughton has his camp about fifteen miles distant, in the direction of Hall's Stream, and Mr. Featherstonhaugh has his about the same distance in the direction of the Metjarmette Portage.

No. 16.

Mr. Addington to Lieutenant-Colonel Estcourt.

Sir, *Foreign Office, November* 4, 1844.

AS the Boundary operations will, by the activity with which they have been conducted on our part, have been greatly advanced by the close of this season, Lord Aberdeen hopes that you will be enabled to relieve the country from some part of the large expense with which those operations have hitherto been attended, by the discharge of a portion of the persons employed upon them, and especially of the Sappers of the Royal Engineers.

I am accordingly directed by the Earl of Aberdeen to convey to you full authority to make reductions in the establishment placed under your charge, whether in officers or men, to any extent which you may consider compatible with the efficient execution of the work which will still remain to be done in the course of the next season.

I am, &c.,

(Signed) H. U. ADDINGTON.

No. 17.

Lieutenant-Colonel Estcourt to the Earl of Aberdeen.—(*Received December* 30.)

My Lord, *Quebec, December* 7, 1844.

I HAVE the honour to report to your Lordship the conclusion of the operations of the Commission for the season, and I have the greater satisfaction in doing so, because I am enabled to say that the Line of Boundary has been cut to the source of Hall's Stream.

Since the date of my despatch of May 8, the cutting of the long south-west line, which had been so successfully run by Captain Robinson and Lieutenant Pipon during March and April, had been in progress, and was far advanced, when the general works of the season recommenced, according to an agreement between Mr. Smith and myself, on the 1st of June.

I will, for the sake of clearness, divide my report under the different heads of Astronomy, Survey, and Cutting of Boundary.

1st. *Astronomy.*—Captain Robinson and Lieutenant Pipon went to the Valley of the St. John's the first week in June. They were directed to connect, astronomically, the point on the North-West Branch, with the parallel of latitude 46° 25′ on the South-West Branch.

This was done, and the Line traced between those points by the 21st of August. By the 31st of August the actual Boundary was cut; thus completing it from Lake Pohenagamook to the South-West Branch. The long south-west line was 64½ miles, the south line 19½ miles.

Upon being released from this work, the labourers were conducted by Mr. Wilkinson to the Kennebec Road, that they might be employed in cutting the Boundary in the high lands, an account of which shall presently be given. Mr. Wilkinson made his way through the woods, taking the line of the South-West Branch to the Metjarmette Portage, where he fell in with the surveying lines of Mr. Featherstonhaugh, and so brought his men, about 140, to the Kennebec Road.

I am not able, without making my report too long, to enter into the difficulties he encountered; but I must state, that the duty was performed with a good deal of judgment and intelligence.

Lieutenant Pipon having finished what was necessary on the South-West Branch, was directed to proceed to Quebec to establish himself near the citadel, and then, in conjunction with Captain Robinson, who remained on the North-West Branch, to connect that point of the Boundary with Quebec. They were to endeavour to do this by signal,—by flashes of

powder fired at some intermediate point, which might be seen from Quebec and from the North-West Branch, or near it.

A spot was found which answered the purpose. It was in the high lands overlooking the St. Lawrence, about twenty miles from the North-West Branch and forty from Quebec. By a simple contrivance, flashes of powder were fired, of one-sixth of a pound to each charge, from the top of a tree. They were distinctly seen from Quebec, and from the top of a hill near the North-West Branch, to which Captain Robinson removed his transit. In this way the whole survey in the Valley of the St. John has been connected, in the most satisfactory way, with the Valley of the St. Lawrence. Quebec is made the principal point of the survey, and that which will be done next year on the 45th parallel of latitude, will be referred to it. Whilst, in the mean time, the absolute position of Quebec, in reference to Greenwich, will be determined by the observations of Lieutenant Pipon during this winter.

2ndly. *Survey.*—The first week in June I repaired to the height of land on the Kennebec Road, the place appointed for meeting the American Commissioner.

Captain Broughton and Mr. Featherstonhaugh, with the fourteen Sappers who had lately arrived in the country, and between seventy and eighty labourers, repaired to the same place.

Upon arrival they were divided into two parties; one under Mr. Featherstonhaugh, to survey towards the source of the south-west branch of the St. John, and the other under Captain Broughton, to survey towards Hall's Stream.

The object of this survey was to ascertain the general run of the dividing ridge, to mark it at intervals of about half a mile, and so to afford correcting points for the cutting parties who might be employed on the actual Boundary.

The nature of the survey adopted was to cut a main line in the general direction of the dividing ridge, as near as that could be ascertained by an occasional view of the country from an eminence or tree: to run offsets from that line over the dividing ridge, to waters flowing in the opposite way: to level those offsets; to establish summits on them; and to trace and survey the streams on both sides of the ridge.

The main line was to enable the surveyor to bring his work into position, that he might lay it down as he proceeded. It was to serve also as a communication for the bringing in provisions, all of which were to be carried on men's backs. This labour was severe, and it was difficult to induce the men to continue it, through the discouragement of fatigue, bad or hot weather, and paths which soon became deep and muddy. Many men would undertake the work, perform one journey, become discouraged, and give it up.

Mr. Featherstonhaugh, having surveyed to the source of the South-West Branch, returned to the Kennebec Road, and proceeded by Captain Broughton's main line to take up fresh ground from Arnold's River westward.

At the conclusion of the season Captain Broughton had completed the survey from the Kennebec Road to Arnold's River, and Mr. Featherstonhaugh had surveyed, first, from the Kennebec Road to the source of the south-west branch of the St. John, and secondly, from Arnold's River to Hall's Stream.

The amount of work done by both of the officers is very great, and I believe it to be as accurate as the nature of the survey will admit. It is difficult to give a correct idea of what their labours were; but I will state shortly; that they had to cut a vast number of lines; to survey the course of the streams, and to unravel the difficulties and intricacies of the waters, whose perplexing course through the woods frequently confounded their expectations.

Neither of these officers had finished until the latter end of November, when the snow was already deep.

3rdly. *Cutting of the Boundary.*—The want of an appropriation by Congress rendered it impossible for the United States' Commissioner to

keep his engagement with me of taking the field on the 1st of June. For this he expressed his great regret. It was not until the 28th of July that he arrived at the height of land.

The season was now far spent, the best of it already gone, yet nothing done in the cutting of the Boundary along the high lands, which it had been agreed should be the portion of the American Commission.

Encouraged by your Lordship's despatch of the 3rd of July, I considered the means of saving what time remained, and of turning it to the best advantage. I thought we had a better chance of cutting the Line along the high lands than the American party had. During the winter I had established communications in the country to facilitate the hiring of capable men, and I had made calculations of what would always be required in provisions and equipments to render a party efficient in the woods.

In consequence, I proposed to the American Commissioner that we should take his work in the high lands this year, and that he should take our's on the parallel 45° next year; and so it was arranged that he should pursue his survey from the Kennebec Road, east and west, as we had already done; that he should cut the Line along the dividing ridge from the Kennebec Road to the south-west branch of the St. John, and that we should cut from the Kennebec Road to Hall's Stream.

If that were to be accomplished before the snows should hide from us the streams, by which alone we could be sure of keeping the dividing ridge, no time was to be lost. I could not expect to get the additional parties to work before the early part of September; nor could we depend upon being able to continue the work after the end of October. There would be, in fact, about six weeks clear for accomplishing the task. The distance to be cut, according to the existing maps, was over one hundred miles. Ten men can cut a quarter of a mile of Boundary in a day; but one-third of their number would be occupied in bringing in supplies for the rest; therefore the addition in labourers must, it was evident, be very great. The plan of fixing summits at intervals, by the survey, enabled me to put in a large body of axe-men. Parties could take up their grounds at the different summits; but to take charge of the cutting parties officers would be wanted upon whose intelligence in following the dividing ridge I could depend, and who would have personal activity sufficient to enable them to push their way through the woods, and to trace and blaze the actual Line for the guidance of the cutters, so fast as to keep them in full work.

Fortunately, I could look with confidence to Mr. Scott and Mr. Wilkinson for this. Also upon naming the matter to Mr. Featherstonhaugh, though I could not have proposed any additional labour to him, yet he at once undertook to cut as he surveyed, provided he was furnished with an increase to the number of his men.

The agreement for the new arrangement with Mr. Smith having been made on the 28th of July, I proceeded on the 29th to Quebec, where I ordered the additional provisions and equipments we should want, and directed the hiring of 150 men. Then I went to the north-west and south-west branches of the St. John, to see how the operations were going on there, and returned to the height of land by the 23rd of August. During my absence some doubt had occurred to Mr. Smith as to the propriety of leaving the cutting of the Line to the British Commission, until an American as well as a British surveyor had fixed summits of guidance. But the objection was overcome by our entering jointly into an engagement to consider the lines which both Mr. Smith and I should cut along the dividing ridge, as only exploratory lines, until found by a survey, to be made afterwards, to be satisfactory.

Early in August 150 men and some of the equipments had arrived at the height of land and were immediately employed in carrying out provisions in preparation for the cutting.

August 31st, Mr. Scott arrived from the Valley of the St. John, where he had been occupied from the beginning of the season. He at once took up ground about twenty miles from the Kennebec Road, and commenced cutting westward on the 5th of September with 100 men; the

rest were sent to reinforce Mr. Featherstonhaugh. The 100 men of Mr. Scott were afterwards increased to 140. With these at his heels, he traced the actual Boundary, from summit to summit, for about twenty miles; when, having overtaken the survey of Captain Broughton, he could look for no more correcting points, and must find his own way; still he persevered. By climbing trees to gain a view of the country, tracing the streams to find their sources, but all the time hardly pressed by the cutting parties behind him, he accomplished the work he had undertaken, by October 20; the distance being close on seventy miles. Mr. Wilkinson, on his arrival from the Valley of the St. John, began to cut at the Kennebec Road. He finished where Mr. Scott began. Mr. Scott finished where Mr. Featherstonhaugh began.

At the beginning of October I repaired to Newport, in the neighbourhood of Hall's Stream. By the middle of October a road was cut from thence to Mr. Featherstonhaugh's camp, which was found to be at that time near the source of the eastern head of the Connecticut. He had cut and surveyed over thirty miles of boundary. As I expected, he had nearly exhausted his provisions; but this road enabled him to supply himself without difficulty, by having cattle driven in to his camp, and therefore to continue his operations.

There was still a large portion of the Boundary to survey and to cut; the source of Hall's Stream was not yet discovered; the snow might be expected daily; and there seemed great danger of our being forced to give up before we reached Hall's Stream.

In order to muster all our strength at the last, Captain Broughton and Mr. Scott had been directed, after finishing what they were about, to come on westward; but not knowing the importance of the case, and being close run for provisions, Mr. Scott retired to the Kennebec Road.

Captain Broughton did not finish his survey until late in November, when between two and three feet of snow drove him also back to the Kennebec Road.

As soon as I learnt that Mr. Scott, upon whose men I chiefly depended, had returned by the Kennebec Road, I sent by express to direct the camping equipments and axes he had left there to be forwarded immediately through Quebec, and so round to Newport.

Fortunately, my letters met Mr. Scott at Quebec, just as he was about to discharge his men. With great promptitude he sent them all off to join me at Newport, and came there himself. Owing to the badness of the roads at the time, there was a delay in the arrival of the axes; but in a week after they had come, the remainder of the Line was surveyed and cut. This was on the 19th of November. The snow was deep; but fortunately we had got the Boundary marked before we were interrupted very much by that.

This was the conclusion of the operations for the season on the part of the British Commission. If in the course of my narrative I have occasionally mentioned the difficulties we have encountered, it has only been with a view of accounting for the number of men we have been compelled to employ, and for the large expenditure we have incurred.

Mr. Smith completed his share of the cutting, from the Kennebec Road to the Metjarmette Portage. Major Graham has observed at the point fixed by Lieutenant Pipon as latitude 46° 25′ on the South-West Branch; and I hear from him that he believes there will be hardly any appreciable difference between them.

I am informed also, that upon examination of the long south-west line, the American officer finds that it is straight. There is no question but that the same will be found to be the case with the south line.

In addition to the operations I have reported, I have to state that Mr. Wilkinson began the season with an examination of the north line from the source of the St. Croix to the intersection of the St. John where there were some iron monuments to put up. That should have been a joint operation with an American officer, but for the reasons I have already given, which delayed the arrival of the Amercan Commission.

An American officer did however afterwards join Mr. Wilkinson. Having done all that was necessary on the north line, they placed the

monuments on the islands of the St. John to the mouth of the St. Francis. It was after that, that Mr. Wilkinson joined the parties on the upper St. John, and came over, as has been related, to the Kennebec Road.

I will now restate shortly the amount of Boundary cut by the Commission this year.

The south-west line	64½ miles.
South line	19½ „
The line along the highlands, from the Kennebec Road to Hall's Stream, about .	140 "
Total . .	224 miles.

The interval from the Kennebec Road to the Metjarmette Portage having been completed by the American Commission, the whole Boundary may be said to be cut from the St. Croix to Hall's Stream.

During the winter the iron monuments will be hauled in along the line from Pohenagamook to Hall's Stream. The St. John's River will be surveyed from the source of the south-west branch to the mouth of the St. Francis, as also some of the rivers intersected by the south-west and south lines.

For the coming season the work to be done by the British Commission is as follows:—

1st. To determine astronomically the positions of the extremities of the old parallel of latitude 45°; also that of the Line at its intersection of iver near Rouse's Point.

To refer these to Quebec, for which perhaps two intermediate stations the will be required.

2dly. To survey and mark the south-west line, the south line, the line along the high lands, Hall's Stream, and the parallel 45°, as soon as that has been cut by the American Commission; therefore, though there is a good deal of survey to be done next year, as well as marking of the Boundary, it will not require many men. The whole of the cutting will fall on the American Commission.

I have, &c.,

(Signed) J. B. BUCKNALL ESTCOURT, *Lt.-Col.*

No. 18.

Lieutenant-Colonel Estcourt to the Earl of Aberdeen.—(*Received December* 30.)

My Lord, *Quebec, December* 8, 1844.

IN obedience to your Lordship's instructions to reduce, as far as practicable, the number of Sappers employed by the Commission, nine have set off to return to England under charge of Captain Broughton.

The navigation having closed before they could be spared, they set off on the 4th instant by way of the Kennebec Road to Portland, in the State of Maine, so to Boston and New York, where they will embark in a liner for London. Captain Broughton has been directed to report himself upon arrival to your Lordship.

One more Sapper will be reduced; but as he wishes to be discharged from the service, and to settle in this country, I have detained him, and have applied to the General commanding here on the subject.

I have, &c.,

(Signed) J. B. BUCKNALL ESTCOURT, *Lt.-Col.*

No. 19.

The Earl of Aberdeen to Lieutenant-Colonel Estcourt.

Sir, *Foreign Office, January* 3, 1845.

I HAVE read with much interest your despatch of the 7th ultimo, in which you report the proceedings of the Boundary Commission since the date of your despatch of the 8th of May last.

I can scarcely bestow too much praise on the energy and resolution with which the work has been conducted and executed by yourself and all the officers and men serving under you, and I have much pleasure in conveying to you, and directing you to express to all those under your orders, the high approbation of Her Majesty's Government.

The expense attending the Commission during the two years since the commencement of its operations, and especially this last year, has certainly been very great, indeed much greater than Her Majesty's Government had anticipated; but as it may fairly be assumed that the work of several years has been done in two, and that the extraordinary vigour displayed during the past season will have enabled you to dispense with the greater part of the numerous workmen employed in cutting the lines, and thereby to save a great proportion of the expense in future, I am not disposed to remark further on the amount of the expenditure already incurred.

I doubt not that by the next packet I shall receive from you such an account of the manner in which the sums drawn by you have been applied, as to exhibit to Her Majesty's Government clearly, and in detail, the sources of the very large expenditure which has occurred during the last season.

I collect from your despatch that the British part of the Commission having, with a view to the acceleration of the joint work, undertaken and executed alone the cutting of the whole of the Line along the dividing ridge of the Highlands, from the source of the Metjarmette to that of Hall's Stream, of which arrangement I entirely approve, is henceforward to be exempted from all further labour of the same description, and that the Americans, subject of course to British supervision, are to be charged with the rest of the cutting along the 45th parallel of latitude, as laid down in the Treaty, from the Connecticut to the St. Lawrence.

This being the case, it appears to me that it might be found possible, without detriment to the due progress of our part of the work, to reduce to a great extent the force of our officers and men, beyond the ten Sappers already discharged. If such reduction could be properly effected, I need not say that it would entirely fall in with the wishes of Her Majesty's Government. The astronomers must however clearly be retained.

You will give your attention to this point, which I leave with confidence in your hands, being satisfied that the same zeal for the public service which has guided you in directing and executing the work already performed, will induce you to apply your exertions to regulate and economize the expense of that which still remains to be done.

The activity you have shown, and the progress already made, lead me to entertain a sanguine hope that the whole will be completed at a very early period.

I am, &c.,

(Signed) ABERDEEN.

No. 20.

Lieutenant-Colonel Estcourt to the Earl of Aberdeen.—(Received March 27.)

My Lord, *Quebec, February 25, 1845.*

WITH reference to that part of your Lordship's despatch of 3rd January, in which you express a hope that it may be found possible to reduce the force of the officers and men employed in the Boundary Commission beyond the ten Sappers already discharged, and direct me to give my attention to that specific point, as well as to the diminution in general of the expenses of the Commission, I beg leave to assure your Lordship that your wishes shall receive my constant and anxious attention. As, however, the Line along Hall's Stream, and the whole length of the 45th parallel of latitude from Hall's Stream to the St. Lawrence, remains yet to be surveyed, and the Boundary monuments are still to be placed along the whole line from Lake Pohenagamook, I doubt whether it would yet be consistent with prudent economy to reduce very materially the strength of our surveyors and their assistants; but I trust that the work yet to be done may proceed so rapidly as to enable me to carry out your Lordship's wishes in this respect within a brief period.

My proposed plan of operations for the opening season is as follows:

As soon as the weather permits Mr. Wilkinson will repair to Lake Pohenagamook, whence he will pass along the south-west and the south lines, up the South-West Branch, and thence along the Highlands, surveying and erecting the Boundary monuments, in which operation Mr. Scott will assist him. After this Mr. Wilkinson will be employed in surveying a part of the 45th, and in laying down the different surveys.

Mr. Featherstonhaugh will be directed to survey Hall's Stream and the Line along the old parallel of latitude 45°.

What time these operations may occupy I cannot exactly calculate; but it will be my anxious desire, in conformity with your Lordship's wishes, to relieve the public from the expense attending the continued employment of Mr. Featherstonhaugh at as early a moment as his valuable services may prudently be dispensed with.

Were Captain Broughton on the spot, I might have employed him usefully in conjunction with Mr. Featherstonhaugh on the 45th parallel, but as he is in England I do not think it at all necessary that he should re-cross the Atlantic for that object. I consider, therefore, that his assistance will be no longer required. As the work proceeds, I propose, in proportion as the services of the officers and men cease to be necessary, to discharge them, and to send them to England.

I have already explained to your Lordship that the heavy cutting which fell almost exclusively on us last season having been completed to Hall's Stream, and the cutting which remains to be done having been undertaken by the Americans, our expenses will henceforward be restricted to the surveying and placing the monuments in conjunction with the Americans.

Permit me here to express, for my companions as well as for myself, our deep acknowledgments for the gratifying terms in which your Lordship has been pleased to communicate the approval of Her Majesty's Government in the exertions of the Commission last season. That portion of your Lordship's despatch which related to this subject I had the satisfaction to make known to the officers and men employed by the Commission, in obedience to the directions of your Lordship; and I am very sure that all have esteemed the marked approbation expressed by your Lordship, as a great reward for what they have done, and as an incitement to further exertion.

I have, &c.,

(Signed) J. B. BUCKNALL ESTCOURT, *Lt.-Col.*

No. 21.

The Earl of Aberdeen to Lieutenant-Colonel Estcourt.

Sir, *Foreign Office, April* 3, 1845.

I HAVE received your despatch of the 25th February, in which, with reference to my despatch of the 3rd of January, you inform me that you can dispense with the further services of Captain Broughton; and that, although you consider the assistance of Mr. Featherstonhaugh in continuing the survey of the Boundary Line to be still necessary, you propose to relieve the public from the expense of his continued employment under the Commission at as early a moment as a due regard for the good of the service will admit.

You further state that you propose, in proportion as the labours of the officers and men under your orders shall be no longer required, to discharge them and send them to England.

I entirely concur in these views, and approve your intentions ; and I feel it to be unnecessary for me any further to urge the observance of as strict an economy in the conduct of your operations as may be compatible with the efficient performance of the service intrusted to you.

I have notified to Captain Broughton that he will not be required to return to America ; and that his duties and pay under this department will have ceased on the 31st of March.

You will understand that, in case no appropriation, or an insufficient appropriation, should have been made by Congress for the prosecution of the Boundary proceedings on the part of the United States' Commission, you are to continue alone the surveying and marking out of the Boundary Line without intermission, in the same manner as you were instructed to do last year.

I am, &c.,
(Signed) ABERDEEN.

No. 22.

The Earl of Aberdeen to Lieutenant-Colonel Estcourt.

Sir, *Foreign Office, April* 18, 1845.

I HAVE recently received a despatch from Mr. Pakenham communicating to me a correspondence which, in consequence of a letter from you containing highly useful suggestions for the conduct of the remaining Boundary operations, he had held with the United States' Government relative to those matters.

Her Majesty's Government entirely approve your having spontaneously taken a step so well calculated to accelerate the termination of the labours of the Boundary Commission, which they much desire to bring to a close at the earliest practicable period.

I am, &c.,
(Signed) ABERDEEN.

No. 23.

The Earl of Aberdeen to Lieutenant-Colonel Estcourt.

Sir, *Foreign Office, May* 19, 1845.

THERE appears to be some reason to doubt whether, considering the quantity of work which the American portion of the Boundary Commission will still have to execute on the line of the 45th parallel of north latitude, as laid down in the Treaty of Washington, the appropriation of 75,000 dollars made by Congress in their last session, for continuing the Boundary operations, will suffice for enabling the United States' Commission to bring those operations to a close during the present season.

Her Majesty's Government are, however, most anxious to complete the Boundary proceedings, and to dissolve the Commission before the expiration of the current year.

In case, therefore, you should, in process of time, have good reason to suppose that the funds voted by Congress will be found insufficient for their intended object, I should not object to your proposing to your American colleague to take upon yourself a given portion of the cutting or other work, which would properly fall to the Americans, on a written engagement being entered into with you by Mr. Albert Smith, that the sums thus expended by you in executing that part of the work should be considered reimbursable to Great Britain, and that they should be submitted to the United States' Government as such by Mr. Smith.

Should this mode appear to you, on due consideration, in any way objectionable or insufficient; or should any other scheme for accomplishing the same end strike you as preferable, so great a value do Her Majesty's Government attach to the completion of the whole of the Boundary work before the termination of the present year, that they are willing to leave in your hands a full discretion, and I hereby grant to you a full discretion to adopt whatever other mode of attaining the great object in view may appear to you to be best, whether by advancing a moderate sum on promissory bonds to be given to you by Mr. Smith, he undertaking the work, or by any other method by which security of reimbursement may be attained.

I am, &c.,
(Signed) ABERDEEN.

No. 24.

Lieutenant-Colonel Estcourt to Mr. Addington.—(*Received July* 30.)

(Extract.) *St. John's, July* 9, 1845.

YOU will be glad to hear, and so still more will Lord Aberdeen, that the whole cutting of the Line will be finished to-morrow, 10th July. There remains therefore to finish now the survey and the erecting the iron posts.

Mr. Wilkinson is about the Metjarmette Portage, surveying the High Lands. He has just come up from the Valley of the St. John, where everything is done.

Mr. Scott has finished the erecting of the monuments from the Metjarmette to Arnold's River. Mr. Wilkinson will survey that. Two American parties are in the High Lands, surveying and erecting monuments west of Arnold's River. Hall's Stream has been surveyed and marked. The survey is going on on the 45th.

Captain Robinson removes from Montreal to Lake Memphramagog this week. Lieutenant Pipon from S. Regis about the end of next week. Major Graham is at Rouse's Point. The Americans have a surveying party on the 45th; just now they are about Missisqui Bay. Mr. Featherstonhaugh is near Stanstead also surveying the 45th. We have another surveying party just now attached to Lieutenant Pipon, in addition to his astronomy, in the neighbourhood of S. Regis; but I mean to send Mr. Scott to take charge of it, he being now released from the High Lands. Two months more work of one sort or another *in the field* remains to be done.

NORTH-EASTERN BOUNDARY.

CORRESPONDENCE respecting the operations of the COMMISSION for running and tracing the BOUNDARY LINE between Her Majesty's Possessions in North America and the United States, under the Sixth Article of the Treaty signed at Washington, August 9, 1842.

With Map annexed showing the Country in which the operations have been carried on.

Presented to the House of Commons by Her Majesty's Command. 1845.

MAP

TO ILLUSTRATE

The Boundary line established by the Treaty of Washington,

OF THE 9TH OF AUGUST, 1842

Between Her Majestys Colonies of

NEW BRUNSWICK AND CANADA

AND THE

UNITED STATES OF AMERICA

Boundary by Treaty of 1842

DISTRICT OF GASPE

BAY DES CHALEURS

RIVER St LAWRENCE

LOWER CANADA

UPPER CANADA

NEW BRUNSWICK

UNITED STATES

VERMONT

NEW HAMPSHIRE

MASSACHUSETTS

BAY OF FUNDY

NOVA SCOTIA

ATLANTIC OCEAN

Amount in Acres ceded to the United States ... 3.413.000
Amount in Acres retained by Great Britain ... 3.337.000

Printed from Stone by Harrison & Co. 45 St Martins Lane.

DISPUTED TERRITORY.

RETURN to an ADDRESS of the Honourable The House of Commons, dated 8 April 1845;—*for*,

"COPY of a DESPATCH from Lord *Sydenham* to Lord *John Russell*, dated the 9th day of August 1841, respecting the Provisional Occupation of the DISPUTED TERRITORY, and of the subsequent CORRESPONDENCE thereon."

Colonial Office, Downing-street, 9 April 1845.

G. W. HOPE.

Ordered, by The House of Commons, *to be Printed*, 9 *April* 1845.

— No. 1. —

(No. 104.)

COPY of a DESPATCH from Lord *Sydenham* to Lord *John Russell*.

No. 1.
Lord Sydenham to Lord John Russell.
9 August 1841.

My Lord, Kingston, 9 August 1841.

WITH reference to the correspondence which has taken place, relative to the occupation of the disputed territory by the regular troops of the United States, instead of by the civil possé of Maine, pending the final settlement of the boundary question, I have the honour to transmit herewith for your information, the copy of a despatch which I recently received from Mr. Fox, together with a copy of my answer.

It was of course impossible for me, consistently with the instructions which I had received from your Lordship, and with the protection which the Government is bound to afford to all Her Majesty's subjects, to consent to Mr. Webster's proposals that the British troops should be restricted to the north bank of the St. John's. It is true that, from considerations of convenience, they are now and have always been posted on that bank, but the knowledge that, in case of necessity, they would immediately cross to the south bank, affords in reality to the Madawaska settlers on that bank, as perfect a protection as if the troops were quartered among them; but this virtual protection would be at once lost were the troops debarred from crossing the river, and the attempts of the people of Maine to bring those settlers under their authority would be altogether unchecked, for it could scarcely be expected that the troops of the United States would interfere to prevent such attempts. This is so obvious that I trust the Federal Government will acquiesce in the reasonableness of the objection; but if not, it would be better that matters should remain in their present state, unsatisfactory as it is, than that, by any further concession on our part, we should strengthen the pretensions and justify the encroachments which, in defiance of the arrangement with Sir J. Harvey, the people of Maine have persevered in making during the last three years.

I have, &c.

(signed) *Sydenham*.

No. 2.
J. Stephen, Esq.
to Lord Leveson.
2 Sept. 1841.

— No. 2. —

J. Stephen, Esq. to Lord *Leveson*.

My Lord, Downing-street, 2 Sept. 1841.

No. 104.

I AM directed by Lord John Russell to transmit to you, for the information of Viscount Palmerston, the copy of a despatch from Lord Sydenham of the 9th of August, enclosing copy of a despatch which his Lordship has addressed to Mr. Fox on the 3d of August, in answer to his communication of the 27th of July, respecting the proposal which Mr. Fox has received from Mr. Webster for arranging the question pending between the two Governments, of temporary jurisdiction over the disputed territory.

I have, &c.
(signed) *James Stephen.*

No. 3.
Lord Leveson to
J. Stephen, Esq.
2 Sept. 1841.

— No. 3. —

Lord *Leveson* to *J. Stephen*, Esq.

Sir, Foreign Office, 2 Sept. 1841.

From Mr. Fox,
8 Aug. 1841.
Ditto,
11 Aug. 1841.

I AM directed by Viscount Palmerston to transmit to you, for the information of Lord John Russell, copies of two despatches from Her Majesty's minister at Washington, enclosing copies of his correspondence with the Governor-general of Canada, relative to the present state of Mr. Fox's negotiation with the government of the United States, for regulating the provisional custody and occupation of the disputed territory; and I also enclose a copy of a despatch which Lord Palmerston has addressed to Mr. Fox thereupon.

To Mr. Fox,
29 Aug. 1841.

I am, &c.
(signed) *Leveson.*

No. 4.
Lord Palmerston to
H. S. Fox, Esq.
31 Aug. 1841.

— No. 4. —

Lord *Palmerston* to *H. S. Fox*, Esq.

Sir, Foreign Office, 31 August 1841.

I HAVE to acknowledge the receipt of your despatches, Nos. 73 and 75, of the 8th and 11th instant, enclosing copies of your correspondence with Lord Sydenham, and of the papers therein referred to, relative to the present state of your negotiation with the government of the United States for regulating the provisional custody and occupation of the disputed territory.

I have to state to you, in reply thereto, that Her Majesty's Government concur in opinion with Lord Sydenham that it would not be right or safe to agree to any arrangement which should preclude Her Majesty's troops from moving, if necessary, into that part of the Valley of the St. John which lies south of the river; but Her Majesty's Government are of opinion that it would be highly inexpedient to consent to an arrangement by which United States troops should be permitted, with the consent of the British Government, to occupy any position in the Valley of the St. John. The agreement made between Sir John Harvey and General Scott is perfectly clear, and is as fair as it is clear; and you are instructed to adhere to that arrangement, which leaves the Americans in occupation of the Valley of the Aroostook, and the British in occupation of the Valley of the St. John. If this basis of arrangement were once agreed to, no difficulty could be experienced in defining the boundary between those two valleys sufficiently for the purpose.

I am, &c.
(signed) *Palmerston.*

— No. 5. —

No. 5.
Lord Stanley to
Lord Sydenham.
13 Sept. 1841.

Lord *Stanley* to Lord *Sydenham.*

(No. 4.)

My Lord, Downing-street, 13 September 1841.

My predecessor communicated to Viscount Palmerston, on the 2d instant, copies of your Lordship's despatch of the 9th of August, No. 104, with the correspondence therein enclosed, relative to the negotiation which is pending with the Government of the United States, for regulating the provisional custody and occupation of the disputed territory. On the same day a copy of this correspondence was received at this office from the Foreign Office, with the addition of copies of two despatches from Mr. Fox, and of the answer which Lord Palmerston returned to those despatches on the 31st ultimo.

Lord Palmerston to Mr. Fox, 31 August.

I transmit to your Lordship copies of these communications, of the dates mentioned in the margin; the rest of the correspondence, to which reference is made, being already in your possession.

I have, &c.

(signed) *Stanley.*

DISPUTED TERRITORY.

DESPATCH from Lord *Sydenham* to Lord *John Russell*, respecting the Provisional Occupation of the DISPUTED TERRITORY, and the consequent CORRESPONDENCE thereon.

(Lord John Russell.)

Ordered, by The House of Commons, *to be Printed,*
9 *April* 1845.

200.

Under 1 *oz.*

CORRESPONDENCE

RELATIVE TO THE

NEGOTIATION OF THE QUESTION OF DISPUTED RIGHT

TO THE

OREGON TERRITORY,

ON THE

NORTH-WEST COAST OF AMERICA;

SUBSEQUENT TO

The Treaty of Washington of August 9, 1842.

Presented to both Houses of Parliament by Command of Her Majesty.
1846.

LONDON:
(60) PRINTED BY T. R. HARRISON.

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OREGON TERRITORY.

Correspondence relative to the Negotiation of the Question of Disputed Right to the Oregon Territory, on the North-West Coast of America; subsequent to the Treaty of Washington of August 9, 1842.

No. 1.

Mr. Fox to Mr. Webster.

Sir, *Washington, November* 15, 1842.

WITH reference to our recent conversation upon the question of the Oregon or North-Western Boundary, when I conveyed to you the desire of Her Majesty's Government that instructions should at an early period be addressed to the United States' Minister in London, empowering him to treat with such person as may be appointed by Her Majesty on the part of Great Britain, for a final settlement of that question, I have now the honour to inclose to you the extract of a despatch addressed to me upon that subject by the Earl of Aberdeen, in which the wishes of Her Majesty's Government are fully and satisfactorily set forth.

I feel persuaded that the great importance of the matter at issue, and the friendly and conciliatory manner of Lord Aberdeen's proposal, will induce the President of the United States to bestow thereupon his early and serious attention.

I avail myself, &c.,

(Signed) H. S. FOX.

No. 2.

The Earl of Aberdeen to Mr. Fox.

(Extract.) *Foreign Office, October* 18, 1842.

THE ratifications of the Treaty concluded on the 9th of August between Great Britain and the United States, were exchanged by me on the 13th instant, with the Minister of the United States accredited to the Court of Her Majesty.

The more important question of the disputed Boundary between Her Majesty's North American Provinces and the United States being thus settled, and the feelings which have been mutually produced in the people of both countries by this settlement being evidently favourable, and indicative of a general desire to continue on the best footing with each other, it has appeared to Her Majesty's Government that both parties would act wisely in availing themselves of so auspicious a moment to endeavour to bring to a settlement the only remaining subject of territorial difference, which, although not so hazardous as that of the North-Eastern Boundary, is, nevertheless, even at this moment, not without risk to the good understanding between the two countries, and may, in course of time, be attended with the same description of danger to their mutual peace as

the question which has recently been adjusted. I speak of the line of Boundary west of the Rocky Mountains.

You are aware that Lord Ashburton was furnished with specific and detailed instructions with respect to the treatment of this point of difference between the two Governments, in the general negotiations with which he was entrusted, and which he has brought to a satisfactory issue. For reasons which it is not necessary here to state at length, that point, after having been made the subject of conference with the American Secretary of State, was not further pressed.

The main ground alleged by his Lordship for abstaining from proposing to carry on the discussion with respect to the question of the North-Western Boundary, was the apprehension, lest, by so doing, the settlement of the far more important matter of the North-Eastern Boundary should be impeded, or exposed to the hazard of failure.

This ground of apprehension no longer exists; and Her Majesty's Government, therefore, being anxious to endeavour to remove, so far as depends on them, all cause, however remote, of even contingent risk to the good understanding now so happily restored between two countries which ought never to be at variance with each other, have determined to propose to the Government of the United States to meet them in an endeavour to adjust by treaty the unsettled question of Boundary west of the Rocky Mountains.

On the receipt of this despatch, therefore, I have to desire that you will propose to Mr. Webster to move the President to furnish the United States' Minister at this Court with such instructions as will enable him to enter upon the negotiation of this matter with such person as may be appointed by Her Majesty for that object. And you will assure him, at the same time, that we are prepared to proceed to the consideration of it in a perfect spirit of fairness, and to adjust it on a basis of equitable compromise.

No. 3.

Mr. Webster to Mr. Fox.

Department of State,
Sir, *Washington, November* 25, 1842.

I HAVE the honour to acknowledge the receipt of your note of the 15th instant, upon the question of the Oregon or North-Western Boundary, with an extract of a despatch recently addressed to you on the subject by the Earl of Aberdeen, explanatory of the wishes of Her Majesty's Government, both of which I laid before the President a few days afterwards. He directed me to say that he concurred entirely in the expediency of making the question respecting the Oregon Territory a subject of immediate attention and negotiation between the two Governments. He had already formed the purpose of expressing this opinion in his message to Congress; and at no distant day a communication will be made to the Minister of the United States in London.

I pray you to accept, &c.,

(Signed) DANIEL WEBSTER.

No. 4.

Mr. Fox to the Earl of Aberdeen.—(Received December 30.)

(Extract.) *Washington, December* 12, 1842.

THE session of Congress was opened on Monday last, the 5th instant.

I have the honour to inclose copies of the President's annual message, which was transmitted to the two Houses on the 7th instant.

Your Lordship will be surprised (after the official correspondence between Mr. Webster and myself, which was forwarded by the last packet) at the inexact manner in which the message describes the state of the negotiation for the adjustment of the Oregon Boundary. The language of the President leaves it to be inferred that an early settlement of this question is urged by the Government of the United States, rather than by that of Great Britain.

Inclosure in No. 4.

Extract from the Message of the President of the United States of December 7, 1842.

IT would have furnished additional cause for congratulation, if the Treaty could have embraced all subjects calculated in future to lead to a misunderstanding between the two Governments. The territory of the United States commonly called the Oregon Territory, lying on the Pacific Ocean, north of the 42nd degree of latitude, to a portion of which Great Britain lays claim, begins to attract the attention of our fellow-citizens; and the tide of population which has reclaimed what was so lately an unbroken wilderness, in more contiguous regions, is preparing to flow over those vast districts which stretch from the Rocky Mountains to the Pacific Ocean. In advance of the acquirement of individual rights to these lands, sound policy dictates that every effort should be resorted to by the two Governments to settle their respective claims. It became manifest, at an early hour of the late negotiations, that any attempt for the time being satisfactorily to determine those rights, would lead to a protracted discussion which might embrace in its failure other more pressing matters; and the Executive did not regard it as proper to waive all the advantages of an honourable adjustment of other difficulties of great magnitude and importance, because this, not so immediately pressing, stood in the way. Although the difficulty referred to may not, for several years to come, involve the peace of the two countries, yet I shall not delay to urge on Great Britain the importance of its early settlement. Nor will other matters of commercial importance to the two countries be overlooked; and I have good reason to believe that it will comport with the policy of England, as it does with that of the United States, to seize upon this moment, when most of the causes of irritation have passed away, to cement the peace and amity of the two countries, by wisely removing all grounds of probable and future collision.

No. 5.

The Earl of Aberdeen to Mr. Fox.

(Extract.) *Foreign Office, January 18, 1843.*

HER Majesty's Government have observed with surprise and regret a paragraph in the President's late message to Congress, which, if not directly at variance with fact, is at least calculated to mislead. That paragraph relates to the difference existing between Great Britain and the United States on the subject of the territory situated between the Rocky Mountains and the Pacific Ocean.

As the correspondence which has recently passed between the two Governments relative to the Oregon Territory will, probably, in no long time be laid before Congress or Parliament, I might leave the facts, as exhibited in that correspondence, to speak for themselves. But as the President has declared an intention to Congress, of urging, without delay, on Great Britain the importance of an early settlement of this question, I am constrained to observe, that it would have been more candid had he also stated that he had already received from the British Government a pressing overture to negotiate an adjustment of

differences with respect to the Oregon Territory, and that he had responded to that overture in the same conciliatory spirit in which it had been made.

The language held by the President in his message is the more remarkable, since, almost at the very time that he was composing it, Mr. Webster had notified to you, by the President's order, his assent to the British proposition. Mr. Webster's letter bears date the 25th of November, and the President's message was delivered to Congress on the 7th of December.

No. 6.

Mr. Fox to the Earl of Aberdeen.—(*Received January* 30, 1843.)

My Lord, *Washington, December* 29, 1842.

THE inclosed special message, having reference to the present state of the negotiation between Great Britain and the United States upon the subject of the Oregon Boundary, was transmitted by the President to the Senate on the 23rd instant, in reply to a resolution of the Senate of the previous day, calling upon the Executive for information upon the above subject.

Your Lordship will perceive that in this message the President declines entering into the particulars of the negotiation; but that he again gives, in general terms, the same inexact description of the state of the business, upon which I had occasion to remark in my despatch of the 12th instant, when treating of that part of the President's annual message which related to the Oregon Boundary.

I have, &c.,
(Signed) H. S. FOX.

Inclosure in No. 6.

Special Message from the President to Congress in relation to the Oregon Boundary.

To the Senate of the United States:

I HAVE received the resolution of the 22nd instant, requesting me "to inform the Senate of the nature and extent of the informal communications which took place between the American Secretary of State and the British Special Minister, during the late negotiation in Washington city, upon the subject of the claims of the United States and Great Britain to the territory west of the Rocky Mountains; and also to inform the Senate what were the reasons which prevented any agreement upon the subject at present, and which made it inexpedient to include this subject among the subjects of formal negotiation."

In my message to Congress at the commencement of the present session, in adverting to the territory of the United States on the Pacific Ocean, north of the 42nd degree of north latitude, a part of which is claimed by Great Britain, I remarked that, "in advance of the acquirement of individual right to these lands, sound policy dictated that every effort should be resorted to by the two Govenments to settle their respective claims;" and also stated that I should not delay to urge on Great Britain the importance of an early settlement. Measures have been already taken in pursuance of the purpose thus expressed, and, under the circumstances, I do not deem it consistent with the public interest to make any communication on the subject.

(Signed) JOHN TYLER.

Washington, December 23, 1842.

No. 7.

The Earl of Aberdeen to Mr. Fox.

Sir, *Foreign Office, August* 18, 1843.

BY my despatch of the 18th of October last, you were authorized to propose to the Government of the United States that full powers should be sent to the United States' Minister in this country, to enable him to enter upon a negotiation with Her Majesty's Government for the settlement of the question of Boundary of the Oregon Territory. Mr. Webster replied on the 25th of November to your note of the 15th of that month, in which you submitted that proposition to him, that at no distant day a communication would be made to the Minister of the United States in London upon this subject.

In February last, Mr. Webster informed you that the President had it in contemplation to send a Special Mission to England, for the purpose of opening the negotiation proposed by the British Govenment; and since that time I had been more than once given to understand by Mr. Everett, that it was the intention of the President to prosecute this matter in London; but as yet nothing further has been done.

I have therefore to desire that you will inform me whether any steps have been taken by the American Government in furtherance of this important object; Her Majesty's Government being most desirous that no unnecessary delay should take place in endeavouring to bring this question of Boundary to a satisfactory conclusion.

Should the President now entertain any serious objection, or find any difficulty with respect to the prosecution of the negotiations in London, you are hereby authorized to assure the United States' Secretary of State, that you will be empowered to enter upon that duty at Washington.

I am, &c.,
(Signed) ABERDEEN.

No. 8.

Mr. Fox to the Earl of Aberdeen.—(Received October 1.)

(Extract.) *Washington, September* 12, 1843.

I HAD the honour to receive by the last packet your Lordship's despatch of the 18th ultimo, concerning the present state of the Oregon Boundary negotiation. Having suffered for the last few days from a severe attack of fever, I was unable to confer personally with the United States' Secretary of State. I therefore commissioned Mr. Lettsom, first Attaché to this Legation, in whom, I am happy to say, I place full confidence, to make the required communication for me.

Mr. Lettsom called upon Mr. Upshur, and read to him, by my desire, your Lordship's despatch. He stated to Mr. Upshur that the object of the communication was to make the United States' Government aware how much your Lordship desired that an early progress might be made in the Oregon negotiation, either by transmitting powers and instructions to Mr. Everett in London, or, if the President should prefer it, by my being empowered to enter upon the negotiation at Washington.

Mr. Upshur, after having heard your Lordship's despatch read, replied, that the United States' Government were not inattentive to the subject of the Oregon negotiation, and were, equally with Her Majesty's Government, desirous to promote an early settlement of the question. He said that, immediately upon the President's return to the seat of Government, he should consult with him upon the matter, and would then make to me a further communication. The President is at present in Virginia, but he is expected to be back at Washington for a few days in the course of a week.

Mr. Upshur added to Mr. Lettsom, of his own accord, that he thought it likely the President would prefer to conduct the negotiation at Washington.

No. 9.

Mr. Fox to the Earl of Aberdeen.—(*Received December* 31.)

(Extract.) *Washington, December* 13, 1843.

I HAVE the honour to inclose copies of the President's annual message transmitted to Congress on the 5th instant.

In that part of the President's message which refers to the Oregon Boundary negotiation, your Lordship will regret to find that the same inexact mode of representing the present state of the negotiation is persisted in, of which we had reason to complain in two messages transmitted by the President to Congress at the beginning of the last session. The inference drawn from the President's expressions by all who are unacquainted with the real state of the case, and with the communications that have passed between the two Governments, must still be, that the President has been occupied in urging upon Her Majesty's Government an early settlement of the Oregon Question; and that Her Majesty's Government, on their part, have either been inattentive to the urgency of the question, or reluctant to proceed to an adjustment of it. This is the unavoidable inference to be drawn from the President's words.

On the other hand, it is satisfactory to observe that the question at issue between Great Britain and the United States, with regard to the Oregon Territory, and the nature of the dispute, are fairly and not intemperately stated in the President's message of this year; and, above all, that no rash or irrevocable assertion is hazarded, of the intention of the United States to persist in their entire claim, nor any declaration which need preclude the President from acceding to an equitable compromise, if the course of the negotiation should lead to such a mode of adjustment.

Inclosure in No. 9.

Extract from the annual Message of the President of the United States, transmitted to Congress December 5, 1843.

A QUESTION of much importance still remains to be adjusted between them (Great Britain and the United States). The territorial limits of the two countries in relation to what is commonly known as the Oregon Territory, still remain in dispute. The United States would be at all times indisposed to aggrandize themselves at the expense of any other nation; but while they would be restrained by principles of honour which should govern the conduct of nations as well as that of individuals, from setting up a demand for territory which does not belong to them, they would as unwillingly consent to a surrender of their rights. After the most rigid and, as far as practicable, unbiassed examination of the subject, the United States have always contended that their rights appertain to the entire region of country lying on the Pacific, and embraced within 42° and 54° 40′ of north latitude. This claim being controverted by Great Britain, those who have preceded the present Executive, actuated, no doubt, by an earnest desire to adjust the matter upon terms mutually satisfactory to both countries, have caused to be submitted to the British Government, propositions for settlement and final adjustment, which, however, have not proved heretofore acceptable to it. Our Minister at London has, under instructions, again brought the subject to the consideration of that Government; and while nothing will be done to compromit the rights or honour of the United States, every proper expedient will be resorted to in order to bring the negotiation, now

in the progress of resumption, to a speedy and happy termination. In the mean time, it is proper to remark, that many of our citizens are either already established in the territory, or are on their way thither for the purpose of forming permanent settlements, while others are preparing to follow; and in view of these facts, I must repeat the recommendation contained in previous messages, for the establishment of military posts, at such places, on the line of travel, as will furnish security and protection to our hardy adventurers against hostile tribes of Indians inhabiting those extensive regions. Our laws should also follow them, so modified as the circumstances of the case may seem to require. Under the influence of our free system of government, new republics are destined to spring up, at no distant day, on the shores of the Pacific, similar in policy and in feeling to those existing on this side of the Rocky Mountains, and giving a wider and more extensive spread to the principles of civil and religious liberty.

No. 10.

The Earl of Aberdeen to Mr. Pakenham.

(Extract.) *Foreign Office, December* 28, 1843.

ONE of the first objects which will engage your attention on your arrival at Washington, will be the negotiation for the settlement of the Boundaries of the Oregon or Columbia Territory.

By a perusal of the communications which have recently passed on this subject between the British and American Governments, you will see that in October, 1842, Her Majesty's Goverement, being desirous of putting an end to any difference which, notwithstanding the successful mission of Lord Ashburton, might still exist, a proposition was made to open a negotiation for the settlement of this question. The President, in his message to Congress in the month of December following, strongly urged the necessity of such a negotiation; and Her Majesty's Government, in the same month of December, repeated the proposal. It was again favourably received by the President, but, from various causes, all further proceedings were suspended on the part of the United States.

Some doubt appeared to exist respecting the seat of the proposed negotiation; and in order to revive this matter, Her Majesty's Government, in a despatch to Mr. Fox, dated the 18th of August last, authorized that gentleman to declare that in case Washington should be preferred by the President, Her Majesty's Government would agree to that arrangement.

Although Her Majesty's Government would not object to follow any course which might be decidedly preferred by the Government of the United States, they have acquired the conviction that, under present circumstances, and during the meeting of Congress, the best prospect of success would be afforded by opening the negotiation at Washington.

The recent message of the President, delivered on the 5th instant, has just been received in this country. It adverts at some length to the subject of the Oregon Territory, and in no very conciliatory manner; but this has produced no change in the intentions of Her Majesty's Government. It is our desire, as it is our duty, to make every effort, consistently with the honour and essential interests of the country, to bring this matter to a speedy and amicable settlement.

On your arrival, therefore, at Washington, you will repeat to the United States' Secretary of State, the desire of Her Majesty's Government to carry on the negotiation; and you will inform him that you are furnished with the requisite full powers to enter upon it with any person whom the President may appoint to meet you.

In order to provide for the immediate acceptance of that proposition by the President, I proceed to give you the necessary instructions for your guidance.

No. 11.

Mr. Pakenham to the Earl of Aberdeen.—(*Received March* 14.)

(Extract.) *Washington, February* 27, 1844.

CONSIDERING the attempts which have from time to time been made to lead the American people to believe that the Government of the United States were more active than the Government of England in endeavouring to effect a settlement of the Oregon Question, and the resolutions which have been proposed during the past and present sessions of Congress for the summary solution of that question, by proceeding to the occupation of the disputed territory, I thought it advisable, as soon as possible after my arrival at Washington, to take a first step towards the fulfilment of your Lordship's instructions upon that important subject, by officially informing the Secretary of State, of the desire of Her Majesty's Government to resume negotiations for the adjustment of a line of boundary.

For this purpose I delivered to Mr. Upshur, on the 24th instant, a note, a copy of which I have the honour to inclose, expressing my readiness to confer with him, with a view to ulterior negotiation on the matter in question, whenever it might suit his convenience. On that occasion Mr. Upshur simply informed me that he would answer my note in a few days. Yesterday his answer, of which I also inclose a copy, was delivered to me, appointing the morning of to-day for our first conference. My reason for laying before your Lordship these otherwise unimportant communications, is that I think it of consequence, with a view to what may happen hereafter, that the advance which has thus been made on behalf of Her Majesty's Government towards negotiation should be authentically recorded.

My conversation with Mr. Upshur, of this morning, although strictly of a preliminary character, was not altogether unsatisfactory. In the first place, it has elicited the fact that the negotiation on the part of the United States is to be confided to Mr. Upshur; an arrangement from which I am inclined to augur favourably, on account of the opinion entertained by Mr. Fox of that gentleman's integrity and good faith.

Mr. Upshur has further assured me of his entire disposition to carry on the negotiation in a fair spirit of compromise, and above all to endeavour, whatever may be the result, that matters shall not be left in a worse state, with reference to the relations between the two countries, than they are at present.

"We must, at least, take care," he said, and with great appearance of sincerity, "that if we should not succeed in effecting an arrangement, there shall be no quarrel."

Inclosure 1 in No. 11.

Mr. Pakenham to Mr. Upshur.

Washington, February 24, 1844.

AMONG the matters at present under the consideration of the two Governments, there is none respecting which the British Government are more anxious to come to an early and satisfactory arrangement with the Government of the United States, than that relating to the boundaries of the Oregon or Columbia Territory.

The Undersigned, Her Majesty's Envoy Extraordinary and Minister Plenipotentiary, has accordingly been instructed to lose no time in entering into communication with the Secretary of State of the United States upon this subject.

In fulfilment, then, of the commands of his Government, the Undersigned has the honour to acquaint Mr. Upshur, that he will be ready to confer with him with a view to ulterior negotiation on the subject in question, whensoever it shall suit Mr. Upshur's convenience.

The Undersigned, &c.,

(Signed) R. PAKENHAM.

Inclosure 2 in No. 11.

Mr. Upshur to Mr. Pakenham.

Department of State,
Washington, February 26, 1844.

THE Undersigned, Secretary of State of the United States, has the honour to acknowledge the receipt of the note dated the 24th instant, from Mr. Pakenham, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, in which he states that he will be ready to confer with the Undersigned, with the view to ulterior negotiation on the subject of the boundaries of the Oregon or Columbia Territory, whensoever it shall suit his convenience.

In reply, the Undersigned has the honour to inform Mr. Pakenham that he will receive him for that purpose, at the Department of State, tomorrow at eleven o'clock A.M.

The Undersigned, &c.,

(Signed) A. P. UPSHUR.

No. 12.

Mr. Pakenham to the Earl of Aberdeen.—(*Received May* 13.)

My Lord, *Washington, April* 14, 1844.

SINCE Mr. Calhoun's accession to the office of Secretary of State, nothing has been done in the affair of Oregon; his attention having been exclusively devoted to the negotiation of the Treaty with Texas, which forms the subject of my preceding despatch of this date.

But as that matter is now concluded, as far as the Executive branch of the Government is concerned, I suppose that Mr. Calhoun will be at leisure to attend to the Oregon negotiation in time to allow me to report something on that important subject by the next regular mail.

I have, &c.,

(Signed) R. PAKENHAM.

No. 13.

Mr. Pakenham to the Earl of Aberdeen.—(*Received May* 16.)

My Lord, *Washington, April* 28, 1844.

NOTHING has yet been done in the affair of the Oregon Boundary, Mr. Calhoun continuing to say that he has not yet had time to acquire the necessary information to enable him to enter on the negotiation.

I have, &c.,

(Signed) R. PAKENHAM.

No. 14.

Mr. Pakenham to the Earl of Aberdeen.—(*Received May* 29.)

(Extract.) *Washington, May* 13, 1844.

I HAVE again to report to your Lordship that nothing has yet been done in the Oregon negotiation.

A few days ago Mr. Calhoun informed me that his time had been so much taken up with other matters of pressing importance, that he had been unable to look into the papers connected with that question; and he gave me to understand that he should probably be obliged to defer the negotiation until after the adjournment of Congress, which it is supposed will take place in the course of next month.

No. 15.

Mr. Pakenham to the Earl of Aberdeen.—(*Received August* 14.)

(Extract.) *Washington, July* 29, 1844.

A FEW days after the dispatch of the last packet, I again inquired of Mr. Calhoun how soon it might be likely to suit his convenience to enter into communication with me on the subject of the Oregon Boundary.

He replied, as he had already stated on former occasions, that he had not yet had time to make himself acquainted with the details of the question; that as Congress was no longer in session, he did not think the matter was one of immediate urgency; and that as it was his intention to go home to South Carolina early next month, he proposed to take with him the papers relating to the question, in order that he might, at his leisure, prepare himself to enter formally on the proposed negotiation on his return to Washington.

I told him that, much as Her Majesty's Government desired to see the question of Oregon satisfactorily disposed of, it was not their wish to press this Government inconveniently respecting it; but that, on the other hand, considering the impatience which had been manifested upon the subject during the last and preceding sessions of Congress, and the observations which had been more than once put forth tending to create the belief that Her Majesty's Government were not in reality desirous of meeting this Government fairly on the question, I felt it to be my duty to place something on record, which should prove that there was no want of readiness on our part to proceed with the negotiation at the earliest moment consistent with the convenience of the Government of the United States; and that I therefore intended, with his permission, to address a letter to him repeating what I had already said to him on various occasions in the above sense.

Inclosure in No. 15.

Mr. Pakenham to Mr. Calhoun.

Sir, *Washington, July* 22, 1844.

IN the archives of the Department of State will be found a note which I had the honour to address on the 24th February last to the late Mr. Upshur, expressing the desire of Her Majesty's Government to conclude with the Government of the United States a satisfactory arrangement respecting the boundary of the Oregon or Columbia Territory.

The lamented death of Mr. Upshur, which occurred within a few days after the date of that note; the interval which took place between that event and the appointment of a successor; and the urgency and importance of various matters which offered themselves to your attention immediately after your accession to office, sufficiently explain why it has not hitherto been in the power of your Government, Sir, to attend to the important matter to which I refer.

But the session of Congress having been brought to a close, and the present being the season of the year when the least public business is usually transacted, it occurs to me that you may now feel at leisure to proceed to the consideration of that subject. At all events it becomes my duty to recall it to your recollection, and to repeat the earnest desire of Her Majesty's Government, that a question on which so much interest is felt in both countries, should be disposed of at the earliest moment consistent with the convenience of the Government of the United States.

I have, &c.,

(Signed) R. PAKENHAM.

No. 16.

Mr. Pakenham to the Earl of Aberdeen.—(Received September 15.)

(Extract.) *Washington, August* 29, 1844.

ON the 22nd of this month I received from Mr. Calhoun a note, a copy of which I have the honour to inclose, informing me that he was now at leisure to confer with me on the subject of the Oregon Boundary.

In conformity with his proposal, our first conference took place on the following day, the 23rd instant, when, after mutual assurances of the desire of our respective Governments to approach the question in a fair spirit of compromise, and to spare no pains to effect a settlement of it upon terms consistent with the honour and just interests of either party, we proceeded to examine the actual state of the question as it had remained since the last unsuccessful attempt to adjust it.

Mr. Calhoun then expressed his desire to receive from me any fresh proposal which I might be empowered to offer on the part of Her Majesty's Government, tending to an approximation of the views of the two Governments. I told him that I should be ready to offer such a proposal at our next conference, when I hoped that he also would be prepared to suggest some arrangement by which the views and expectations of the two Governments might be reconciled.

Our second conference took place on the 26th, when I laid before him the proposal* authorized by your Lordship's instructions relative to a free port either on the mainland or on Vancouver's Island, south of the 49th degree of north latitude.

This proposal was at once declined by Mr. Calhoun, as altogether inadequate. He then informed me that before we proceeded farther with the negotiation, it was his intention to prepare a written statement of the case of the United States as it presented itself to his view, and taking into account certain new circumstances affecting it, which had come into existence since the temporary arrangement of 1827 was concluded. That

* See page 27, Minute of a Conference, &c.

this statement he would deliver to me, to be either answered by myself, or referred to Her Majesty's Government, as I might think proper.

I of course could not do otherwise than accede to the course of proceeding thus proposed by Mr. Calhoun; and it now remains to be seen what new arguments he is prepared to bring forward, either to give strength to the claim of this country as originally presented, or to invalidate that of Great Britain.

Inclosure in No. 16.

Mr. Calhoun to Mr. Pakenham.

Department of State,
Sir, *Washington, August* 22, 1844.

THE various subjects which necessarily claimed my attention on entering on the duties of my office have heretofore, as you justly suppose in your note of the 22nd of July last, prevented me from appointing a time to confer with you, and enter on the negotiation in reference to the Oregon Territory.

These have, at length, been dispatched; and in reply to the note which you did me the honour to address to me, of the date above mentioned, I have to inform you that I am now ready to enter on the negotiation, and for that purpose propose a conference to-morrow, at 1 o'clock P. M., at the Department of State, if perfectly convenient to you, but if not, at any other which it may suit your convenience to appoint.

The Government of the United States participates in the anxious desire of that of Great Britain that the subject may be early and satisfactorily arranged.

I have, &c.,
(Signed) J. C. CALHOUN.

No. 17.

Mr. Pakenham to the Earl of Aberdeen.—(Received September 30.)

My Lord, *Washington, September* 12, 1844.

YOUR Lordship will have been informed by my despatch of 29th August of what had taken place up to that date on the subject of the Oregon negotiation.

I have now the honour to transmit, for your Lordship's information, a copy of a statement presented by Mr. Calhoun, explaining his reasons for declining the proposal which I had made to him in accordance with your Lordship's instructions, which he says would have the effect of restricting the possessions of the United States, to limits far more circumscribed than their claims clearly entitle them to.

For the present Mr. Calhoun limits himself to the entire region drained by the Columbia River, to which he asserts that they are fairly entitled on the several grounds detailed in his statement.

I do not think that your Lordship will find in this paper anything of importance that has not already been urged in other words by the gentlemen who represented the United States in the previous negotiations, with the exception, perhaps, of what is said of the rapid increase of population in the Valley of the Mississippi, which Mr. Calhoun now refers to as justifying a claim on the grounds of continuity.

Mr. Calhoun, your Lordship will perceive, divides the claim of the United States to the territory drained by the Columbia into their own proper claims, by virtue of priority of discovery, and priority of exploration and settlement, and those derived from France and Spain. In my answer to his statement, a copy of which I have the honour to inclose, I endeavour to show that the claim derived from France is good for nothing; that the claim derived from Spain is restricted by the stipula-

tions of the Nootka Convention; and that, as relates to discovery and exploration, we can refer to discoveries both antecedent to, and posterior to, their alleged discovery of the mouth of the Columbia, which would place the British claim under that head at least upon a par with the claim of the United States.

I also endeavour to prove that, considering the circumstances on both sides, the arrangement proposed by Great Britain was fair and liberal, and that it did ample justice to the claims of the United States.

I am conscious, my Lord, that in my counter-statement, nothing is said that had not already been said, and far more forcibly, by my predecessors in the negotiation; but your Lordship will be pleased to recollect that the matter has been so thoroughly investigated and debated in former discussions as to make it very difficult to throw any new light upon it.

At the conclusion of Mr. Calhoun's statement allusion is made to the "other claims which the United States may have to other portions of the territory." This has obliged me to request that he will define more particularly what are the claims to which he thus alludes.

I have, &c.,

(Signed) R. PAKENHAM.

Inclosure 1 in No. 17.

A

Statement of the American Plenipotentiary, containing the Claims of the United States to the Oregon Territory.

THE Undersigned, American Plenipotentiary, declines the proposal of the British Plenipotentiary on the ground that it would have the effect of restricting the possessions of the United States to limits far more circumscribed than their claims clearly entitle them to. It proposes to limit their northern boundary by a line drawn from the Rocky Mountains along the 49th parallel of latitude to the north-easternmost branch of the Columbia River, and thence down the middle of that river to the sea, giving to Great Britain all the country north, and to the United States, all south of that line, except a detached territory extending on the Pacific and the Straits of Fuca, from Bulfinch's Harbour to Hood's Canal. To which it is proposed, in addition, to make free to the United States any port which the United States' Government might desire, either on the mainland, or on Vancouver's Island, south of latitude 49°.

By turning to the map hereto annexed, and on which the proposed boundary is marked in pencil, it will be seen that it assigns to Great Britain almost the entire region on its north side drained by the Columbia River, and lying on its northern bank. It is not deemed necessary to state at large the claims of the United States to this territory and the grounds on which they rest in order to make good the assertion that it restricts the possessions of the United States within narrower bounds than they are clearly entitled to. It will be sufficient for this purpose to show that they are fairly entitled to the entire region drained by the river; and to the establishment of this point the Undersigned proposes accordingly to limit his remarks at present.

Our claims to the portion of the territory drained by the Columbia River may be divided into those we have in our own proper right and those we have derived from France and Spain. We ground the former, as against Great Britain, on priority of discovery, and priority of exploration and settlement; we rest our claim to discovery, as against her, on that of Captain Gray, a citizen of the United States, who, in the ship "Columbia," of Boston, passed its bar and anchored in the river, ten miles above its mouth, on the 11th of May, 1792; and who afterwards sailed up the river twelve or fifteen miles, and left it on the 20th of the same month, calling it "Columbia," after his ship, which name it still retains. On these facts our claim to the discovery and entrance into the river rests. They are too well attested to be controverted; but they

have been opposed by the alleged discoveries of Meares and Vancouver. It is true that the former explored a portion of the coast through which the Columbia flows into the Ocean, in 1788 (five years before Captain Gray crossed the bar, and anchored in the river), in order to ascertain whether the river, as laid down in the Spanish charts, and called the St. Roe, existed or not; but it is equally true that he did not even discover it. On the contrary, he expressly declares in his account of the voyage, as the result of his observations, that "we can now safely assert that there is no such river as that of the St. Roe, as laid down in the Spanish charts:" and as if to perpetuate his disappointment, he called the promontory lying north of the inlet where he expected to discover it, Cape Disappointment, and the inlet itself, Deception Bay. It is also true that Vancouver, in April, 1792, explored the same coast; but it is no less so, that he failed to discover the river, of which his own journal furnishes the most conclusive evidence, as well as his strong conviction that no such river existed. So strong was it, indeed, that when he fell in with Captain Gray shortly afterwards, and was informed by him that he had been off the mouth of a river in latitude 49° 10′, whose outset was so strong as to prevent his entering, he remained still incredulous and strongly expressed himself to that effect in his journal. It was shortly after this interview that Captain Gray again visited its mouth, crossed its bar, and sailed up the river, as has been stated. After he left it, he visited Nootka Sound, where he communicated his discoveries to Quadra, the Spanish Commandant at that place, and gave him a chart and description of the mouth of the river. After his departure, Vancouver arrived there in September, when he was informed of the discoveries of Captain Gray, and obtained from Quadra, copies of the chart he had left with him. In consequence of the information thus obtained he was induced to visit again that part of the coast. It was during this visit that he entered the river on the 20th of October and made his survey.

From these facts it is manifest that the alleged discoveries of Meares and Vancouver cannot, in the slightest degree, shake the claim of Captain Gray to priority of discovery. Indeed so conclusive is the evidence in his favour that it has been attempted to evade our claim on the novel and wholly untenable ground that his discovery was made not in a national but private vessel. Such and so incontestible is the evidence of our claim, as against Great Britain, from priority of discovery as to the mouth of the river, crossing its bar, entering it, and sailing up its stream, on the voyage of Captain Gray alone, without taking into consideration the prior discovery of the Spanish navigator, Heceta, which will be more particularly referred to hereafter.

Nor is the evidence of the priority of our discovery of the head branches of the river, and its exploration, less conclusive. Before the Treaty was ratified by which we acquired Louisiana in 1803, an expedition was planned, at the head of which were placed Meriwether, Lewis, and William Clark, to explore the River Missouri and its principal branches to their sources; and then to seek and trace to its termination in the Pacific, some stream, "whether the Columbia, the Oregon, the Colorado, or any other which might offer the most direct and practicable water-communication across the continent for the purpose of commerce." The party began to ascend the Missouri in May, 1804, and in the summer of 1805, reached the head waters of the Columbia River. After crossing many of the streams falling into it, they reached the Kooskooskie, in latitude 43° 34′; descended that to the principal southern branch, which they called Lewis; followed that to its junction with the great northern branch, which they called Clark; and thence descended to the mouth of the river, where they landed and encamped on the north side, on Cape Disappointment, and wintered. The next spring they commenced their return, and continued their exploration of the river, noting its various branches, and tracing some of the principal; and finally arrived at St. Louis in September, 1806, after an absence of two years and three months. It was this important expedition which brought to the knowledge of the world this great river, the greater by far on the western side

of this continent, with its numerous branches, and the vast regions through which it flows above the point to which Gray and Vancouver had ascended.

It took place many years before it was visited and explored by any subject of Great Britain, or of any other civilized nation, so far as we are informed. It as clearly entitles us to the claim of priority of discovery as to its head branches, and the exploration of the river and region through which it passes, as the voyages of Captain Gray and the Spanish navigator Heceta entitle us to priority in reference to its mouth and the entrance into its channel. Nor is our priority of settlement less certain. Establishments were formed by American citizens on the Columbia as early as 1809 and 1810. In the latter year a company was formed in New York, at the head of which was John Jacob Astor, a wealthy merchant of that city, the object of which was to form a regular chain of establishments on the Columbia River and the contiguous coasts of the Pacific, for commercial purposes. Early in the spring of 1811, they made their establishment on the south side of the river, a few miles above Point George, where they were visited in July following by Mr. Thompson, a surveyor and astronomer of the North-West Company, and his party. They had been sent out by that company to forestall the American Company in occupying the mouth of the river, but found themselves defeated in their object. The American Company formed two other connected establishments higher up the river, one at the confluence of the Okinegan with the north branch of the Columbia, about six hundred miles above its mouth, and the other on the Spoken, a stream falling into the north branch some fifteen miles above.

These posts passed into the possession of Great Britain during the war which was declared the next year; but it was provided by the first Article of the Treaty of Ghent, which terminated it, that "*all territories, places, and possessions whatever, taken by either party from the other during the war, or which may be taken after the signing of the Treaty, excepting the islands hereafter mentioned (in the Bay of Fundy), shall be restored without delay.*" Under this provision, which embraces all the establishments of the American Company on the Columbia, Astoria was formally restored on the 6th of October, 1818, by agents duly authorized on the part of the British Government to restore the possession, and to an agent duly authorized on the part of the United States' Government to receive it, which placed our possession where it was before it passed into the hands of British subjects.

Such are the facts on which we rest our claims to priority of discovery and priority of exploration and settlement, as against Great Britain, to the region drained by the Columbia River. So much for the claims we have in our own proper right to that region.

To these we have added the claims of France and Spain. The former we obtained by the Treaty of Louisiana, ratified in 1803, and the latter by the Treaty of Florida, ratified in 1819. By the former we acquired all the rights which France had to Louisiana, "*to the extent it now has* (1803) *in the hands of Spain, and that it had when France possessed it, and as it should be after the treaties subsequently entered into by Spain and other States.*" By the latter His Catholic Majesty "*ceded to the United States all his rights, claims, and pretensions* to the country lying west of the Rocky Mountains and north of a line drawn on the 42nd parallel of latitude, from a point on the south banks of the Arkansas in that parallel to the South Sea; that is, to the whole region claimed by Spain west of those mountains and north of that line."

The cession of Louisiana gave us undisputed right west of the Mississippi, extending to the summit of the Rocky Mountains, and stretching south between that river and those mountains to the possessions of Spain, the line between which and ours was afterwards determined by the Treaty of Florida. It also added much to the strength of our title to the region beyond the Rocky Mountains by restoring to us the important link of continuity westward of the Pacific, which had been surrendered by the Treaty of 1763, as will be hereafter shown.

That continuity furnishes a just foundation for a claim of territory,

in connection with those of discovery and occupation, would seem unquestionable. It is admitted by all that neither of them is limited by the precise spot discovered or occupied. It is evident that in order to make either available it must extend at least some distance beyond that actually discovered or occupied, but how far, as an abstract question, is a matter of uncertainty. It is subject in each case to be influenced by a variety of considerations. In the case of an island it has been usually maintained in practice to extend the claims of discovery or occupancy to the whole. So, likewise, in the case of a river, it has been usual to extend them to the entire region drained by it, more especially in cases of a discovery and settlement at the mouth,—and emphatically so, when accompanied by exploration of the river and region through which it flows; such, it is believed, may be affirmed to be the opinion and practice in such cases since the discovery of this continent. How far the claim of continuity may extend in other cases is less perfectly defined, and can be settled only by reference to the circumstances attending each. When this continent was first discovered Spain claimed the whole in virtue of the grant of the Pope; but a claim so extravagant and unreasonable was not acquiesced in by other countries and could not be long maintained. Other nations, especially England and France, at an early period contested her claim. They fitted out voyages of discovery and made settlements on the eastern coast of North America. They claimed for their settlements usually specific limits along the coasts or bays on which they were formed, and generally a region of corresponding width extending across the entire continent to the Pacific Ocean; such was the character of the limits assigned by England in the charters which she granted to her former colonies, now the United States, when there were no special reasons for varying from it.

How strong she regarded her claim to the region covered by these charters, and extending westwards of her settlements, the war between her and France, which was terminated by the Treaty of Paris, 1763, furnishes a striking illustration. That great contest which ended so gloriously for England, and effected so great and durable a change on this continent, commenced in a conflict between her claims and those of France, resting on her side on this very right of continuity extending westward from her settlements to the Pacific Ocean; and on the part of France on the same right, but extending to the region drained by the Mississippi and its waters, on the ground of settlement and exploration. Their respective claims which led to the war first clashed on the River Ohio, the waters of which the colonial charters in their western extension covered, but which France had been unquestionably the first to settle and explore. If the relative strength of these different claims may be tested by the result of that remarkable contest, that of continuity westward must be pronounced to be the stronger of the two; England has had at least the advantage of the result, and would seem to be foreclosed against contesting the principle, particularly as against us, who contributed so much to that result, and on whom that contest and her example and pretensions, from the first settlement of our country, have contributed to impress it so deeply and indelibly.

But the Treaty of 1763, which terminated that memorable and eventful struggle, yielded, as has been stated, the claim and all the chartered rights of the colonies beyond the Mississippi. The Seventh Article established that river as the permanent boundary between the possessions of Great Britain and France on this continent. So much as relates to the subject is in the following words: "*The confines between the dominions of His Britannic Majesty in that part of the world (the Continent of America) shall be fixed irrevocably by a line drawn along the middle of the River Mississippi from its source to the River Ibterville, and from thence by a line drawn along the middle of this river, and the Lake Maurepas and Ponchartrain to the sea.*"

This important stipulation, which thus establishes the Mississippi as the line "*fixed irrevocably*" between the dominions of the two countries on this continent, in effect extinguishes in favour of France whatever claims Great Britain may have had to the region lying west of the Missis-

sippi. It of course could not affect the right of Spain, the only other nation which had any pretence of claim west of that river, but it prevented the right of continuity previously claimed by Great Britain, from extending beyond it, and transferred it to France, The Treaty of Louisiana restored and vested in the United States all the claims acquired by France, and surrendered by Great Britain under the provisions of that treaty to the country west of the Mississippi, and among others the one in question. Certain it is that France had the same right of continuity, in virtue of her possessions in Louisiana, and the extinguishment of the right of England by the Treaty of 1763, to the whole country west of the Rocky Mountains, and lying west of Louisiana, as against Spain, which England had to the country westward of the Alleghany Mountains, as against France, with this difference, that Spain had nothing to oppose to the claim of France at the time but the right of discovery (and even that England has since denied), while France had opposed to the right of England in her case, that of discovery, exploration, and settlement. It is therefore not at all surprising that France should claim the country west of the Rocky Mountains (as may be inferred from her maps), on the same principle that Great Britain had claimed and dispossessed her of the regions west of the Alleghany; or that the United States, as soon as they had acquired the rights of France, should assert the same claim, and take measures immediately after to explore it, with a view to occupation and settlement. But since then we have strengthened our title by adding to our own proper claims and those of France, the claims also of Spain, by the Treaty of Florida, as has been stated.

The claims which we have acquired from her, between the Rocky Mountains and the Pacific, rest in her priority of discovery. Numerous voyages of discovery, commencing with that of Maldonado in 1528, and ending with that under Galiano and Valdez in 1752, were undertaken by her authority along the north-western coast of North America. That they discovered and explored not only the entire coast of what is now called the Oregon Territory, but still further north, are facts too well established to be controverted at this day. The voyages which they performed will accordingly be passed over at present, without being particularly alluded to, with the exception of that of Heceta. His discovery of the mouth of the Columbia River has been already referred to. It was made on the 15th of August, 1775, many years anterior to the voyages of Meares and Vancouver, and even prior to Cook's, who did not reach the north-west coast till 1778. The claims it gave to Spain of priority of discovery were transferred to us, with all others belonging to her by the Treaty of Florida, which, added to the discoveries of Captain Gray, place our right to the discovery of the mouth and entrance into the inlet and river beyond all controversy.

It has been objected that we claim under various and conflicting titles which mutually destroy each other; such indeed might be the fact while they were held by different parties; but since we have rightly acquired both those of Spain and France, and concentrated the whole in our hands, they mutually blend with each other, and form one strong and connected chain of title against the opposing claims of all others, including Great Britain.

In order to present more fully and perfectly the grounds on which our claim to the region in question rests it will now be necessary to turn back to the time when Astoria was restored to us under the provisions of the Treaty of Ghent; and to trace what has since occurred between the two countries in reference to the territory, and inquire whether their respective claims have been affected by the settlements since made in the territory by Great Britain, or the occurrences which have since taken place.

The restoration of Astoria took place under the provisions of the Treaty of Ghent on the 6th day of October, 1818, the effect of which was to put Mr. Prevost, the agent authorized by our Government to receive it, in possession of the establishment, with the right at all times to be reinstated and considered the party in possession, as was explicitly admitted by Lord Castlereagh in the first negotiation between the two

Governments in reference to the Treaty. The words of Mr. Rush, our Plenipotentiary on that occasion, in his letter to Mr. Adams, then Secretary of State, of the 14th of February, 1818, reporting what passed between him and his Lordship are, "That Lord Castlereagh admitted in the most ample extent our right to be reinstated, and to be the party in possession, while treating of the title."

The negotiation terminated in the Convention of the 20th October, 1818, the third Article of which is in the following words: "It is agreed that any country that may be claimed by either party on the north-west coast of America, westward of the Stony Mountains, shall, together with its harbours, bays, and creeks, and the navigation of all rivers within the same, be free and open, for the term of ten years from the date of the signature of the present Convention, to the vessels, citizens, and subjects of the two Powers, it being well understood that this agreement is not to be construed to the prejudice of any claim which either of the two High Contracting Parties may have to any part of the said country, nor shall it be taken to affect the claim of any Power or State to any part of the said country; the only object of the High Contracting Parties, in that respect, being to prevent disputes and differences among themselves."

The two acts, the restoration of our possession and the signature of the Convention, were nearly contemporaneous, the latter taking place but fourteen days subsequent to the former; we were then, as admitted by Lord Castlereagh, entitled to be considered as the party in possession: and the Convention, which stipulated that the territory should be free and open for the term of ten years, from the date of its signature, to the vessels, citizens, and subjects of the two countries, without prejudice to any claim which either party may have to any part of the same, preserved and perpetuated all our claims to the territory, including the acknowledged right to be considered the party in possession as perfectly, during the period of its continuance, as they were the day the Convention was signed; of this there can be no doubt.

After an abortive attempt to adjust the claims of the two parties to the territory in 1824, another negotiation was commenced in 1826, which terminated in renewing on the 6th of August, 1827, the Third Article of the Convention of 1818, prior to its expiration. It provided for the indefinite extension of all the provisions of the Third Article of that Convention, and also, that either party might terminate it at any time it might think fit, by giving one year's notice, after the 20th of October, 1828. It took, however, the precaution of providing expressly, "*that nothing contained in this Convention, or in the Third Article of the Convention of the 20th of October, 1818, hereby continued in force, shall be construed to impair, or in any manner affect the claims which either of the contracting Parties may have to any part of the country westward of the Stony or Rocky Mountains.*" That Convention is now in force, and has continued to be so since the expiration of that of 1818. By the joint operation of the two our right to be considered the party in possession and all the claims we had to the territory, while in possession, are preserved in as full vigour as they were at the date of its restoration in 1818, without being affected or impaired by the settlements since made by the subjects of Great Britain.

Time indeed so far from impairing our claims has greatly strengthened them since that period, for since then the Treaty of Florida transferred to us all the rights, claims, and pretensions of Spain to the whole territory, as has been stated. In consequence of this our claims to the portion drained by the Columbia River, the point now the subject of consideration, have been much strengthened by giving us the incontestable claim to the discovery of the mouth of the river by Heceta above stated. But it is not in this particular only that it has operated in our favour. Our well-founded claim, grounded on continuity, has greatly strengthened during the same period, by the rapid advance of our population towards the territory; its great increase, especially in the Valley of the Mississippi, as well as the greatly increased facility of passing to the territory by more accessible routes; and the far stronger and rapidly swelling tide of population that has recently commenced flowing into it.

When the first convention was concluded in 1818 our whole population did not exceed nine millions of people. The portion of it inhabiting the States in the great Valley of the Mississippi was probably under the million seven hundred thousand, of which not more than two hundred thousand were on the west side of that river. Now our population may be safely estimated at not less than nineteen millions, of which at least eight millions inhabit the states and territories in the Valley of the Mississippi, and of which upwards of one million are in the states and territories west of that river. This portion of our population is now increasing far more rapidly than ever, and will in a short time fill the whole tier of States on its western bank.

To this great increase of population, especially in the Valley of the Mississippi, may be added the increased facility of reaching the Oregon Territory in consequence of the discovery of the remarkable pass in the Rocky Mountains at the head of the La Platte. The depression is so great and the pass so smooth that loaded waggons now travel with facility from the Missouri to the navigable waters of the Columbia River. These joint causes have had the effect of turning the current of our population towards the territory; and an emigration estimated at not less than one thousand, during the last, and fifteen hundred during the present year, has flowed into it. The current thus commenced will no doubt continue to flow with increased volume hereafter. There can then be no doubt, now that the operation of the same causes which impelled our population westwards from the shores of the Atlantic across the Alleghany to the Valley of the Mississippi will impel them onward with accumulating force across the Rocky Mountains into the Valley of the Columbia, and that the whole region drained by it is destined to be peopled by us.

Such are our claims to that portion of the territory, and the grounds on which they rest. The Undersigned believes them to be well founded, and trusts that the British Plenipotentiary will see in them sufficient reasons why he should decline his proposal.

The Undersigned Plenipotentiary abstains, for the present, from presenting the claims which the United States may have to other portions of the territory.

The Undersigned, &c., (Signed) J. C. CALHOUN.

Washington, September 3, 1844.

Inclosure 2 in No. 17.

D

Statement of the British Plenipotentiary, containing the Claims of Great Britain to the Oregon Territory.

THE Undersigned, British Plenipotentiary, has studied with much interest and attention the statement marked A, presented by the American Plenipotentiary, setting forth the grounds on which he declines the proposal offered by the British Plenipotentiary as a compromise of the difficulties of the Oregon Question. The arrangement contemplated by that proposal would, in the estimation of the American Plenipotentiary, have the effect of restricting the possessions of the United States to limits far more circumscribed than their claims clearly entitle them to.

The claims of the United States to the portion of territory drained by the Columbia River are divided into those adduced by the United States in their own proper right and those which they have derived from France and Spain.

The former, as against Great Britain, they ground on priority of discovery, and priority of exploration and settlement.

The claim derived from France originates in the Treaty of 1803 by which Louisiana was ceded to the United States, with all its rights and appurtenances, as fully and in the same manner as they had been acquired by the French Republic; and the claim derived from Spain is founded on the Treaty concluded with that Power in the year 1819, whereby His Catholic Majesty ceded to the United States all his rights, claims, and pretensions

to the territories lying east and north of a certain line terminating on the Pacific in the forty-second degree of north latitude.

Departing from the order in which these three separate claims are presented by the American Plenipotentiary, the British Plenipotentiary will first beg leave to observe, with regard to the claim derived from France, that he has not been able to discover any evidence tending to establish the belief that Louisiana, as originally possessed by France, and afterwards transferred to Spain, then retroceded by Spain to France, and ultimately ceded by the latter Power to the United States, extended in a westerly direction beyond the Rocky Mountains. There is, on the other hand, strong reason to suppose that, at the time when Louisiana was ceded to the United States, its acknowledged western boundary was the Rocky Mountains. Such appears to have been the opinion of President Jefferson under whose auspices the acquisition of Louisiana was accomplished.

In a letter written by him in August 1803, are to be found the following words:—"The boundaries (of Louisiana) which I deem not admitting question, are the high lands on the western side of the Mississippi, inclosing all its waters, the Missouri, of course, and terminating in the line drawn from the north-west point of the Lake of the Woods, to the nearest source of the Mississippi, as lately settled between Great Britain and the United States."

In another and more formal document dated in July, 1807, that is to say, nearly a year after the return of Lewis and Clarke from their expedition to the Pacific, and fifteen years after Gray had entered the Columbia River, is recorded Mr. Jefferson's opinion of the impolicy of giving offence to Spain by any intimation that the claims of the United States extended to the Pacific,—and we have the authority of an American historian, distinguished for the attention and research which he has bestowed on the whole subject of the Oregon Territory, for concluding that the western boundaries of Louisiana, as it was ceded by France to the United States, were those indicated by nature, namely, the high lands separating the waters of the Mississippi from those flowing into the Pacific.

From the acquisition, then, of Louisiana, as it was received from France, it seems clear that the United States can deduce no claim to territory west of the Rocky Mountains. But, even it were otherwise, and if France had ever possessed or asserted a claim to territory west of the Rocky Mountains, as appertaining to the territory of Louisiana, that claim, whatever it might be, was necessarily transferred to Spain, when Louisiana was ceded to that Power in 1762, and of course became subject to the provisions of the Treaty between Spain and Great Britain, of 1790, which effectually abrogated the claim of Spain to exclusive dominion over the unoccupied parts of the American continent.

To the observations of the American Plenipotentiary respecting the effect of continuity in furnishing a claim to territory the Undersigned has not failed to pay due attention, but he submits that what is said on this head may more properly be considered as demonstrating the greater degree of interest which the United States possess, by reason of contiguity, in acquiring territory in that direction, than as affecting in any way the question of right.

The Undersigned will endeavour to show hereafter that in the proposal put in on the part of Great Britain the natural expectations of the United States on the ground of contiguity have not been disregarded.

Next comes to be examined the claim derived from Spain.

It must, indeed, be acknowledged that, by the Treaty of 1819, Spain did convey to the United States all that she had the power to dispose of on the north-west coast of America, north of the forty-second parallel of latitude, but she could not by that transaction annul or invalidate the rights which she had by a previous transaction acknowledged to belong to another Power.

By the Treaty of 28th October, 1790, Spain acknowledged in Great Britain certain rights with respect to those parts of the western coast of America not already occupied.

This acknowledgment had reference especially to the territory which

forms the subject of the present negotiation. If Spain could not make good her own right to exclusive dominion over those regions still less could she confer such a right on another Power; and hence Great Britain argues that from nothing deduced from the Treaty of 1819 can the United States assert a valid claim to exclusive dominion over any part of the Oregon Territory.

There remains to be considered the claim advanced by the United States on the ground of prior discovery and prior exploration and settlement.

In that part of the memorandum of the American Plenipotentiary which speaks of the Spanish title it is stated that the mouth of the river, afterwards called the Columbia River, was first discovered by the Spanish navigator, Heceta. The admission of this fact would appear to be altogether irreconcileable with a claim to priority of discovery from anything accomplished by Captain Gray. To one, and to one only, of those commanders can be conceded the merit of first discovery. If Heceta's claim is acknowledged then Captain Gray is no longer the discoverer of the Columbia River; if, on the other hand, preference be given to the achievement of Captain Gray then Heceta's discovery ceases to be of any value. But it is argued that the United States now represent both titles, the title of Heceta and the title of Gray; and therefore that under the one or the other, it matters not which, enough can be shown to establish a case of prior discovery as against Great Britain. This may be true as far as relates to the act of first seeing and first entering the mouth of the Columbia River; but if the Spanish claim to prior discovery is to prevail whatever rights may thereon be founded are necessarily restricted by the stipulations of the Treaty of 1790 which forbid a claim to exclusive possession. If the act of Captain Gray in passing the bar and actually entering the river is to supersede the discovery of the entrance, which is all that is attributed to Heceta, then the principle of progressive or gradual discovery being admitted as conveying, in proportion to the extent of discovery or exploration, superior rights, the operations of Vancouver in entering, surveying, and exploring, to a considerable distance inland, the River Columbia, would, as a necessary consequence, supersede the discovery of Captain Gray, to say nothing of the act of taking possession, in the name of his Sovereign, which ceremony was duly performed and authentically recorded by Captain Vancouver.

This brings us to the examination of the conflicting claims of Great Britain and the United States on the ground of discovery, which may be said to form the essential point in the discussion, for it has above been shown that the claim derived from France must be considered as of little or no weight; while that derived from Spain, in as far as relates to exclusive dominion, is neutralized by the stipulations of the Nootka Convention.

It will be admitted that when the United States became an independent nation they possessed no claim, direct or indirect, to the Columbia Territory. Their western boundary in those days was defined by the Treaty of 1783; Great Britan, on the contrary, had at that time already directed her attention to the north-west coast of America, as is sufficiently shown by the voyage and discoveries of Captain Cook who, in 1778 visited and explored a great portion of it from latitude 44° northwards.

That Great Britain was the first to acquire what may be called beneficial interests in those regions by commercial intercourse will not either be denied; in proof of this fact we have the voyages of the several British subjects who visited the coast and adjacent islands previously to the dispute with Spain; and that her commerce, actual as well as prospective, in that part of the world was considered a matter of great national importance is shown by the resolute measures she took for its protection when Spain manifested a resolution to interfere with it.

The discoveries of Meares in 1788, and the complete survey of the coast and its adjacent islands, from about latitude 40° northwards, which was effected by Captain Vancouver, in 1792, 1793, and 1794, would appear to give to Great Britain, as against the United States, as

strong a claim on the ground of discovery and exploration coastwise as can well be imagined, limited only by what was accomplished by Gray at the mouth of the Columbia, which, as far as discovery is concerned, forms the strong point on the American side of the question.

In point of accuracy and authenticity, it is believed that the performances of Cook and Vancouver stand pre-eminently superior to those of any other country whose vessels had in those days visited the north-west coast, while in point of value and importance surely the discovery of a single harbour, although at the mouth of an important river, cannot, as giving a claim to territory, be placed in competition with the vast extent of discovery and survey accomplished by the British navigators.

As regards exploration inland entire justice must be done to the memorable exploit of Messrs. Lewis and Clarke, but those distinguished travellers were not the first who effected a passage across the Oregon Territory, from the Rocky Mountains to the Pacific. As far back as 1793 that feat had been accomplished by Mackenzie, a British subject. In the course of this expedition Mackenzie explored the upper waters of a river, since called Fraser's River which, in process of time, was traced to its junction with the sea, near the forty-ninth degree of latitude, thus forming, in point of exploration, a counterpoise to the exploration of that part of the Columbia which was first visited by Lewis and Clarke.

Priority of settlement is the third plea on which the American claim proper is made to rest.

In 1811 an establishment for the purposes of trade was formed at the south side of the Columbia River, near to its mouth, by certain American citizens; this establishment passed, during the war, into the hands of British subjects, but it was restored to the American Government in the year 1818 by an understanding between the two Governments. This is the case of priority of settlement, since which it has not in reality been occupied by the Americans. The American Plenipotentiary lays some stress on the admission attributed to Lord Castlereagh, then Principal Secretary of State for Foreign Affairs, that the American Government had the most ample right to be reinstated, and to be the party in possession, while treating of the title. The Undersigned is not inclined to dispute an assertion resting on such respectable authority, but he must observe, in the first place, that the reservation implied by the words "while treating of the title," exclude any inference which might otherwise be drawn from the preceding words prejudicial to the title of Great Britain; and further, that when the authority of the American Minister is thus admitted, for an observation which is pleaded against England, it is but fair that on the part of the United States credit should be given to England for the authenticity of a despatch from Lord Castlereagh to the British Minister at Washington, which was communicated verbally to the Government of the United States, when the restoration of the establishment called Astoria or Fort George, was in contemplation, containing a complete reservation of the right of England to the territory at the mouth of the Columbia. (Statement of British Plenipotentiaries, December, 1826.)

In fine, the present state of the question between the two Governments appears to be this: Great Britain possesses and exercises, in common with the United States, a right of joint occupancy in the Oregon Territory, of which right she can be divested, with respect to any part of that territory, only by an equitable partition of the whole between the two Powers.

It is, for obvious reasons, desirable that such a partition should take place as soon as possible, and the difficulty appears to be in devising a line of demarcation which shall leave to each party that precise portion of the territory best suited to its interest and convenience.

The British Government entertained the hope that by the proposal lately submitted for the consideration of the American Government that object would have been accomplished; according to the arrangements therein contemplated, the northern boundary of the United States west of the Rocky Mountains, would, for a considerable distance, be carried along the same parallel of latitude which forms their northern boundary on the eastern side of those mountains, thus uniting the present Eastern Boun-

dary of the Oregon Territory with the Western Boundary of the United States from the 49th parallel downwards. From the point where the 49° of latitude intersects the north-eastern branch of the Columbia River, called in that part of its course Mc Gillivray's River, the proposed line of boundary would be along the middle of that river, till it joins the Columbia, then along the middle of the Columbia to the Ocean, the navigation of the river remaining perpetually free to both parties.

In addition Great Britain offers a separate territory on the Pacific, possessing an excellent harbour, with a further understanding that any port or ports, whether on Vancouver's Island or on the Continent, south of the 49th parallel, to which the United States might desire to have access, shall be made free ports.

It is believed that, by this arrangement, ample justice would be done to the claims of the United States, on whatever ground advanced, with relation to the Oregon Territory. As regards extent of territory they would obtain, acre for acre, nearly half of the entire territory to be divided; as relates to the navigation of the principal river, they would enjoy a perfect equality of right with Great Britain; and with respect to harbours, it will be seen that Great Britain shows every disposition to consult their convenience in that particular.

On the other hand, were Great Britain to abandon the line of the Columbia as a frontier, and to surrender her right to the navigation of that river, the prejudice occasioned to her by such an arrangement would, beyond all proportion, exceed the advantage accruing to the United States from the possession of a few more square miles of territory. It must be obvious to every impartial investigator of the subject that in adhering to the line of the Columbia Great Britain is not influenced by motives of ambition with reference to extent of territory, but by considerations of utility, not to say necessity, which cannot be lost sight of, and for which allowance ought to be made in an arrangement professing to be based on considerations of mutual convenience and advantage.

The Undersigned believes that he has now noticed all the arguments advanced by the American Plenipotentiary in order to show that the United States are fairly entitled to the entire region drained by the Columbia River. He sincerely regrets that their views on this subject should differ in so many essential respects.

It remains for him to request that, as the American Plenipotentiary declines the proposal offered on the part of Great Britain, he will have the goodness to state what arrangement he is, on the part of the United States, prepared to propose for an equitable adjustment of the question; and more especially, that he will have the goodness to define the nature and extent of the claims which the United States may have to other portions of the territory, to which allusion is made in the concluding part of his statement, as it is obvious that no arrangement can be made with respect to part of the territory in dispute while a claim is reserved to any portion of the remainder.

The Undersigned, &c., (Signed) R. PAKENHAM.

Washington, September 12, 1844.

No. 18.

Mr. Pakenham to the Earl of Aberdeen.—(*Received October* 15.)

(Extract.) *Washington, September* 28, 1844.

WITH reference to my despatches of 29th August and of 12th September on the subject of the Oregon negotiation I have now the honour to transmit a copy of a second paper presented by Mr. Calhoun, in rejoinder to my reply to his first statement, a copy of which was transmitted with my despatch of 12th September.

Inclosure 1 in No. 18.

B

Counter-Statement of the American Plenipotentiary.

Department of State,
Washington, September 20, 1844.

THE Undersigned, American Plenipotentiary, has read with attention the counter-statement of the British Plenipotentiary, but without weakening his confidence in the validity of the title of the United States to the territory, as set forth in his statement marked A. As therein set forth, it rests, in the first place, on priority of discovery sustained by their own proper claims, and by those derived from Spain through the Treaty of Florida.

The Undersigned does not understand the counter-statement as denying that the Spanish navigators were the first to discover and explore the entire coasts of the Oregon Territory; nor that Heceta was the first who discovered the mouth of the Columbia River; nor that Captain Gray was the first to pass its bar, enter its mouth, and sail up its stream; nor that these, if jointly held by the United States, would give them the priority of discovery which they claim.

On the contrary, it would seem that the counter-statement, from the ground it takes, admits that such would be the case on that supposition; for it assumes that Spain, by the Nootka Sound Convention, in 1790, divested herself of all claims to the territory founded on the prior discovery and explorations of her navigators; and that she could consequently transfer none to the United States by the Treaty of Florida. Having put aside the claims of Spain by this assumption, the counter-statement next attempts to oppose the claims of the United States by those founded on the voyages of Captains Cook and Meares, and to supersede the discovery of Captain Gray, on the ground that Vancouver sailed further up the Columbia River than he did, although he affected it by the aid of his discoveries and charts.

The Undersigned forbears to enter into an examination of the truth or error of the position which the counter-statement has assumed, without assigning the reasons in support of it. It is sufficient on his part to say that in his opinion there is nothing in the Nootka Sound Convention, or in the transactions which led to it, or the circumstances attending it, to warrant the assumption. The Convention relates wholly to other subjects; and contains not a word in reference to the claims of Spain. It is on this assumption that the counter-statement rests its objection to the well-founded American claims to priority of discovery; without it there would not be a plausible objection left to them.

The two next claims on which the United States rest their title to the territory as set forth in statement A, are founded on their own proper right, and cannot possibly be affected by the assumed claims of Great Britain, derived from the Nootka Convention.

The first of these is priority of discovery and exploration of the head waters and upper portion of the Columbia River, by Lewis and Clarke, by which that great stream was first brought to the knowledge of the world, with the exception of a small portion near the Ocean, including its mouth. This the counter-statement admits, but attempts to set off against it the prior discovery of Mackenzie of the head waters of Frazer's River—quite an inferior stream which drains the northern portion of the territory. It is clear that whatever right Great Britain may derive from his discovery, it can in no degree affect the right of the United States to the region drained by the Columbia, which may be emphatically called the River of the territory.

The next of these, founded on their own proper right, is priority of settlement. It is not denied by the counter-statement that we formed the first settlements in the portion of the territory drained by the Columbia River; nor does it deny that Astoria, the most considerable of them, was restored under Article III. of the Treaty of Ghent, by agents on the part of Great Britain, duly authorized to make the restoration, to an agent on

the part of the United States, duly authorized to receive it. Nor does it deny that, in virtue thereof, they have the right to be reinstated and considered the party in possession, while treating of the title, as was admitted by Lord Castlereagh in the Negotiation of 1818; nor that the Convention of 1818, signed a few days after the restoration [of Astoria], and that of 1827, which is still in force, have preserved and perpetuated, until now, all the rights they possessed to the territory at the time, including that of being reinstated and considered the party in possession, while the question of title was depending, as is now the case. It is true it attempts to weaken the effect of these implied admissions, in the first place, by designating positive treaty stipulations as "an understanding between the two Governments," but a change of phraseology cannot possibly transform treaty obligations into a mere understanding; and in the next place, by stating that we have not, since the restoration of Astoria, actually occupied it; but that cannot possibly affect our right to be reinstated and to be considered in possession, secured to us by the Treaty of Ghent, implied in the act of restoration, and since preserved by positive treaty stipulations. Nor can the remarks of the counter-statement in reference to Lord Castlereagh's admission weaken our right of possession secured by the Treaty, and its formal and unconditional restoration by duly authorized agents. It is on these, and not on the denial of the authenticity of Lord Castlereagh's despatch, that the United States rest their right of possession, whatever verbal communication the British Minister may have made at the time to our Secretary of State; and it is on these that they may safely rest it, setting aside altogether the admission of Lord Castlereagh.

The next claims on which our title to the territory rests are those derived from France by the Treaty ceding Louisiana to the United States, including those she derived from Great Britain by the Treaty of 1763. It established the Mississippi as the irrevocable boundary between the territories of France and Great Britain, and thereby the latter surrendered to France all her claims on this continent west of that river, including, of course, all within the chartered limits of her colonies which extended to the Pacific Ocean. On these, united with those of France, as the possessor of Louisiana, we rest our claim of continuity, as extending to that ocean, without an opposing claim, except that of Spain, which we have since acquired, and consequently removed, by the Treaty f Florida.

The existence of these claims the counter-statement denies, on the authority of Mr. Jefferson; but, as it appears to the Undersigned, without adequate reasons. He does not understand Mr. Jefferson as denying that the United States acquired any claim to the Oregon Territory by the acquisition of Louisiana, either in his letter of 1803, referred to by the counter-statement, and from which it gives an extract, or in the document of 1807, to which it also refers. It is manifest from the extract itself, that the object of Mr. Jefferson was, not to state the extent of the claims acquired with Louisiana, but simply to state how far its unquestioned boundaries extended, and these he limited westwardly by the Rocky Mountains. It is in like manner manifest from the document, as cited by the counter-statement, that his object was not to deny that our claims extended to the territory, but simply to express his opinion of the impolicy in the then state of our relations with Spain of bringing them forward. This, so far from denying that we had claims, admits them by the clearest implication. If, indeed, in either case, his opinion had been equivocally expressed, the prompt measures adopted by him to explore the territory after the Treaty was negotiated, but before it was ratified, clearly show that it was his opinion not only that we had acquired claims to it, but highly important claims, which deserved prompt attention.

In addition to this denial of our claims to the territory on the authority of Mr. Jefferson, which the evidence relied on does not seem to sustain, the counter-statement intimates an objection to continuity as the foundation of a right, on the ground that it may more properly be considered (to use its own words) as demonstrating the greater degree of interest which the United States possessed by reason of contiguity, in

acquiring territory in a westward direction. Contiguity may, indeed, be regarded as one of the elements constituting the right of continuity, which is more comprehensive, and is necessarily associated with the right of occupancy, as has been shown in Statement A. It also shows that the laws which usage has established in the application of the right to this continent, give to the European settlements on its eastern coasts an indefinite extension westward. It is now too late for Great Britain to deny a right on which she has acted so long, and by which she has profited so much, or to regard it as a mere facility not affecting in any way the question of right. On what other right has she extended her claims westwardly to the Pacific Ocean, from her settlements round Hudson's Bay; or expelled France from the east side of the Mississippi in the war which terminated in 1763?

As to the assumption of the counter-statement that Louisiana, while in the possession of Spain, became subject to the Nootka Sound Convention, which, it is alleged, abrogated all the claims of Spain to the territory, including those acquired with Louisiana, it will be time enough to consider it after it shall be attempted to be shown that such, in reality, was the effect. In the mean time, the United States must continue to believe that they acquired from France by the Treaty of Louisiana important and substantial claims to the territory.

The Undersigned cannot consent to a conclusion to which, on a review of the whole ground, the counter-statement arrives, that the present state of the question is, that Great Britain possesses and exercises, in common with the United States, a right of joint occupancy in the Oregon Territory, of which she can be divested only by an equitable partition of the whole between the two Powers. He claims, and he thinks he has shown, a clear title, on the part of the United States, to the whole region drained by the Columbia, with the right of being reinstated and considered the party in possession while treating of the title, in which character he must insist on their being considered, in conformity with positive treaty stipulations. He cannot, therefore, consent that they shall be regarded, during the negotiation, merely as occupants in common with Great Britain; nor can he, while thus regarding their rights, present a counter proposal, based on the supposition of a joint occupancy merely, until the question of title to the territory is fully discussed. It is, in his opinion, only after a discussion which shall fully present the titles of the parties respectively to the territory that their claims to it can be fairly and satisfactorily adjusted. The United States desire only what they may deem themselves justly entitled to, and are unwilling to take less. With their present opinion of their title, the British Plenipotentiary must see that the proposal which he made at the second conference, and which he more fully sets forth in his counter-statement, falls far short of what they believe themselves justly entitled to.

In reply to the request of the British Plenipotentiary that the Undersigned should define the nature and extent of the claims which the United States have to the other portions of the territory, and to which allusion is made in the concluding part of Statement A, he has the honour to inform him, in general terms, that they are derived from Spain by the Florida Treaty, and are founded on the discoveries and exploration of her navigators, and which they must regard as giving them a right to the extent to which they can be established, unless a better can be opposed. (Signed) J. C. CALHOUN.

Inclosure 2 in No. 18.

Protocols of the Conferences between the British and American Plenipotentiaries.

ON the 23rd of August, 1844, a conference was held by appointment at the office of the Secretary of State in the city of Washington, between the Honourable John C. Calhoun, Secretary of State of the United States, and the Right Honourable Richard Pakenham, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, both duly authorized by their respective Governments to treat of the respective claims of the

two countries to the Oregon Territory, with the view to establish a permanent boundary between the two countries westward of the Rocky Mountains to the Pacific Ocean.

The conference was opened by assurances on both sides of the desire of their respective Governments to approach the question with an earnest desire, and, in the spirit of compromise, to effect an adjustment consistent with the honour and just interests of either party. The Plenipotentiaries then proceeded to examine the actual state of the question as it stood at the last unsuccessful attempt to adjust it.

This done, the American Plenipotentiary desired to receive from the British Plenipotentiary any fresh proposal he might be instructed to offer on the part of his Government towards affecting an adjustment.

The British Plenipotentiary said he would be ready to offer such a proposal at their next conference, hoping that the American Plenipotentiary would be ready to present a proposal on the part of his Government.

The conference adjourned to meet on Monday the 26th instant.

(Signed) R. PAKENHAM.
J. C. CALHOUN.

On the 26th of August, 1844, the second conference was held between the respective Plenipotentiaries, at the office of the Secretary of State.

The British Plenipotentiary offered a paper containing a proposal for adjusting the conflicting claims of the two countries. The American Plenipotentiary declined the proposal. Some remarks followed in reference to the claims of the two countries to the territory, when it became apparent that a more full understanding of their respective views in reference to them was necessary at this stage in order to facilitate future proceedings.

It was accordingly agreed that written statements containing their views should be presented before any further attempt should be made to adjust them.

It was also agreed that the American Plenipotentiary should present a statement at the next conference; and that he should inform the British Plenipotentiary when he was prepared to hold it.

(Signed) R. PAKENHAM.
J. C. CALHOUN.

Minute of the Second Conference between the Plenipotentiaries of Great Britain and the United States, held at the Office of the Secretary of State, on the 26th August, 1844.

The minute of the preceding conference having been read over and signed the British Plenipotentiary informed the Plenipotentiary of the United States that the proposal which he was instructed to offer on behalf of his Government, with a view to a settlement of the North-Western Boundary Question, was as follows:—

That whereas the proposals made on both sides in the course of the last negotiation had been mutually declined, Her Majesty's Government were prepared, in addition to what had already been offered on the part of Great Britain, and in proof of their earnest desire to arrive at an arrangement suitable to the interest and wishes of both parties, to undertake to make free to the United States any port or ports which the United States' Government might desire, either on the mainland, or on Vancouver's Island south of latitude 49°.

On the 2nd of September, 1844, the third conference was held at the office of the Secretary of State, according to appointment.

The American Plenipotentiary presented a written statement of his views of the claims of the United States to the portion of territory drained by the waters of the Columbia River, marked A; and containing his reasons for declining to accept the proposal offered by the British Plenipotentiary at their second conference.

(Signed) R. PAKENHAM.
J. C. CALHOUN.

On the 12th of September, 1844, the fourth conference was held at the office of the Secretary of State, when the British Plenipotentiary presented his statement marked D, counter to that of the American Plenipotentiary, marked A, presented at the preceding conference.

(Signed) R. PAKENHAM.
J. C. CALHOUN.

At the fifth conference, held at the office of the Secretary of State, on the 20th of September, the American Plenipotentiary delivered to the British Plenipotentiary a statement, marked B, in rejoinder to his counter-statement marked D.

(Signed) R. PAKENHAM.
J. C. CALHOUN.

The sixth conference was held on the 24th of September, when the British Plenipotentiary stated that he had read with due attention the statement marked B, presented by the American Plenipotentiary at the last conference, but that it had not weakened the impression previously entertained by him, with regard to the claims and rights of Great Britain, as explained in the paper lately presented by him, marked D. That, reserving for a future occasion such observations as he might wish to present, by way of explanations, in reply to the statement last presented by the American Plenipotentiary, he was for the present obliged to declare, with reference to the concluding part of that statement, that he did not feel authorized to enter into discussion respecting the territory north of 49th parallel of latitude, which was understood by the British Government to form the basis of negotiation on the side of the United States, as the line of the Columbia formed that on the side of Great Britain.

That the proposal which he had presented was offered by Great Britain as an honourable compromise of the claims and pretensions of both parties, and that it would of course be understood as having been made subject to the condition recorded in the protocol of the third conference held between the respective Plenipotentiaries in London, in December, 1826.

(Signed) R. PAKENHAM.
J. C. CALHOUN.

No. 19.

The Earl of Aberdeen to Mr. Pakenham.

Sir, *Foreign Office, November* 1, 1844.

YOUR several despatches respecting the progress of your negotiations with the United States' Government on the Oregon Question, down to the date of the 28th September, have engaged the attentive consideration of Her Majesty's Government.

I have much pleasure in informing you that the manner in which you have conducted those negotiations has met with the entire approval of Her Majesty's Government.

Notwithstanding the concessions we may be prepared to make, on taking a general view of the matter as it now stands, it appears to Her Majesty's Government that there remains little reasonable hope that the United States will relax their pretensions, and meet us in any scheme for a compromise which we could safely and honourably adopt. Under these circumstances, and taking into view the state of excitement so prevalent in the United States upon this subject, by which the free action of the Government is greatly fettered, if not altogether paralysed, I think it will be desirable, if an opportunity should offer, to have recourse, without delay, to arbitration, as the mode most likely to be available for the settlement of the question.

You will, therefore, do well to profit by any favourable opportunity which may present itself to sound the American Government on this point, and if you should find them disposed to accede to such a mode of adjustment, you will formally propose it to the Secretary of State.

This proceeding having been once settled by an interchange of notes, it will then be for the parties to determine by Convention, as in the case of the North-East Boundary, the choice of the arbiter, and the mode in which their respective cases shall be laid before him.

I am, &c.,
(Signed) ABERDEEN.

No. 20.

Mr. Pakenham to the Earl of Aberdeen.—(Received December 17.)

(Extract.) *Washington, November* 28, 1844.

I HAVE had the honour to receive your Lordship's despatches of 1st and 4th November.

In obedience to the instructions contained in the former of these despatches I will take advantage of the first suitable opportunity to sound the American Government on the subject of settling the Oregon Question by arbitration.

No. 21.

Mr. Pakenham to the Earl of Aberdeen.—(Received December 30.)

(Extract.) *Washington, December* 12, 1844.

IN consequence of the tedious passage of the "Caledonia" steam-packet, which brought out the last mail from England, and of a delay which occurred in the transmission of the correspondence from Boston to New York, it was not until the day before yesterday that I had the honour to receive your Lordship's despatches of 18th November.

I have the honour to acquaint your Lordship that a proper opportunity has not yet occurred to carry into effect the instructions contained in your Lordship's despatch of 1st November, by which I was directed to propose to the American Government to settle the Oregon Question by arbitration.

Your Lordship will not fail to observe the notice which is taken of the Oregon Question in the President's message, copies of which I forward.

Inclosure in No. 21.

Extract from the President's Message of December 3, 1844.

SINCE the close of your last session a negotiation has been formally entered upon between the Secretary of State and Her Britannic Majesty's Minister Plenipotentiary and Envoy Extraordinary residing at Washington, relative to the rights of their respective nations in and over the Oregon Territory. That negotiation is still pending. Should it, during your session, be brought to a definitive conclusion, the result will be promptly communicated to Congress. I would, however, again call your attention to the recommendations contained in previous messages, designed to protect and facilitate emigration to that territory. The establishment of military posts at suitable points upon the extended line of land travel would enable our citizens to migrate in comparative safety to the fertile regions below the falls of the Columbia, and make the provision of the existing Convention for the joint occupation of the territory by the subjects of Great Britain and the citizens of the United States more available than heretofore to the latter. These posts would continue places of rest for the weary emigrant, where he would be sheltered securely against the danger of attack from the Indians, and be enabled to recover from the exhaustion of a long line of travel. Legislative enactments should also be made which should spread over him the ægis of our laws, so as to afford protection to his person and property when he shall have reached

his distant home. In this latter respect the British Government has been much more careful of the interests of such of her people as are to be found in that country than have the United States. She has made necessary provision for their security and protection against the acts of the viciously-disposed and lawless, and her emigrant reposes in safety under the panoply of her laws. Whatever may be the result of the pending negotiation such measures are necessary. It will afford me the greatest pleasure to witness a happy and favourable termination to the existing negotiation upon terms compatible with the public honour; and the best efforts of the Government will continue to be directed to this end.

No. 22.

Mr. Pakenham to the Earl of Aberdeen.—(Received February 14.)

(Extract.) *Washington, January* 29, 1845.

I HAVE the honour herewith to inclose a copy of a letter which I addressed on the 15th of this month to the United States' Secretary of State, proposing, in fulfilment of the instructions contained in your Lordship's despatch of 1st November, the settlement of the Oregon Question by arbitration.

From Mr. Calhoun's answer, a copy of which I also inclose, your Lordship will perceive with regret that the President does not think proper to accede to the proposal, still entertaining the hope, as Mr. Calhoun is pleased to say, that the question can be settled by the negotiation now pending between the two countries.

Notwithstanding this unfavourable reply from the American Government I think that no harm will result, but rather some good, from our having made the offer.

Inclosure 1 in No. 22.

Mr. Pakenham to Mr. Calhoun.

Sir, *Washington, January* 15, 1845.

I DID not fail to communicate to Her Majesty's Government all that had passed between us with reference to the question of the Oregon Boundary up to the end of last September, as detailed in the statements interchanged by us, and in the protocols of our conferences.

Those papers remain under the consideration of Her Majesty's Government; and I have reason to believe that at no distant period I shall be put in possession of the views of Her Majesty's Government on the several points which became most prominent in the course of the discussion.

But considering on the one hand the impatience which is manifested in the United States for a settlement of this question, and on the other the length of time which would probably be still required to effect a satisfactory adjustment of it between the two Governments, it has occurred to Her Majesty's Government that, under such circumstances, no more fair or honourable mode of settling the question could be adopted than that of arbitration.

This proposition I am accordingly authorized to offer for the consideration of the Government of the United States, and, under the supposition that it may be found acceptable, further to suggest that the consent of both parties to such a course of proceeding being recorded by an interchange of notes, the choice of arbiter, and the mode in which their respective cases shall be laid before him, may hereafter be made the subject of a more formal agreement between the two Governments.

I have, &c.,

(Signed) R. PAKENHAM.

Inclosure 2 in No. 22.

Mr. Calhoun to Mr. Pakenham.

Department of State,
Sir, *Washington, January* 21, 1845.

I HAVE laid before the President your communication of the 15th instant, offering on the part of Her Majesty's Government to submit the settlement of the question between the two countries, in reference to the Oregon Territory, to arbitration.

The President instructs me to inform you that while he unites with Her Majesty's Government in the desire to see the question settled as early as may be practicable, he cannot accede to the offer.

Waiving all other reasons for declining it, it is sufficient to state that he continues to entertain the hope that the question may be settled by the negotiation now pending between the two countries; and that he is of opinion it would be unadvisable to entertain a proposal to resort to any other mode, so long as there is hope of arriving at a satisfactory settlement by negotiation; and especially to one which might rather retard than expedite its final adjustment.

I avail, &c.,
(Signed) J. C. CALHOUN.

No. 23.

The Earl of Aberdeen to Mr. Pakenham.

(Extract.) *Foreign Office, March* 3, 1845.

UNDER the confident persuasion that the bill having for its object to authorize the President to take measures for occupying the Oregon Territory on the part of the United States, after having first given notice to Great Britain of he renunciation of the Treaty of 1818—27, in conformity with the engagement reciprocally taken to that effect by the two countries, will be rejected by the Senate, Her Majesty's Government are desirous of making another effort for accomplishing the adjustment of the Oregon controversy by arbitration. It appears to them that if ever there was a case peculiarly fitted and calling for that mode of settlement, it is that in question. The possession of the litigated country is an object of no immediate or pressing national interest or importance to either party; therefore any moderate delay which might occur in finally determining the right to that possession is comparatively immaterial. On the other hand the artificial excitement which has been aroused in both countries, with the violent proceedings of the House of Representatives, seems to afford but little chance of being able to arrive by direct negotiation at any equitable compromise.

Under these circumstances, unless some fair proposition for settlement by negotiation should have been made to you by the United States' Secretary of State, on the rejection of the bill of occupation by the Senate, which we anticipate, you will again urge the Secretary of State in the strongest manner, and for the sake of averting the evils of a serious misunderstanding between the two countries, to press on the President the expediency of resorting, in a spirit of mutual compromise, to a settlement by arbitration, as the only practicable mode of finally adjusting our differences on this important question.

No. 24

Mr. Pakenham to the Earl of Aberdeen.—(*Received March* 18.)

(Extract.) *Washington, February* 26, 1845.

I REQUEST your Lordship's attention to the inclosed copy of a message lately sent by the President to the Senate, in answer to a resolution of that body requesting information as to the state of the Oregon Question.

Inclosure in No. 24.

President's Message.

To the Senate of the United States:

IN answer to the resolution of the Senate of the 11th December, 1844, requesting the President to lay before the Senate, if in his judgment that may be done without prejudice to the public interests, a copy of any instructions which may have been given by the Executive to the American Minister in England, on the subject of the title to and occupation of the Territory of Oregon, since the 4th day of March, 1841; also a copy of any correspondence which may have passed between this Governmentand that of Great Britain, or between either of the two Governments and the Minister of the other, in relation to that subject since that time—I have to say that, in my opinion, as the negotiation is still pending, the information sought for cannot be communicated without prejudice to the public service. I deem it, however, proper to add that considerable progress has been made in the discussion, which has been carried on in a very amicable spirit between the two Governments; and that there is reason to hope that it may be terminated, and the negotiation be brought to a close within a short period.

I have delayed answering the resolution under the expectation expressed in my annual message that the negotiation would have been terminated before the close of the present session of Congress, and that the information called for by the resolution of the Senate might be communicated.

(Signed) JOHN TYLER.

Washington, February 19, 1845.

No. 25.

Mr. Pakenham to the Earl of Aberdeen.—(*Received April* 14.)

(Extract.) *Washington, March* 29, 1845.

SINCE the installation of the new Government I have had two conversations with Mr. Buchanan, Mr. Calhoun's successor in the office of Secretary of State.

The first was on the occasion of a visit of ceremony which I paid him on receiving official notice of his appointment; on which occasion he professed his desire to contribute by every means in his power to the continuance of a good understanding with England.

At our second interview the subject of Oregon was introduced, when I took occasion to inform him of the instructions which I had lately received from your Lordship (those contained in your Lordship's despatch of the 3rd instant) again to press on the Government of the United States the expediency of resorting to a settlement by arbitration as the only practicable mode of finally adjusting our differences on this important question.

Mr. Buchanan observed that he had not yet had an opportunity of ascertaining what might be the views of the President on this particular

point connected with the Oregon Question; but he said he would not fail to take advantage of the earliest moment to direct the President's attention to it.

For his own part, although he did not seem to be much taken with the idea of an arbitration, he did not appear prepared altogether to reject it; what he said was that he did not at all despair of effecting a settlement of the question by negotiation, "by adopting," to use his own words, "the principle of giving and taking."

No. 26.

The Earl of Aberdeen to Mr. Pakenham.

(Extract.) *Foreign Office, April* 18, 1845.

HER Majesty's Government have been gratified by learning from your despatch of the 29th ultimo that the door does not appear to be altogether closed upon all chance of the settlement of the Oregon Question by negotiation. On the contrary, they are willing to hope from the tenour of that despatch that neither the President nor the new Secretary of State may be found averse still to attempt such a mode of adjusting our differences.

No. 27.

Mr. Pakenham to the Earl of Aberdeen.—(*Received June* 1.)

(Extract.) *Washington, May* 13, 1845.

SINCE I had last the honour of writing to your Lordship I have had some conversations with Mr. Buchanan, and yesterday rather a formal one, respecting the present state of the Oregon negotiation.

I asked him to tell me frankly what course his Government intended to pursue with a view to an amicable adjustment of that important question, observing that your Lordship had heard with much satisfaction of the friendly assurance which he had given to me soon after his accession to office, and which I had lost no time in reporting to your Lordship, of the desire of the present Administration to cultivate the best understanding with England, and that your Lordship felt justified in hoping that there would be found a confirmation of that good disposition in his manner of dealing with the only question of any serious importance now pending between the two countries.

Mr. Buchanan replied that I might feel no hesitation in repeating to your Lordship, to the fullest extent, the manifestation already made by him of the friendly disposition of this Government; that, with respect to the question to which I had more immediately referred, he felt obliged to say that the mode last proposed by Great Britain for a settlement of it, that of arbitration, did not meet with the concurrence of the President and his Cabinet; that they all entertained objections to that course of proceeding; and that they preferred negotiation hoping, as they did hope, that by negotiation a satisfactory result would at last be attained.

No. 28.

Mr. Pakenham to the Earl of Aberdeen.—(*Received August* 16.)

(Extract.) *Washington, July* 29, 1845.

I HAVE the honour herewith to transmit a copy of a paper which was delivered to me by Mr. Buchanan on the 16th of this month, containing his proposal for the settlement of the Oregon Boundary.

Inclosure 1 in No. 28.

Mr. Buchanan to Mr. Pakenham.

J. B. *Department of State,*
Washington, July 12, 1845.

THE Undersigned, &c., now proceeds to resume the negotiation on the Oregon Question, at the point where it was left by his predecessor.

The British Plenipotentiary, in his note to Mr. Calhoun of 12th September last, requests "that, as the American Plenipotentiary declines the proposal offered on the part of Great Britain, he will have the goodness to state what arrangement he is, on the part of the United States, prepared to propose, for an equitable adjustment of the question, and, more especially, that he will have the goodness to define the nature and extent of the claims which the United States may have to other portions of the territory to which allusion is made in the concluding part of his statement, as it is obvious that no arrangement can be made with respect to a part of the territory in dispute while a claim is reserved to any portion of the remainder."

The Secretary of State will now proceed (reversing the order in which these requests have been made), in the first place, to present the title of the United States to the territory north of the Valley of the Columbia; and will then propose on the part of the President the terms upon which, in his opinion, this long-pending controversy may be justly and equitably terminated between the parties.

The title of the United States to that portion of the Oregon Territory between the Valley of the Columbia and the Russian Line, in 54° 40′ north latitude, is recorded in the Florida Treaty. Under this Treaty, dated on the 22nd February, 1819, Spain ceded to the United States all her "rights, claims, and pretensions" to any territories west of the Rocky Mountains, and north of the 42nd parallel of latitude. We contend that, at the date of this cession, Spain had a good title, as against Great Britain, to the whole Oregon Territory; and if this be established, the question is then decided in favour of the United States.

But the American title is now encountered at every step by declarations that we hold it subject to all the conditions of the Nootka Sound Convention between Great Britain and Spain, signed at the Escurial on the 28th October, 1790. Great Britain contends that under this Convention the title of Spain was limited to a mere common right of joint occupancy with herself over the whole territory. To employ the language of the British Plenipotentiary, "If Spain could not make good her own right of exclusive dominion over those regions, still less could she confer such a right on another Power; and hence Great Britain argues that from nothing deduced from the Treaty of 1819 can the United States assert a valid claim to exclusive dominion over any part of the Oregon Territory." Hence it is that Great Britain, resting her pretensions on the Nootka Sound Convention, has necessarily limited her claim to a mere right of joint occupancy over the whole territory, in common with the United States, as the successor of Spain, leaving the right of exclusive dominion in abeyance.

It is then of the first importance that we should ascertain the true construction and meaning of the Nootka Sound Convention.

If it should appear that this Treaty was transient in its very nature; that it conferred upon Great Britain no right but that of merely trading with the Indians whilst the country should remain unsettled, and making the necessary establishments for this purpose; that it did not interfere with the ultimate sovereignty of Spain over the territory; and, above all, that it was annulled by the war between Spain and Great Britain in 1796, and has never since been renewed by the parties: then the British claim to any portion of this territory will prove to be destitute of foundation.

It is unnecessary to detail the circumstances out of which this Convention arose. It is sufficient to say that John Meares, a British subject, sailing under the Portuguese flag, landed at Nootka Sound in 1788, and

made a temporary establishment there for the purpose of building a vessel; and that the Spaniards, in 1789, took possession of this establishment under the orders of the Viceroy of Mexico, who claimed for Spain the exclusive sovereignty of the whole territory in the north-west coast of America up to the Russian line. Meares appealed to the British Government for redress against Spain, and the danger of war between the two nations became imminent. This was prevented by the conclusion of the Nootka Sound Convention. That Convention provides, by its first and second articles, for the restoration of the lands and buildings of which the subjects of Great Britain had been dispossessed by the Spaniards, and the payment of an indemnity for the injuries sustained. This indemnity was paid by Spain; but no sufficient evidence has been adduced that either Nootka Sound, or any other spot upon the coast, was ever actually surrendered by that Power to Great Britain. All we know with certainty is, that Spain continued in possession of Nootka Sound until 1795, when she voluntarily abandoned the place. Since that period no attempt has been made (unless very recently) by Great Britain or her subjects to occupy either this or any other part of Vancouver's Island. It is thus manifest that she did not formerly attach much importance to the exercise of the rights, whatever they may have been, which she had acquired under the Nootka Sound Convention.

The only other portion of this Convention important for the present discussion will be found in the third and the fifth Articles. They are as follows:—"Article III. In order to strengthen the bonds of friendship, and to preserve in future a perfect harmony and good understanding between the Two Contracting Parties, it is agreed that their respective subjects shall not be disturbed or molested either in navigating or carrying on their fisheries in the Pacific Ocean, or in the South Seas, or in landing on the coasts of those seas in places not already occupied, for the purpose of carrying on their commerce with the natives of the country or of making settlements there, the whole subject nevertheless to the restrictions specified in the three following articles." The material one of which is Article V. "As well in the places which are to be restored to the British subjects, by virtue of the first Article, as in all other parts of the north-western coasts of North America, or of the islands adjacent, situate to the north of the parts of the said coast already occupied by Spain, wherever the subjects of either of the Two Powers shall have made settlements since the month of April, 1789, or shall hereafter make any, the subjects of the other shall have free access, and shall carry on their trade without any disturbance or molestation."

It may be observed as a striking fact which must have an important bearing against the claim of Great Britain, that this Convention, which was dictated by her to Spain, contains no provision impairing the ultimate sovereignty which that Power had asserted for nearly three centuries over the whole western side of North America, as far north as the 61st degree of latitude, and which had never been seriously questioned by any European nation. This had been maintained by Spain with the most vigilant jealousy ever since the discovery of the American continent and had been acquiesced in by all European Governments. It had been admitted, even beyond the latitude 54° 40′ north by Russia, then the only Power having claims which could come in collision with Spain, and that too under a Sovereign peculiarly tenacious of the territorial rights of her empire. This will appear from the letter of Count Fernan de Nunez, the Spanish Ambassador at Paris, to M. de Montmorin, the Secretary of the Foreign Department of France, dated Paris, June 16, 1790. From this letter it seems that complaints had been made by Spain to the Court of Russia, against Russian subjects, for violating the Spanish territory on the north-west coast of America, south of the 61st degree of north latitude, in consequence of which that Court, without delay, assured the King of Spain, "that it was extremely sorry that the repeated orders issued to prevent the subjects of Russia from violating in the smallest degree the territory belonging to another Power should have been disobeyed."

This Convention of 1790 recognizes no right in Great Britain, either present or prospective, to plant permanent colonies on the north-west coast

of America; or to exercise such exclusive jurisdiction over any portion of it as is essential to sovereignty. Great Britain obtained from Spain all she then desired, a mere engagement that her subjects should "not be disturbed or molested in landing on the coasts of those seas in places not already occupied for the purpose of carrying on their commerce with the natives of the country, or of making settlements there." What kind of "settlements?" This is not specified, but surely their character and duration are limited by the object which the Contracting Parties had in view. They must have been such only as were necessary and proper "for the purpose of carrying on commerce with the natives of the country." Were these settlements intended to expand into colonies, to expel the natives, to deprive Spain of her sovereign rights, and to confer the exclusive jurisdiction over the whole territory on Great Britain? Surely Spain never designed any such results; and if Great Britain has obtained these concessions by the Nootka Sound Convention, it has been by the most extraordinary construction ever imposed upon human language. But this Convention also stipulates that to these settlements which might be made by the one party, "the subjects of the other shall have free access, and shall carry on their trade without any disturbance or molestation." What trade? certainly that "with the natives of the country," as prescribed in the third Article; and this from the very nature of things could continue only whilst the country should remain in possession of the Indians. On no other construction can this Convention escape from the absurdities attributed to it by British statesmen, when under discussion before the House of Commons:—"In every place in which we might settle" (said Mr., afterwards Earl Grey) "access was left for the Spaniards: where we might form a settlement on one hill, they might erect a fort on another; and a merchant must run all the risks of a discovery, and all the expenses of an establishment for a property which was liable to be the subject of continued dispute, and could never be placed upon a permanent footing."

Most certainly this Treaty was in its very nature temporary, and the rights of Great Britain under it were never intended to "be placed upon a permanent footing." It was to endure no longer than the existence of those peculiar causes which called it into being. Such a treaty, creating British and Spanish settlements intermingled with each other, and dotted over the whole surface of the territory, wherever a British or Spanish merchant could find a spot favourable for trade with the Indians, never could have been intended for a permanent arrangement between civilized nations.

But whatever may be the true construction of the Nootka Sound Convention, it has in the opinion of the Undersigned long ceased to exist.

The general rule of national law is that war terminates all subsisting treaties between the belligerent Powers. Great Britain has maintained this rule to its utmost extent. Lord Bathurst, in negotiating with Mr. Adams in 1815, says, "that Great Britain knows of no exception to the rule that all treaties are put an end to by a subsequent war between the same parties."

Perhaps the only exception to this rule, if such it may be styled, is that of a treaty recognizing certain sovereign rights as belonging to a nation which had previously existed independently of any treaty engagements. These rights which the treaty did not create, but merely acknowledged, cannot be destroyed by war between the parties; such was the acknowledgment of the fact by Great Britain, under the definitive Treaty of 1783, that the United States were "free, sovereign, and independent." It will scarcely be contended that the Nootka Sound Convention belongs to this class of treaties. It is difficult to imagine any case in which a treaty containing mutual engagements still remaining unexecuted would not be abrogated by war. The Nootka Sound Convention is strictly of this character. The declaration of war, therefore, by Spain against Great Britain in October, 1796, annulled its provisions, and freed the parties from its obligations. This whole treaty consisted of mutual express engagements to be performed by the Contracting Parties. Its most important

Article (the third), in reference to the present discussion, does not even grant in affirmative terms, the right to the Contracting Parties to trade with the Indians, and to make settlements. It merely engages, in negative terms, that the subjects of the Contracting Parties "shall not be disturbed or molested in the exercise of these treaty privileges." Surely this is not such an engagement as will continue to exist in despite of war between the parties. It is gone for ever unless it has been revived in express terms by the Treaty of Peace, or some other treaty between the parties. Such is the principle of public law and the practice of civilized nations.

Has the Nootka Sound Convention been thus revived? This depends entirely upon the true construction of the Treaty of Madrid of the 24th of August, 1814, which contains the only agreement between the parties since the war of 1796, for the renewal of engagements existing previously to that date. The first of the three Additional Articles to this Treaty provides as follows:—"It is agreed that pending the negotiation of a new treaty of commerce Great Britain shall be admitted to trade with Spain upon the same conditions as those which existed previously to 1796; all the treaties of commerce which at that period subsisted between the two nations being hereby ratified and confirmed."

The first observation to be made upon this Article is that it is confined in terms to the trade with Spain, and does not embrace her colonies or remote territories. These had always been closed against foreign Powers. Spain had never conceded the privilege of trading with her colonies to any nation except in the single instance of the "Asiento," which was abrogated in 1740; nor did any of the treaties of commerce which were in force between the two nations previously in 1796 make such a concession to Great Britain. That this is the true construction of the Third Additional Article of the Treaty of Madrid appears conclusively from another part of the instrument. Great Britain, by an irresistible inference, admitted that she had acquired no right under it to trade with the colonies or remote territories of Spain, when she obtained a stipulation in the same Treaty, that "in the event of the commerce of the Spanish American Colonies being opened to foreign nations, His Catholic Majesty promises that Great Britain shall be admitted to trade with those possessions as the most favoured nation."

But even if the Third Article of the Treaty of 1814 were not thus expressly limited to the revival of the trade of Great Britain with the Kingdom of Spain in Europe, without reference to any other portion of her dominions, the Nootka Sound Convention can never be embraced under the denomination of a treaty of commerce between the two Powers. It contains no provision whatever to grant or to regulate trade between British and Spanish subjects. Its essential part, so far as concerns the present question, relates not to any trade or commerce between the subjects of the respective Powers. It merely prohibits the subjects of either from disturbing or molesting those of the other in trading with third parties, the natives of the country. The grant "of making settlements," whether understood in its broadest or most restricted sense, relates to territorial acquisition, and not to trade or commerce in any imaginable form. The Nootka Sound Convention then cannot in any sense be considered a treaty of commerce, and was not therefore revived by the Treaty of Madrid of 1814. When the war commenced between Great Britain and Spain in 1796, several treaties subsisted between them which were both in title and substance treaties of commerce. These, and these alone, were revived by the Treaty of 1814.

That the British Government itself had no idea in 1818 that the Nootka Sound Convention was then in force may be fairly inferred from their silence upon the subject during the whole negotiation of that year on the Oregon Question. This Convention was not once referred to by the British Plenipotentiaries. They then rested their claims on other foundations. Surely that which is now their main reliance would not have escaped the observation of such statesmen had they then supposed it was in existence.

In view of all these considerations, the Undersigned respectfully

submits that if Great Britain has valid claims to any portion of the Oregon Territory they must rest upon a better foundation than that of the Nootka Sound Convention.

It is far from the intention of the Undersigned to repeat the arguments by which his predecessor (Mr. Calhoun) has demonstrated the American title "to the entire region drained by the Columbia River and its branches." He has shown that to the United States belongs the discovery of the Columbia River, and that Captain Gray was the first civilized man who ever entered its mouth and sailed up its channel, baptizing the river itself with the name of his vessel; that Messrs. Lewis and Clarke, under a commission from their Government, first explored the waters of this river, almost from its head-springs to the Pacific, passing the winter of 1805-6 on its northern shore near the Ocean; that the first settlement upon this river was made by a citizen of the United States at Astoria; and that the British Government solemnly recognized our right to the possession of this settlement, which had been captured during the war, by surrendering it up to the United States on the 6th day of October, 1818, in obedience to the Treaty of Ghent. If the discovery of the mouth of a river, followed up within a reasonable time by the first exploration, both of its main channel and of its branches, and appropriated by the first settlements on its banks, do not constitute a title to the territory drained by its waters in the nation performing these acts, then the principles consecrated by the practice of civilized nations ever since the discovery of the New World must have lost their force. These principles were necessary to preserve the peace of the world. Had they not been enforced in practice clashing claims to newly-discovered territory and perpetual strife among the nations would have been the inevitable result.

The title of the United States to the entire region drained by the Columbia River and its branches was perfect and complete before the date of the Treaties of joint occupation of October 1818, and August 1827; and under the express provisions of these Treaties this title, whilst they endure, can never be impaired by any Act of the British Government. In the strong language of the Treaty of August, 1827, "nothing contained in this Convention, or in the Third Article of the Convention of October, 1818, hereby continued in force, shall be construed to impair, or in any manner affect, the claims which either of the Contracting Parties may have to any part of the country westward of the Stony or Rocky Mountains." Had not the Convention contained this plain provision which has prevented the respective Parties from looking with jealousy on the occupation of portions of the territory by the citizens and subjects of each other, its chief object which was to preserve peace and prevent collisions in those distant regions, would have been entirely defeated. It is then manifest that neither the grant of this territory for a term of years made by Great Britain to the Hudson's Bay Company in December, 1821, nor the extension of this grant in 1838, nor the settlements, trading posts, and forts, which have been established by that Company under it, can in the slightest degree strengthen the British or impair the American title to any portion of the Oregon Territory. The British claim is neither better nor worse than it was on the 20th of October, 1818, the date of the first Convention.

The title of the United States to the Valley of the Columbia is older than the Florida Treaty of February, 1819, under which the United States acquired all the rights of Spain to the north-west coast of America, and exists independently of its provisions. Even supposing then, that the British construction of the Nootka Sound Convention were correct, it could not apply to this portion of the territory in dispute. A convention between Great Britain and Spain, originating from a dispute concerning a petty trading establishment at Nootka Sound, could not abridge the rights of other nations. Both in public and private law an agreement between two parties can never bind a third without his consent, either expressed or implied.

The extraordinary proposition will scarcely be again urged that our acquisition of the rights of Spain, under the Florida Treaty, can in any manner weaken or impair our pre-existing title. It may often become

expedient for nations, as it is for individuals, to purchase an outstanding title merely for the sake of peace, and it has never heretofore been imagined that the acquisition of such a new title rendered the old one less valid. Under this principle a party having two titles would be confined to his worst and would forfeit his best. Our acquisition of the rights of Spain, then, under the Florida Treaty, whilst it cannot affect the prior title of the United States to the Valley of the Columbia, has rendered it more clear and unquestionable before the world. We have a perfect right to claim under both these titles, and the Spanish title alone, even if it were necessary to confine ourselves to it, would, in the opinion of the President, be good, as against Great Britain, not merely to the Valley of the Columbia, but the whole territory of Oregon.

Our own American title to the extent of the Valley of the Columbia, resting as it does on discovery, exploration, and possession,—a possession acknowledged by a most solemn act of the British Government itself,—is a sufficient assurance against all mankind; whilst our superadded title derived from Spain extends our exclusive rights over the whole territory in dispute as against Great Britain.

Such being the opinion of the President in regard to the title of the United States he would not have consented to yield any portion of the Oregon Territory had he not found himself embarrassed, if not committed, by the acts of his predecessors. They had uniformly proceeded upon the principle of compromise in all their negotiations. Indeed the first question presented to him, after entering upon the duties of his office was, whether he should abruptly terminate the negotiations which had been commenced and conducted between Mr. Calhoun and Mr. Pakenham on the principle avowed in the first protocol, not of contending for the whole territory in dispute, but of treating of the respective claims of the Parties "with the view to establish a permanent boundary between the two countries, westward of the Rocky Mountains."

In view of these facts the President has determined to pursue the present negotiation to its conclusion upon the principle of compromise in which it commenced, and to make one more effort to adjust this long-pending controversy. In this determination he trusts that the British Government will recognize his sincere and anxious desire to cultivate the most friendly relations between the two countries, and to manifest to the world that he is actuated by a spirit of moderation. He has, therefore, instructed the Undersigned again to propose to the Government of Great Britain that the Oregon Territory shall be divided between the two countries by the forty-ninth parallel of north latitude from the Rocky Mountains to the Pacific Ocean; offering, at the same time, to make free to Great Britain any port or ports on Vancouver's Island, south of this parallel, which the British Government may desire. He trusts that Britain may receive this proposition in the friendly spirit in which it was dictated, and that it may prove the stable foundation of lasting peace and harmony between the two countries. The line proposed will carry out the principle of continuity equally for both parties, by extending the limits both of ancient Louisiana and Canada to the Pacific, along the same parallel of latitude which divides them east of the Rocky Mountains, and it will secure to each a sufficient number of commodious harbours on the north-west coast of America.

The Undersigned, &c.,

(Signed) JAMES BUCHANAN.

Inclosure 2 in No. 28.

Mr. Pakenham to Mr. Buchanan.

Washington, July 29, 1845.

NOTWITHSTANDING the prolix discussion which the subject has already undergone, the Undersigned, &c., feels obliged to place on record a few observations in reply to the statement marked J. B., which he had

the honour to receive on the 16th of this month from the hands of the Secretary of State of the United States, terminating with a proposition on the part of the United States, for the settlement of the Oregon Question.

In this paper it is stated that "the title of the United States to that portion of the Oregon Territory between the Valley of the Columbia and the Russian line in 54° 40′ north latitude, is recorded in the Florida Treaty. Under this Treaty, dated on 22nd February, 1819, Spain ceded to the United States all her 'rights, claims, and pretensions' to any territories west of the Rocky Mountains, and north of the 42nd parallel of latitude. We contend," says the Secretary of State, "that at the date of this cession, Spain had a good title, as against Great Britain, to the whole Oregon Territory; and if this be established, the question is then decided in favour of the United States;" the Convention between Great Britain and Spain, signed at the Escurial on the 28th of October, 1790, notwithstanding.

"If," says the American Plenipotentiary, "it should appear that this Treaty was transient in its very nature; that it conferred upon Great Britain no right but that of merely trading with the Indians, whilst the country should remain unsettled, and making the necessary establishments for this purpose; that it did not interfere with the ultimate sovereignty of Spain over the territory; and, above all, that it was annulled by the war between Spain and Great Britain in 1796, and has never since been renewed by the parties, then the British claim to any portion of this territory will prove to be destitute of foundation."

The Undersigned will endeavour to show not only that when Spain concluded with the United States the Treaty of 1819, commonly called the Florida Treaty, the Convention between the former Power and Great Britain, in 1790, was considered by the parties to it to be still in force; but even that if no such Treaty had ever existed, Great Britain would stand, with reference to a claim to the Oregon Territory, in a position at least as favourable as the United States.

The Treaty of 1790 is not appealed to by the British Government, as the American Plenipotentiary seems to suppose, as their "main reliance" in the present discussion; it is appealed to to show that by the Treaty of 1819, by which "Spain ceded to the United States all her rights, claims, and pretensions to any territories west of the Rocky Mountains, and north of the 42nd parallel of latitude," the United States acquired no right to exclusive dominion over any part of the Oregon Territory.

The Treaty of 1790 embraced, in fact, a variety of objects: it partook, in some of its stipulations, of the nature of a commercial convention; in other respects it must be considered as an acknowledgment of existing rights, an admission of certain principles of international law, not to be revoked at the pleasure of either party, or to be set aside by a cessation of friendly relations between them.

Viewed in the former light its stipulations might have been considered as cancelled, in consequence of the war which subsequently took place between the Contracting Parties, were it not that by the Treaty concluded at Madrid on the 28th of August, 1814, it was declared that all the treaties of commerce which subsisted between the two nations (Great Britain and Spain) in 1796 were thereby ratified and confirmed.

In the latter point of view the restoration of a state of peace was of itself sufficient to restore the admission contained in the Convention of 1790 to their full original force and vigour.

There are besides very positive reasons for concluding that Spain did not consider the stipulations of the Nootka Convention to have been revoked by the war of 1796 so as to require, in order to be binding on her, that they should have been expressly revived on the restoration of peace between the two countries.

Had Spain considered that Convention to have been annulled by the war, in other words, had she considered herself restored to her former position and pretensions, with respect to exclusive dominion over the unoccupied parts of the North American Continent, it is not to be imagined that she would have passively submitted to see the contending claims of Great Britain and the United States to a portion of that territory made

the subject of negotiation and formal diplomatic transaction between those two nations. It is, on the contrary, from her silence with respect to the continued occupation by the British of their settlements in the Columbia Territory subsequently to the Convention of 1814, and when as yet there had been no transfer of her rights, claims, or pretensions, to the United States, and from her silence also while important negotiations respecting the Columbia Territory, incompatible altogether with her ancient claim to exclusive dominion, were in progress between Great Britain and the United States, fairly to be inferred, that Spain considered the stipulations of the Nootka Convention, and the principles therein laid down, to be still in force.

But the American Plenipotentiary goes so far as to say that the British Government itself had no idea in 1818 that the Nootka Sound Convention was then in force because no reference was made to it on the part of England during the negotiation of that year on the Oregon Question.

In reply to this argument it will be sufficient for the Undersigned to remind the American Plenipotentiary that in the year 1818 no claim as derived from Spain was or could be put forth by the United States, seeing that it was not until the following year, the year 1819, that the Treaty was concluded by which Spain transferred to the United States her rights, claims, and pretensions to any territories west of the Rocky Mountains, and north of the 42nd parallel of latitude. Hence it is obvious that in the year 1818 no occasion had arisen for appealing to the qualified nature of the rights, claims, and pretensions so transferred,—a qualification imposed, or at least recognised by the Convention of Nootka.

"The title of the United States to the Valley of the Columbia River," the American Plenipotentiary observes, "is older than the Florida Treaty of February, 1819, and exists independently of its provisions. Even supposing then that the British construction of the Nootka Sound Convention was correct it could not apply to this portion of the territory in dispute."

The Undersigned must be permitted respectfully to inquire upon what principle, unless it be upon the principle which forms the foundation of the Nootka Convention, could the United States have acquired a title to any part of the Oregon Territory, previously to the Treaty of 1819, and independently of its provisions?

By discovery, exploration, settlement, will be the answer.

But, says the American Plenipotentiary, in another part of his statement, the rights of Spain to the west coast of America, as far north as the 61st degree of latitude, were so complete as never to have been seriously questioned by any European nation. They "had been maintained by Spain with the most vigilant jealousy ever since the discovery of the American Continent, and had been acquiesced in by all European Powers. They had been admitted even by Russia, and that too under a Sovereign peculiarly tenacious of the territorial rights of her empire, who, when complaints had been made to the Court of Russia against Russian subjects for violating the Spanish territory on the north-west coast of America did not hesitate to assure the King of Spain that she was extremely sorry that the repeated orders issued to prevent the subjects of Russia from violating in the smallest degree the territory belonging to another Power should have been disobeyed."

In what did this alleged violation of territory consist? Assuredly in some attempted acts of discovery, exploration, or settlement.

At that time Russia stood in precisely the same position with reference to the exclusive rights of Spain as the United States, and any acts in contravention of those rights, whether emanating from Russia or from the United States, would necessarily be judged by one and the same rule. How then can it be pretended that acts which in the case of Russia were considered as criminal violation of the Spanish territory, should, in the case of citizens of the United States, be appealed to as constituting a valid title to the territory affected by them? And yet from this inconsistency the American Plenipotentiary cannot escape if he persists in considering the American title to have been perfected by discovery,

exploration, and settlement, where as yet Spain had made no transfer of her rights, if, to use his own words, "that title is older than the Florida Treaty, and exists independently of its provisions."

According to the doctrine of exclusive dominion the exploration of Lewis and Clarke, and the establishments founded at the mouth of the Columbia by American citizens, must be condemned as encroachments on the territorial rights of Spain.

According to the opposite principle by which discovery, exploration, and settlement, are considered as giving a valid claim to territory, those very acts are referred to in the course of the same paper as constituting a complete title in favour of the United States.

Besides, how shall we reconcile this high estimation of the territorial rights of Spain, considered independently of the Nootka Sound Convention, with the course observed by the United States in their diplomatic transactions with Great Britain previously to the conclusion of the Florida Treaty? The claim advanced for the restitution of Fort George under the First Article of the Treaty of Ghent, the arrangement concluded for the joint occupation of the Oregon Territory by Great Britain and the United States, and, above all, the proposal actually made on the part of the United States for a partition of the Oregon Territory, all which transactions took place in the year 1818, when as yet Spain had made no transfer or cession of her rights, appear to be as little reconcileable with any regard for those rights, when still vested in Spain, as the claim founded on discovery, exploration, and settlement accomplished previously to the transfer of those rights to the United States.

Supposing the arrangement proposed in the year 1818, or any other arrangement for the partition of the Oregon Territory, to have been concluded in those days between Great Britain and this country, what would in that case have become of the exclusive rights of Spain?

There would have been no refuge for the United States but in an appeal to the principles of the Nootka Convention.

To deny then the validity of the Nootka Convention is to proclaim the illegality of any title founded on discovery, exploration, or settlement, previous to the conclusion of the Florida Treaty.

To appeal to the Florida Treaty as conveying to the United States any exclusive rights is to attach a character of encroachment and of violation of the rights of Spain to every act to which the United States appealed in the negotiation of 1818, as giving them a claim to territory on the north-west coast.

These conclusions appear to the Undersigned to be irresistible.

The United States can found no claim on discovery, exploration, and settlement, effected previously to the Florida Treaty, without admitting the principles of the Nootka Convention, and the consequent validity of the parallel claims of Great Britain founded on like acts; nor can they appeal to any exclusive right as acquired by the Florida Treaty, without upsetting all claims adduced in their own proper right, by reason of discovery, exploration, and settlement, antecedent to that arrangement.

The Undersigned trusts he has now shown that the Convention of 1790 (the Nootka Sound Convention) has continued in full and complete force up to the present moment, by reason, in the first place, of the commercial character of some of its provisions, as such expressly renewed by the Convention of August, 1814, between Great Britain and Spain.

By reason, in the next place, of the acquiescence of Spain in various transactions to which it is not to be supposed that that Power would have assented, had she not felt bound by the provisions of the Convention in question.

And, thirdly, by reason of the repeated acts of the Government of the United States previous to the conclusion of the Florida Treaty, manifesting adherence to the principles of the Nootka Convention, or at least dissent from the exclusive pretensions of Spain.

Having thus replied, and he hopes satisfactorily, to the observations of the American Plenipotentiary with respect to the effect of the Nootka Sound Convention, and the Florida Treaty, as bearing upon the subject of the present discussion, the Undersigned must endeavour to show that

even if the Nootka Sound Convention had never existed, the position of Great Britain in regard to her claim, whether to the whole or to any particular part of the Oregon Territory, is at least as good as that of the United States.

This branch of the subject must be considered, first, with reference to principle; to the right of either party, Great Britain or the United States, to explore or make settlements in the Oregon Territory, without violation of the rights of Spain: and next, supposing the first point to be decided affirmatively, with reference to the relative value and importance of the acts of discovery, exploration, and settlement effected by each.

As relates to the question of principle, the Undersigned thinks he can furnish no better argument than that contained in the following words, which he has already once quoted from the statement of the American Plenipotentiary:—"The title of the United States to the Valley of the Columbia is older than the Treaty of Florida of February, 1819, under which the United States acquired all the rights of Spain to the north-west coast of America, and exists independently of its provisions." And again, "the title of the United States to the entire region drained by the Columbia River and its branches was perfect and complete before the date of the Treaties of joint occupation of October, 1818, and August, 1827."

The title thus referred to must be that resting on discovery, exploration, and settlement.

If this title then is good, or rather, was good, as against the exclusive pretensions of Spain previously to the conclusion of the Florida Treaty, so must the claims of Great Britain, resting on the same grounds, be good also.

Thus, then, it seems manifest, that, with or without the aid of the Nootka Sound Convention, the claims of Great Britain resting on discovery, exploration, and settlement, are in point of principle equally valid with those of the United States.

Let us now see how the comparison will stand when tried by the relative value, importance, and authenticity of each.

Rejecting previous discoveries north of the 43rd parallel of latitude as not sufficiently authenticated, it will be seen on the side of Great Britain, that in 1778 Captain Cook discovered Cape Flattery, the southern entrance of the Straits of Fuca; Cook must also be considered the discoverer of Nootka Sound, in consequence of the want of authenticity in the alleged previous discovery of that port by Perez.

In 1787, Captain Berkeley, a British subject, in a vessel under Austrian colours, discovered the Straits of Fuca; in the same year Captain Duncan, in the ship "Princess Royal," entered the straits, and traded at the village of Classet.

In 1788, Meares, a British subject, formed the establishment at Nootka, which gave rise to the memorable discussion with the Spanish Government, ending in the recognition by that Power of the right of Great Britain to form settlements in the unoccupied parts of the north-west portion of the American Continent, and in an engagement on the part of Spain to reinstate Meares in the possession from which he had been ejected by the Spanish commander.

In 1792, Vancouver, who had been sent from England to witness the fulfilment of the above-mentioned engagement, and to effect a survey of the north-west coast, departing from Nootka Sound, entered the Straits of Fuca, and after an accurate survey of the coast and inlets on both sides, discovered a passage northwards into the Pacific, by which he returned to Nootka, having thus circumnavigated the island which now bears his name; and here we have, as far as relates to Vancouver's Island, as complete a case of discovery, exploration, and settlement, as can well be presented, giving to Great Britain, in any arrangement that may be made with regard to the territory in dispute, the strongest possible claim to the exclusive possession of that island.

While Vancouver was prosecuting discovery and exploration by sea, Sir Alexander Mackenzie, a partner in the North-West Company, crossed the Rocky Mountains, discovered the head waters of the river since called

Frazer's River, and, following for some time the course of that river, effected a passage to the sea, being the first civilized man who traversed the continent of America from sea to sea in these latitudes. On the return of Mackenzie to Canada the North-West Company established trading posts in the country to the westward of the Rocky Mountains.

In 1806 and 1811, respectively, the same company established posts on the Tacoutché Tessé and the Columbia.

In the year 1811, Thompson, the astronomer of the North-West Company, discovered the northern head waters of the Columbia, and following its course till joined by the rivers previously discovered by Lewis and Clarke he continued his journey to the Pacific.

From that time until the year 1818, when the arrangement for the joint occupancy of the territory was concluded, the North-West Company continued to extend their operations throughout the Oregon Territory, and to occupy, it may be said, as far as occupation can be effected in regions so inaccessible and destitute of resources.

While all this was passing the following events occurred, which constitute the American claim in their own proper right.

In 1792, Gray entered the mouth of the Columbia River. In 1805, Lewis and Clarke effected a passage across the Rocky Mountains, and discovering a branch of the Columbia River, followed it until they reached the Ocean.

In 1811, the trading post or settlement of Astoria was established at the mouth of the Columbia on the southern side of that river.

This post or settlement passed, during the last war, into British hands, by the voluntary act of the persons in charge of it, a fact most clearly established; it was restored to the United States in 1818, with certain well-authenticated reservations; but it was never actually occupied by American citizens, having from the moment of the original transfer or sale continued to be occupied by British subjects.

These are the acts of discovery, exploration, and settlement referred to by the United States, as giving them a claim to the Valley of the Columbia in their own proper right.

The British Government are disposed to view them in the most liberal sense, and to give to them the utmost value to which they can in fairness be entitled; but there are circumstances attending each and all of them, which must, in the opinion of any impartial investigator of the subject, take from them a great deal of the effect which the American negotiators assign to them, as giving to this country a claim to the entire region drained by the Columbia and its branches.

In the first place, as relates to the discovery of Gray, it must be remarked, that he was a private navigator, sailing principally for the purposes of trade; which fact establishes a wide difference, in a national point of view, between the discoveries accomplished by him, and those effected by Cook and Vancouver, who sailed in ships of the Royal Navy of Great Britain, and who were sent to the north-west coast for the express purpose of exploration and discovery.

In the next place, it is a circumstance not to be lost sight of that it was not for several years followed up by any act which could give it value in a national point of view: it was not in truth made known to the world, either by the discoverer himself, or by his Government. So recently as the year 1826, the American Plenipotentiaries in London remarked with great correctness, in one of their reports, that, "respecting the mouth of the Columbia River, we know nothing of Gray's discoveries but through British accounts."

In the next place, the connection of Gray's discovery with that of Lewis and Clarke is interrupted by the intervening exploration of Lieutenant Broughton of the British surveying ship "Chatham."

With respect to the expedition of Lewis and Clarke, it must, on a close examination of the route pursued by them, be confessed that neither on their outward journey to the Pacific, nor on their homeward journey to the United States, did they touch upon the head waters of the principal branch of the Columbia River, which lie far to the north of the parts of the country traversed or explored by them. Thompson, of the British

North-West Company, was the first civilized person who navigated the northern, in reality, the main branch of the Columbia, or traversed any part of the country drained by it. It was by a tributary of the Columbia that Lewis and Clarke made their way to the main stream of that river, which they reached at a point distant, it is believed, not more than 200 miles from the point to which the river had already been explored by Broughton.

These facts, the Undersigned conceives, will be found sufficient to reduce the value of Lewis and Clarke's exploration on the Columbia to limits which would by no means justify a claim to the whole valley drained by that river and its branches.

As to the settlement, the qualified nature of the rights devolved to the United States by virtue of the restitution of Fort Astoria has already been pointed out.

It will then be seen, the Undersigned confidently believes, that on the ground of discovery, exploration, and settlement, Great Britain has nothing to fear from a comparison of her claims to the Oregon Territory, taken as a whole, with those of the United States. That, reduced to the valley drained by the Columbia, the facts on which the United States rest their case are far from being of that complete and exclusive character which would justify a claim to the whole Valley of the Columbia; and that, especially as relates to Vancouver's Island, taken by itself, the preferable claim of Great Britain, in every point of view, seems to have been clearly demonstrated.

After this exposition of the views entertained by the British Government respecting the relative value and importance of the British and American claims the American Plenipotentiary will not be surprised to hear that the Undersigned does not feel at liberty to accept the proposal offered by the American Plenipotentiary for the settlement of the question.

This proposal, in fact, offers less than that tendered by the American Plenipotentiaries in the negotiation of 1826, and declined by the British Government.

On that occasion it was proposed that the navigation of the Columbia should be made free to both parties. On this point nothing is said in the proposal to which the Undersigned has now the honour to reply. While with respect to the proposed freedom of the ports on Vancouver's Island, south of latitude 49°, the facts which have been appealed to in this paper, as giving to Great Britain the strongest claim to the possession of the whole island, would seem to deprive such proposal of any value.

The Undersigned therefore trusts that the American Plenipotentiary will be prepared to offer some further proposal for the settlement of the Oregon Question more consistent with fairness and equity, and with the reasonable expectations of the British Government, as defined in the statement marked D*, which the Undersigned had the honour to present to the American Plenipotentiary at the early part of the present negotiation.

The Undersigned, &c.,

(Signed) R. PAKENHAM.

No. 29.

Mr. Pakenham to the Earl of Aberdeen.—(*Received September* 29.)

(Extract.) *Washington, September* 13, 1845.

I FEEL great concern in laying before your Lordship the inclosed copy of a communication which I have received from the United States' Secretary of State, containing a long argument in reply to the statement last presented by me on the subject of the Oregon Boundary (a copy of which accompanied my despatch of 29th July), and ending, as your Lordship will perceive, by withdrawing the proposal lately made by Mr. Buchanan for the settlement of that question.

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* See Mr. Pakenham's Statement, &c., p. 19.

Inclosure in No. 29.

Mr. Buchanan to Mr. Pakenham.

J. B. 2.

Department of State,
Washington, August 30, 1845.

THE Undersigned, Secretary of State to the United States, deems it his duty to make some observations in reply to the statement of Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, marked R. P. and dated 29th July, 1845.

Preliminary to the discussion, it is necessary to fix our attention upon the precise question under consideration, in the present stage of the negotiation. This question simply is, were the titles of Spain and the United States, when united by the Florida Treaty on the 22nd of February, 1819, good as against Great Britain, to the Oregon Territory, as far north as the Russian line in the latitude of 54° 40′? If they were, it will be admitted that this whole territory now belongs to the United States.

The Undersigned again remarks that it is not his purpose to repeat the argument by which his predecessor, Mr. Calhoun, has demonstrated the American title to "the entire region drained by the Columbia and its branches." He will not thus impair its force.

It is contended on the part of Great Britain, that the United States acquired and hold the Spanish title, subject to the terms and conditions of the Nootka Sound Convention, concluded between Great Britain and Spain at the Escurial on the 28th October 1790.

In opposition to the argument of the Undersigned, contained in his statement marked J. B., maintaining that this Convention had been annulled by the war between Spain and Great Britain in 1796, and has never since been revived by the parties, the British Plenipotentiary, in his statement marked R. P., has taken the following positions:—

1st. "That when Spain concluded with the United States the Treaty of 1819, commonly called the Florida Treaty, the Convention concluded between the former Power and Great Britain in 1790, was considered by the parties to it to be still in force."

And 2nd. "But that even if no such treaty had ever existed, Great Britain would stand, with reference to a claim to the Oregon Territory, in a position at least as favourable as the United States."

The Undersigned will follow, step by step, the argument of the British Plenipotentiary in support of these propositions.

The British Plenipotentiary states, "that the Treaty of 1790 is not appealed to by the British Government, as the American Plenipotentiary seems to suppose, as their main reliance in the present discussion;" but to show that by the Florida Treaty of 1819, "the United States acquired no right to exclusive dominion over any part of the Oregon Territory."

The Undersigned had believed that ever since 1826, the Nootka Convention has been regarded by the British Government as their main, if not their only, reliance. The very nature and peculiarity of their claim identified it with the construction which they have imposed upon this Convention, and necessarily exclude every other basis of title. What but to accord with this construction could have caused Messrs. Huskisson and Addington, the British Commissioners, in specifying their title on the 16th December 1826, to declare, that "Great Britain claims no exclusive sovereignty over any portion of that territory? Her present claim, not in respect to any part, but to the whole, is limited to a right of joint occupancy, in common with other States, leaving the right of exclusive dominion in abeyance." And again, "By that Convention (of Nootka) it was agreed that all parts of the North-Western Coast of America, not already occupied at that time by either of the Contracting Parties, should thenceforward be equally open to the subjects of both for all purposes of commerce and settlement, the sovereignty remaining in abeyance." But on this subject we are not left to mere inferences, however clear. The British Commissioners, in their statement from which I have just quoted, have

virtually abandoned any other title which Great Britain may have previously asserted to the territory in dispute, and expressly declare, "that whatever that title may have been, however, either on the part of Great Britain, or on the part of Spain, prior to the Convention of 1790, *it was thenceforward no longer to be traced in vague narratives of discoveries, several of them admitted to be apocryphal, but in the text and stipulations of that Convention itself.*" And again, in summing up their whole case they say, "admitting that the United States have acquired all the rights which Spain possessed up to the Treaty of Florida, either in virtue of discovery, or, as is pretended, in right of Louisiana, Great Britain maintains that the nature and extent of these rights, as well as of the rights of Great Britain, are fixed and defined by the Convention of Nootka," &c.

The Undersigned, after a careful examination, can discover nothing in the note of the present British Plenipotentiary to Mr. Calhoun of the 12th September last, to impair the force of these declarations and admissions of his predecessors. On the contrary, its general tone is in perfect accordance with them.

Whatever may be the consequences, then, whether for good or for evil, whether to strengthen or to destroy the British claim, it is now too late for the British Government to vary their position. If the Nootka Convention confers upon them no such rights as they claim, they cannot at this late hour go behind its provisions, and set up claims which, in 1826, they admitted had been "merged in the text and stipulations of that Convention itself."

The Undersigned regrets that the British Plenipotentiary has not noticed his exposition of the true construction of the Nootka Convention. He had endeavoured, and, he believes, successfully, to prove that this Treaty was transient in its very nature; that it conferred upon Great Britain no right but that of merely trading with the Indians whilst the country should remain unsettled, and making the necessary establishments for this purpose; and that it did not interfere with the ultimate sovereignty of Spain over the territory. The British Plenipotentiary has not attempted to resist these conclusions. If they be fair and legitimate, then it would not avail Great Britain, even if she could prove the Nootka Convention to be still in force. On the contrary, this Convention, if the construction placed upon it by the Undersigned be correct, contains a clear virtual admission on the part of Great Britain, that Spain held the eventual right of sovereignty over the whole disputed territory, and consequently that it now belongs to the United States. The value of this admission made in 1790 is the same, whether or not the Convention has continued to exist until the present day. But he is willing to leave this point on the uncontroverted argument contained in his former statement.

But is the Nootka Sound Convention still in force? The British Plenipotentiary does not contest the clear general principle of public law, "that war terminates all subsisting treaties between the belligerent Powers." He contends, however, in the first place, that this Convention is partly commercial, and that so far as it partakes of this character, it was revived by the Treaty concluded at Madrid on the 28th August 1814, which declares "that all the treaties of commerce which subsisted between the two parties (Great Britain and Spain) in 1796, were thereby ratified and confirmed; and, secondly, that in other respects, it must be considered as an acknowledgment of subsisting rights, an admission of certain principles of international law," not to be revoked by war.

In regard to the first proposition, the Undersigned is satisfied to leave the question to rest upon his former argument, as the British Plenipotentiary has contented himself with merely asserting the fact, that the commercial portion of the Nootka Sound Convention was revived by the Treaty of 1814, without even specifying what he considers to be that portion of the Convention. If the Undersigned had desired to strengthen his former position, he might have repeated with great effect the argument contained in the note of Lord Aberdeen to the Duke of Sotomayor dated 30th June, 1845, in which his Lordship clearly established that all the treaties of commerce subsisting between Great Britain and Spain previous

to 1796, were confined to the trade with Spain alone, and did not embrace her colonies and remote possessions.

The second proposition of the British Plenipotentiary deserves greater attention. Does the Nootka Sound Convention belong to that class of treaties containing an acknowledgment of subsisting rights—an admission of certain principles of international law—not to be abrogated by war? Had Spain by this Convention acknowledged the right of all nations to make discoveries, plant settlements, and establish colonies on the North-West Coast of America, bringing with them their sovereign jurisdiction, there would then have been much force in the argument: but such an admission never was made, and never was intended to be made by Spain. The Nootka Convention is arbitrary and artificial in the highest degree; and is anything rather than the mere acknowledgment of simple and elementary principles consecrated by the law of nations. In all its provisions it is expressly confined to Great Britain and Spain, and acknowledges no right whatever in any third Power to interfere with the North-West Coast of America. Neither in its terms nor in its essence does it contain any acknowledgment of previously-subsisting territorial rights in Great Britain or any other nation. It is strictly confined to future engagements, and these are of a most peculiar character. Even under the construction of its provisions maintained by Great Britain, her claim does not extend to plant colonies, which she would have had a right to do under the law of nations, had the country been unappropriated; but it is limited to a mere right of joint occupancy, not in respect to any part, but to the whole, the sovereignty remaining in abeyance. And to what kind of occupancy? Not separate and distinct colonies, but scattered settlements intermingled with each other over the whole surface of the territory, for the single purpose of trading with the Indians, to all of which the subjects of each Power should have free access, the right of exclusive dominion remaining suspended. Surely it cannot be successfully contended that such a Treaty is "an admission of certain principles of international law," so sacred and so perpetual in their nature as not to be annulled by war. On the contrary, from the character of its provisions, it cannot be supposed for a single moment that it was intended for any purpose but that of a mere temporary arrangement between Great Britain and Spain. The law of nations recognizes no such principle in regard to unappropriated territory as those embraced in this Treaty; and the British Plenipotentiary must fail in the attempt to prove that it contains "an admission of certain principles of international law," which will survive the shock of war.

But the British Plenipotentiary contends that, from the silence of Spain during the negotiations of 1818 between Great Britain and the United States, respecting the Oregon Territory, as well as from her silence with respect to the continued occupation by the British of their settlements in the Columbia Territory subsequently to the Convention of 1814, "it may fairly be inferred that Spain considered the stipulations of the Nootka Convention, and the principles therein laid down, to be still in force."

The Undersigned cannot imagine a case where the obligations of a treaty, once extinguished by war, can be revived without a positive agreement to this effect between the parties. Even if both parties, after the conclusion of peace, should perform positive and unequivocal acts, in accordance with its provisions, these must be construed as merely voluntary, to be discontinued by either at pleasure. But in the present case, it is not even pretended that Spain performed any act in accordance with the Convention of Nootka Sound, after her Treaty with Great Britain of 1814. Her mere silence is relied upon to revive that Convention.

The Undersigned asserts confidently, that neither by public nor private law, will the mere silence of one party, whilst another is encroaching upon his rights, even if he had knowledge of this encroachment, deprive him of these rights. If this principle be correct as applied to individuals, it holds with much greater force in regard to nations. The feeble may not be in a condition to complain against the powerful; and thus the encroachment of the strong would convert itself into a perfect title against the weak.

In the present case, it was scarcely possible for Spain even to have learned the pendency of negotiations between the United States and Great Britain in relation to the North-West Coast of America, before she had ceded all her rights on that coast to the former by the Florida Treaty of 22nd February 1819. The Convention of joint occupancy between the United States and Great Britain, was not signed at London until the 20th October 1818, but four months previous to the date of the Florida Treaty; and the ratifications were not exchanged, and the Convention published, until the 30th of January 1819.

Besides, the negotiations which terminated in the Florida Treaty, had been commenced as early as December 1815, and were in full progress on the 20th October 1818, when the Convention was signed between Great Britain and the United States. It does not appear, therefore, that Spain had any knowledge of the existence of these negotiations; and even if this were otherwise, she would have had no motive to complain, as she was in the very act of transferring all her rights to the United States.

But, says the British Plenipotentiary, Spain looked in silence on the continued occupation by the British of their settlements in the Columbia Territory subsequently to the Convention of 1814; and therefore she considered the Nootka Sound Convention to be still in force. The period of this silence, so far as it could affect Spain, commenced on the 28th day of August, 1814, the date of the Additional Articles of the Treaty of Madrid, and terminated on the 22nd February, 1819, the date of the Florida Treaty. Is there the least reason, from this silence, to infer an admission by Spain of the continued existence of the Nootka Sound Convention? In the first place, this Convention was entirely confined "to landing on the coasts of those seas, in places not already occupied for the purpose of carrying on their commerce with the natives of the country, or of making settlements there." It did not extend to the interior. At the date of this Convention, no person dreamed that British traders from Canada or Hudson's Bay would cross the Rocky Mountains, and encroach on the rights of Spain from that quarter. Great Britain had never made any settlement on the North-Western Coast of America from the date of the Nootka Sound Convention until the 22nd February, 1819; nor, so far as the Undersigned is informed, has she done so down to the present moment. Spain could not, therefore, have complained of any such settlement. In regard to the encroachments which had been made from the interior by the North-West Company, neither Spain nor the rest of the world had any specific knowledge of their existence. But even if the British Plenipotentiary had brought such knowledge home to her, which he has not attempted, she had been exhausted by one long and bloody war, and was then engaged in another with her colonies, and was besides negotiating for a transfer of all her rights on the North-Western Coast of America to the United States. Surely these were sufficient reasons for her silence, without inferring from it that she acquiesced in the continued existence of the Nootka Convention. If Spain had entertained the least idea that the Nootka Convention was still in force, her good faith and her national honour would have caused her to communicate this fact to the United States before she had ceded this territory to them for an ample consideration: not the least intimation of the kind was ever communicated.

Like Great Britain in 1818, Spain in 1819 had no idea that the Nootka Sound Convention was still in force. It had then passed away and was forgotten.

The British Plenipotentiary alleges that the reason why Great Britain did not assert the existence of the Nootka Convention during the negotiations between the two Governments in 1818, was, that no occasion had arisen for its interposition, the American Government not having then acquired the title of Spain. It is very true that the United States had not then acquired the Spanish title; but is it possible to imagine that throughout the whole negotiation, the British Commissioners, had they supposed this Convention to have been in existence, would have remained entirely silent in regard to a treaty which, as Great Britain now alleges, gave her equal and co-ordinate rights with Spain to the whole North-West

Coast of America? At that period Great Britain confined her claims to those arising from discovery and purchase from the Indians. How vastly she could have strengthened these claims, had she then supposed the Nootka Convention to be in force, with her present construction of its provisions. Even in 1824, it was first introduced into the negotiation, not by her Commissioners, but by Mr. Rush, the American Plenipotentiary.

But the British Plenipotentiary argues that the United States "can found no claim on discovery, exploration, and settlement, effected previously to the Florida Treaty, without admitting the principles of the Nootka Convention;" "nor can they appeal to any exclusive right as acquired by the Florida Treaty, without upsetting all claims adduced in their own proper right, by reason of discovery, exploration, and settlement antecedent to that arrangement."

This is a most ingenious method of making two distinct and independent titles held by the same nation, worse than one; of arraying them against each other, and thus destroying the validity of both. Does he forget that the United States own both these titles, and can wield them either separately or conjointly against the claim of Great Britain at their pleasure? From the course of his remarks it might be supposed that Great Britain, and not the United States, had acquired the Spanish title under the Florida Treaty. But Great Britain is a third party, an entire stranger to both these titles, and has no right whatever to marshal the one against the other.

By what authority can Great Britain interpose in this manner? Was it ever imagined in any court of justice, that the acquisition of a new title destroyed the old one, and *vice versâ*, that the purchase of the old title destroyed the new one? In a question of mere private right, it would be considered absurd if a stranger to both titles should say to the party who had made a settlement, you shall not avail yourself of your possession, because this was taken in violation of another outstanding title; and although I must admit that you have also acquired this outstanding title, yet even this shall avail you nothing; because having taken possession previously to your purchase, you thereby evinced that you did not regard such title as valid. And yet such is the mode by which the British Plenipotentiary has attempted to destroy both the American and Spanish title. On the contrary, in the case mentioned, the possession and the outstanding title being united in the same individual, these conjoined would be as perfect as if both had been vested in him from the beginning.

The Undersigned, while strongly asserting both these titles, and believing each of them separately to be good as against Great Britain, has studiously avoided instituting any comparison between them. But admitting, for the sake of argument merely, that the discovery by Captain Gray of the mouth of the Columbia, its exploration by Lewis and Clarke, and the settlement upon its banks at Astoria, were encroachments on Spain, she, and she alone, had a right to complain; Great Britain was a third party, and as such had no right to interfere in the question between Spain and the United States. But Spain, instead of complaining of these acts as encroachments, on the 25th February 1819, by the Florida Treaty, transferred her whole title to the United States. From that moment all possible conflict between the two titles was ended, both being united in the same party. Two titles which might have conflicted theretofore, were thus blended together. The title now vested in the United States is just as strong as though every act of discovery, exploration, and settlement, on the part of both Powers, had been performed by Spain alone, before she had transferred all her rights to the United States. The two Powers are one in this respect; the two titles are one, and, as the Undersigned will show hereafter, they serve to confirm and strengthen each other. If Great Britain, instead of the United States, had acquired the title of Spain, she might have contended that these acts of the United States were encroachments; but standing in the attitude of a stranger to both titles, she has no right to interfere in the matter.

The Undersigned deems it unnecessary to pursue this branch of the subject further than to state, that the United States, before they had

acquired the title of Spain, always treated that title with respect. In the negotiation of 1818 the American Plenipotentiaries did not assert that the United States had a perfect right to that country; but insisted that their claim was at least good against Great Britain; and the Convention of October 20 1818, unlike that of Nootka Sound, "reserved the claims of any other Power or State to any part of the said country." This reservation could have been intended for Spain alone. But ever since the United States acquired the Spanish title, they have always asserted and maintained their right, in the strongest terms, up to the Russian line, even whilst offering, for the sake of harmony and peace, to divide the territory in dispute by the 49th parallel of latitude.

The British Plenipotentiary, then, has entirely failed to sustain his position that the United States can found no claim on discovery, exploration, and settlement, without admitting the principle of the Nootka Convention. That Convention died on the commencement of the war between Spain and England in 1796, and has never since been revived.

The British Plenipotentiary endeavours to prove that "even if the Nootka Sound Convention had never existed, the position of Great Britain in regard to her claim, whether to the whole or to any particular portion of the Oregon Territory, is at least as good as that of the United States." In order to establish this position, he must show that the British claim is equal in validity to the titles both of Spain and the United States. These can never now be separated. They are one and the same. Different and diverging as they may have been before the Florida Treaty, they are now blended together and identified. The separate discoveries, explorations, and settlements of the two Powers previous to that date, must now be considered as if they had all been made by the United States alone. Under this palpable view of the subject, the Undersigned was surprised to find that, in the comparison and contrast instituted by the British Plenipotentiary between the claim of Great Britain and that of the United States, he had entirely omitted to refer to the discoveries, explorations, and settlements made by Spain. The Undersigned will endeavour to supply the omission.

But before he proceeds to the main argument on this point, he feels himself constrained to express his surprise that the British Plenipotentiary should again have invoked, in support of the British title, the inconsistency between the Spanish and American branches of the title of the United States; the Undersigned cannot forbear to congratulate himself upon the fact that a gentleman of Mr. Pakenham's acknowledged ability has been reduced to the necessity of relying chiefly upon such a support for sustaining the British pretensions. Stated in brief, the argument is this:—the American title is not good against Great Britain, because inconsistent with that of Spain; and the Spanish title is not good against Great Britain, because inconsistent with that of the United States. The Undersigned had expected something far different from such an argument in a circle. He had anticipated that the British Plenipotentiary would have attempted to prove that Spain had no right to the North-Western Coast of America; that it was vacant and unappropriated, and hence, under the law of nations, was open to discovery, exploration and settlement by all nations. But no such thing. On this vital point of his case he rests his argument solely on the declaration made by the Undersigned, that the title of the United States to the Valley of the Columbia was perfect and complete before the Treaties of joint occupation of October 1818, and August 1827, and before the date of the Florida Treaty in 1819. But the British Plenipotentiary ought to recollect that this title was asserted to be complete, not against Spain, but against Great Britain; that the argument was conducted not against a Spanish, but a British Plenipotentiary; and that the United States, and not Great Britain, represent the Spanish title. And further, that the statement from which he extracts these declarations, was almost exclusively devoted to prove, in the language quoted by the British Plenipotentiary himself, "that Spain had a good title, as against Great Britain, to the whole of the Oregon Territory." The Undersigned has never, as he before observed, instituted any comparison between the American and the Spanish title. Holding both,

having a perfect right to rely upon both, whether jointly or separately, he has strongly asserted each of them in their turn, fully persuaded that either the one or the other is good against Great Britain, and that no human ingenuity can make the Spanish title, now vested in the United States, worse than it would have been had it remained in the hands of Spain.

Briefly to illustrate and enforce this title, shall be the remaining task of the Undersigned. And in the first place he cannot but commend the frankness and candour of the British Plenipotentiary in departing from the course of his predecessors, and rejecting all discoveries previous to those of Captain Cook, in the year 1778, as foundations of British title. Commencing with discovery at a period so late, the Spanish title, on the score of antiquity, presents a strong contrast to that of Great Britain. The Undersigned has stated, as an historical and striking fact which must have an important bearing against the claim of Great Britain, that this Convention (the Nootka), which was dictated by her to Spain, contains no provision impairing the ultimate sovereignty which that Power had asserted for nearly three centuries over the whole western side of North America as far north as the 61st degree of latitude, and which had never been seriously questioned by any European nation. This had been maintained by Spain with the most vigilant jealousy ever since the discovery of the American Continent, and had been acquiesced in by all European Governments. It had been admitted, even beyond the latitude of 54° 40′ north, by Russia, then the only Power having claims which could come in collision with Spain, and that too under a Sovereign peculiarly tenacious of the territorial rights of her empire. These historical facts had not been, as they could not be, controverted by the British Plenipotentiary, although they were brought under his particular observation, and were even quoted by him with approbation, for the purpose of showing the inconsistency of the several titles held by the United States. In the language of Count Fernan de Nuñez, the Spanish Ambassador at Paris, to M. de Montmorin, the Secretary of the Foreign Department of France, under date of 16th June 1790, "By the treaties, demarcation, takings of possession, and the most decided acts of sovereignty exercised by the Spaniards in these stations, from the reign of Charles II, and authorized by that Monarch in 1792, the original vouchers for which shall be brought forward in the course of the negotiation, all the coast to the north of the Western America on the side of the South Sea, as far as beyond what is called Prince William's Sound, which is in the 61st degree, is acknowledged to belong exclusively to Spain."

Compared with this ancient claim of Spain, acquiesced in by all European nations for centuries, the claim of Great Britain, founded on discoveries commenced at so late a period as the year 1778, must make an unfavourable first impression.

Spain considered the North-Western Coast of America as exclusively her own. She did not send out expeditions to explore that coast for the purpose of rendering her title more valid. When it suited her own convenience, or promoted her own interest, she fitted out such expeditions of discovery, to ascertain the character and extent of her own territory. And yet her discoveries along that coast are far earlier than those of the British.

That Juan de Fuca, a Greek in the service of Spain, in 1592, discovered and sailed through the strait now bearing its name, from its southern to its northern extremity, and thence returned through the same passage, no longer admits of reasonable doubt. An account of this voyage was published in London in 1625, in a work called "The Pilgrims" by Samuel Purchas. This account was received from the lips of Fuca himself at Venice in April 1596, by Michael Lock, a highly respectable English merchant.

During a long period this voyage was deemed fabulous, because subsequent navigators had in vain attempted to find these straits. Finally, after they had been found, it was discovered that the description of De Fuca corresponded so accurately with their geography and the facts presented by nature upon the ground, it was no longer possible to consider

his narrative as fabulous. It is true that the opening of the straits upon the south lies between the 48th and 49th parallels of latitude, and not between the 47 and 48th parallels, as he had supposed; but this mistake may be easily explained by the inaccuracy so common throughout the 16th century, in ascertaining the latitude of places in newly-discovered countries.

It is also true that De Fuca, after passing through the straits, supposed he had reached the Atlantic, and had discovered the passage, so long and so anxiously sought after, between the two oceans; but from the total ignorance and misapprehension which prevailed at that early day of the geography of this portion of North America, it was natural for him to believe that he had made this important discovery.

Justice has at length been done to his memory; and these straits which he discovered will in all future time bear his name. Thus the merit of the discovery of the Straits of Fuca belongs to Spain, and this nearly two centuries before they had been entered by Captain Berkeley, under the Austrian flag.

It is unnecessary to detail the discoveries of the Spaniards, as they regularly advanced to the north from their settlements on the western coasts of North America, until we reach the voyage of Captain Juan Perez in 1774. That navigator was commissioned by the Vice-Roy of Mexico to proceed, in the corvette "Santiago," to the 60th degree of north latitude, and from that point to examine the coast down to Mexico. He sailed from San Blas on the 25th January 1774. In the performance of this commission, he landed first on the north-west coast of Queen Charlotte's Island, near the 54th degree of north latitude, and thence proceeded south along the shore of that island and of the great Island of Quadra and Vancouver, and then along the coasts of the continent, until he reached Monterey. He went on shore, and held intercourse with the natives at several places, and especially at the entrance of a bay in latitude 49½ degrees, which he called Port San Lorenzo, the same now known by the name of Nootka Sound. In addition to the journals of this voyage, which render the fact incontestable, we have the high authority of Baron Humboldt in its favour. That distinguished traveller, who had access to the manuscript documents in the city of Mexico, states, that "Perez and his pilot Estevan Martinez, left the port of San Blas on the 24th January 1774. On the 9th August, they anchored, the first of all European navigators, in Nootka Road, which they called the port of San Lorenzo, and which the illustrious Cook, four years afterwards, called King George's Sound."

In the next year, 1775, the Vice-Roy of Mexico again fitted out the "Santiago," under the command of Bruno Heceta, with Perez her former commander, as Ensign; and also a schooner called the "Señora," commanded by Juan Francisco de la Bodega y Quadra. These vessels were commissioned to examine the North-Western Coast of America as far as the 65th degree of latitude, and sailed in company from San Blas on the 15th March 1775.

It is unnecessary to enumerate the different places on the coast examined by these navigators, either in company or separately. Suffice it to say, that they landed at many places on the coast from the 41st to the 57th degree of latitude; on all of which occasions they took possession of the country in the name of their Sovereign, according to a prescribed regulation, celebrating mass, reading declarations asserting the right of Spain to the territory, and erecting crosses with inscriptions to commemorate the event. Some of these crosses were afterwards found standing by British navigators. In relation to these voyages, Baron Humboldt says, "In the following year" (1775 after that of Perez) "a second expedition set out from San Blas, under the command of Heceta, Agala, and Quadra; Heceta discovered the mouth of the Rio Columbia, called it the Entrada de Heceta, the Pic of San Jacinto (Mount Edgecumbe) near Norfolk Bay, and the fine port of Bucareli. I possess two very curious small maps engraved in 1788 in the city of Mexico, which give the bearings of the coast from the 27th to the 58th degree of latitude as they were discovered in the expedition of Quadra."

In the face of these incontestable facts, the British Plenipotentiary says, that "Captain Cook must also be considered the discoverer of Nootka Sound, in consequence of the want of authenticity in the alleged previous discovery of that port by Perez." And yet Cook did not even sail from England until the 12th July, 1776, nearly two years after Perez had made this discovery. The chief object of Cook's voyage was the discovery of a north-west passage, and he never landed at any point of the continent south of Nootka Sound. It is true that in coasting along the continent, before he reached this place, he had observed Cape Flattery, but he was entirely ignorant that this was the southern entrance of the Sound of Fuca. In his journal he admits that he had heard some account of the Spanish voyages of 1774 and 1775 before he left England; and it is beyond question that before his departure accounts of the voyage of Quadra had been published both in Madrid and London. From Nootka Sound Cook did not again see land until he reached the 57th degree of north latitude.

In 1787, it is alleged by the British Plenipotentiary, that Captain Berkeley, a British subject, discovered the Straits of Fuca; but these Straits had been discovered by Juan de Fuca nearly two centuries before. Besides, if there had been any merit in this discovery of Captain Berkeley, it would have belonged to Austria, in whose service he was and under whose colours he sailed, and cannot be appropriated by Great Britain.

And here it is worthy of remark, that these discoveries of Cook and Berkeley in 1778 and 1787 are all those on which the British Plenipotentiary relies, previous to the date of the Nootka Sound Convention in October 1790, to defeat the ancient Spanish title to the North-West Coast of America.

The Undersigned will now take a position which cannot, in his opinion, be successfully assailed, and this is, that no discovery, exploration, or settlement, made by Great Britain on the North-West Coast of America, after the date of the Nootka Sound Convention, and before it was terminated by the war of 1796, can be invoked by that Power, in favour of her own title or against the title of Spain. Even according to the British construction of that Convention, the sovereignty over the territory was to remain in abeyance during its continuance, as well in regard to Great Britain as to Spain. It would therefore have been an open violation of faith on the part of Great Britain, after having secured the privileges conferred upon her by the Convention, to turn round against her partner, and perform any acts calculated to divest Spain of her ultimate sovereignty over any portion of the coast. The palpable meaning of the Convention was, that during its continuance, the rights of the respective parties, whatever they may have been, should remain just as they had existed at its commencement.

The Government of Great Britain is not justly chargeable with any such breach of faith. Captain Vancouver acted without instructions in attempting to take possession of the whole North-Western Coast of America in the name of his Sovereign. This officer, sent out from England to execute the Convention, did not carry with him any authority to violate it in this outrageous manner.

Without this Treaty he would have been a mere intruder. Under it Great Britain had a right to make discoveries and surveys, not thereby to acquire a title, but merely to enable her subjects to select spots the most advantageous, to use the language of the Convention, "for the purpose of carrying on commerce with the natives of the country, or of making settlements there."

If this construction of the Nootka Sound Convention be correct, and the Undersigned does not perceive how it can be questioned, then Vancouver's passage through the Straits of Fuca in 1792, and Alexander Mackenzie's journey across the continent in 1793, can never be transformed into elements of title in favour of Great Britain.

But even if the Undersigned could be mistaken in these positions, it would be easy to prove that Captain John Kendrick, in the American sloop "Washington," passed through the Straits of Fuca in 1789, three years before Captain Vancouver performed the same voyage. The very

instructions to the latter before he left England in January 1791, refer to this fact which had been communicated to the British Government by Lieutenant Meares, who has rendered his name so notorious by its connexion with the transactions preceding the Nootka Sound Convention. It is, moreover, well known, that the whole southern division of the Straits had been explored by the Spanish navigators Elisa and Quimpa; the first in 1790, and the latter in 1791.

After what has been said, it will be perceived how little reason the British Plenipotentiary has for stating that his Government has, "as far as relates to Vancouver's Island, as complete a case of discovery, exploration and settlement, as can well be presented, giving to Great Britain in any arrangement that may be made with regard to the territory in dispute, the strongest possible claim to the exclusive possession of that island."

The discovery thus relied upon is that of Nootka Sound by Cook in 1778, when it has been demonstrated that this port was first discovered by Perez in 1774. The exploration is that by Vancouver in passing through the Strait of Fuca in 1792, and examining the coasts of the territory in dispute, when De Fuca himself had passed through these straits in 1592, and Kendrick again in 1789, and a complete examination of the Western Coast had been made in 1774 and 1775, both by Perez and Quadra. As to possession, if Meares was ever actually restored to his possessions at Nootka Sound, whatever these may have been, the Undersigned has never seen any evidence of the fact. It is not to be found in the journal of Vancouver, although this officer was sent from England for the avowed purpose of witnessing such a restoration. The Undersigned knows not whether any new understanding took place between the British and Spanish Governments on this subject; but one fact is placed beyond all doubt, that the Spaniards continued in the undisturbed possession of Nootka Sound until the year 1795, when they voluntarily abandoned the place. Great Britain has never at any time since occupied this or any other position on Vancouver's Island. Thus, on the score either of discovery, exploration, or possession, this island seems to be the very last portion of the territory in dispute to which she can assert a just claim.

In the mean time the United States were proceeding with the discoveries which served to complete and confirm the Spanish-American title to the whole of the disputed territory. Captain Robert Gray, in June 1789, in the sloop "Washington," first explored the whole eastern coast of Queen Charlotte's Island. In the autumn of the same year, Captain John Kendrick, having in the mean time surrendered the command of the "Columbia" to Captain Gray, sailed, as has been already stated, in the sloop "Washington," entirely through the Straits of Fuca.

In 1791, Captain Gray returned to the North Pacific in the "Columbia," and in the summer of that year examined many of the inlets and passages between the 54th and 56th degrees of latitude, which the Undersigned considers it unnecessary to specify. On the 7th May 1792, he discovered and entered Bulfinch's Harbour, where he remained at anchor three days, trading with the Indians.

On the 11th May 1792, Captain Gray entered the mouth of the Columbia, and completed the discovery of that great river. This river had been long sought in vain by former navigators. Both Meares and Vancouver, after examination, had denied its existence. Thus is the world indebted to the enterprise, perseverance, and intelligence of an American Captain of a trading vessel for their first knowledge of this, the greatest river on the Western Coast of America; a river whose headsprings flow from the gorges of the Rocky Mountains, and whose branches extend from the 42nd to the 53rd parallels of latitude. This was the last and most important discovery on the coast, and has perpetuated the name of Robert Gray. In all future time this great river will bear the name of his vessel.

It is true that Bruno Heceta, in 1775, had been opposite the bay of the Columbia, and the currents and eddies of the water caused him, as

he remarks, to believe that this was "the mouth of some great river, or of some passage to another sea:" and his opinion seems decidedly to have been, that this was the opening of the strait discovered by Juan de Fuca in 1592. To use his own language, "Notwithstanding the great difference between the position of this bay and the passage mentioned by De Fuca, I have little difficulty in conceiving that they may be the same, having observed equal or greater differences in the latitude of other capes and ports on this coast, as I shall show at its proper time; and in all cases the latitudes thus assigned are higher than the real ones."

Heceta, from his own declaration, had never entered the Columbia, and he was in doubt whether the opening was the mouth of a river or an arm of the sea; and subsequent examinations of the coast by other navigators had rendered the opinion universal that no such river existed, when Gray first bore the American flag across its bar, sailed up it channel for twenty-five miles, and remained in the river nine days trading with the Indians.

The British Plenipotentiary attempts to depreciate the value to the United States of Gray's discovery, because his ship the "Columbia," was a trading and not a national vessel. As he furnishes no reason for this distinction, the Undersigned will confine himself to the remark, that a merchant-vessel bears the flag of her country at her mast-head, and continues under its jurisdiction and protection in the same manner as though she had been commissioned for the express purpose of making discoveries. Besides, beyond all doubt, this discovery was made by Gray; and to what nation could the benefit of it belong, unless it be to the United States? Certainly not to Great Britain; and if to Spain, the United States are now her representative.

Nor does the Undersigned perceive in what manner the value of this great discovery can be lessened by the fact that it was first published to the world through the journal of Captain Vancouver, a British authority. On the contrary, its authenticity being thus acknowledged by the party having an adverse interest, is more firmly established than if it had been first published in the United States.

From a careful examination and review of the subject, the Undersigned ventures the assertion, that to Spain belongs all the merit of the discovery of the North-West Coast of America south of the Russian line, not a spot on which, unless it may have been the shores of some interior bays and inlets, after the entrance to them had been known, was ever beheld by British subjects, until after it had been seen or touched by a Spaniard or an American. Spain proceeded on this work of discovery not as a means of acquiring title, but for the purpose of examining and surveying territory to which she believed she had an incontestable right. Her title had been sanctioned for centuries by the acknowledgment or acquiescence of all the European Powers. The United States alone could have disputed this title, and that only to the extent of the region watered by the Columbia. The Spanish and American titles, now united by the Florida Treaty, cannot be justly resisted by Great Britain. Considered together, they constituted a perfect title to the whole territory in dispute ever since the 11th May 1792, when Captain Gray passed the bar at the mouth of the Columbia, which he had observed in August 1788.

The Undersigned will now proceed to show that this title of the United States, at least to the possession of the territory at the mouth of the Columbia, has been acknowledged by the most solemn and unequivocal acts of the British Government.

After the purchase of Louisiana from France, the Government of the United States fitted out an expedition under Messrs. Lewis and Clarke, who in 1805 first explored the Columbia from its sources to its mouth, preparatory to the occupation of the territory by the United States.

In 1811 the settlement at Astoria was made by the Americans near the mouth of the river, and several other posts were established in the interior along its banks. The war of 1812 between Great Britain and the United States, thus found the latter in peaceable possession of that region. Astoria was captured by Great Britain during the war. The Treaty of Peace concluded at Ghent in December 1814, provided that

"all territory, places, and possessions whatsoever, taken by either party from the other during the war," &c., "shall be restored without delay." In obedience to the provisions of this Treaty, Great Britain restored Astoria to the United States. and thus admitted, in the most solemn manner, not only that it had been an American territory or possession at the commencement of the war, but that it had been captured by British arms during its continuance. It is now too late to gainsay or explain away these facts. Both the Treaty of Ghent and the Acts of the British Government under it, disprove the allegations of the British Plenipotentiary, that Astoria passed "into British hands by the voluntary act of the persons in charge of it;" and "that it was restored to the United States in 1818, with certain well-authenticated reservations."

In reply to the first of these allegations, it is true that the Agents of the (American) Pacific Fur Company, before the capture of Astoria, on the 16th of October 1813, had transferred all that they could transfer, the private property of the company, to the (British) North-West Company; but it will scarcely be contended that such an arrangement could impair the sovereign rights of the United States to the territory. Accordingly, the American flag was still kept flying over the fort until the 1st December 1813, when it was captured by His Majesty's sloop of war "Racoon," and the British flag was then substituted.

That it was not restored to the United States, "with certain well-authenticated reservations," fully appears from the act of restoration itself, bearing date 6th October 1818. This is as absolute and unconditional as the English language can make it. That this was according to the intention of Lord Castlereagh, clearly appears from his previous admission to Mr. Rush of the right of the Americans to be reinstated, and to be the party in possession while treating on the title. If British Ministers, afterwards, in despatches to their own agents, the contents of which were not communicated to the Government of the United States, thought proper to protest against our title, these were in effect but mere mental reservations, which could not affect the validity of their own solemn and unconditional act of restoration.

But the British Plenipotentiary, notwithstanding the American discovery of the Columbia by Captain Gray, and the exploration of Lewis and Clarke of several of its branches from their sources in the Rocky Mountains, as well as its main channel to the Ocean, contends, that because Thompson, a British subject in the employment of the North-West Company, was the first who navigated the northern branch of that river, the British Government thereby acquired certain rights against the United States, the extent of which he does not undertake to specify. In other words, that after one nation has discovered and explored a great river and several of its tributaries, and made settlements on its banks, another nation, if it could find a single branch on its head waters which had not been actually explored, might appropriate to itself this branch together with the adjacent territory. If this could have been done, it would have produced perpetual strife and collision among the nations after the discovery of America. It would have violated the wise principle consecrated by the practice of nations, which gave the valley drained by a river and its branches to the nation which had first discovered and appropriated its mouth.

But, for another reason, this alleged discovery of Thompson has no merits whatever. This journey was undertaken on behalf of the North West Company, for the mere purpose of anticipating the United States in the occupation of the mouth of the Columbia; a territory to which no nation, unless it may have been Spain, could, with any show of justice, dispute their right. They had acquired it by discovery and by exploration, and were now in the act of taking possession. It was in an enterprise undertaken for such a purpose, that Thompson, in hastening from Canada to the mouth of the Columbia, descended the north, arbitrarily assumed by Great Britain to be the main, branch of this river. The period was far too late to impair the title of either Spain or the United States by any such proceeding.

Mr. Thompson, on his return, was accompanied by a party from

Astoria, under Mr. David Stuart, who established a post at the confluence of the Okinagan with the north branch of the Columbia, about 600 miles above the mouth of the latter.

In the next year, 1812, a second trading post was established by a party from Astoria, on the Spokan, about 650 miles from the Ocean.

It thus appears, that previous to the capture of Astoria by the British, the Americans had extended their possessions up the Columbia 650 miles. The mere intrusion of the North-Western Company into this territory, and the establishment of two or three trading posts in 1811 and 1812, on the head waters of the river, can surely not interfere with or impair the Spanish-American title. What this Company may have done in the intermediate period until the 20th October 1818, the date of the first treaty of joint occupation, is unknown to the Undersigned, from the impenetrable mystery in which they have veiled their proceedings. After the date of this Treaty, neither Great Britain nor the United States could have performed any act affecting their claims to the disputed territory.

To sum up the whole, then, Great Britain cannot rest her claims to the North-West Coast of America upon discovery. As little will her single claim by settlement at Nootka Sound avail her. Even Belsham, her own historian, forty years ago declared it to be certain, from the most authentic information, "that the Spanish flag flying at Nootka was never struck, and that the territory had been virtually relinquished by Great Britain."

The agents of the North-West Company penetrating the continent from Canada in 1806, established their first trading post west of the Rocky Mountains, at Fraser's Lake in the 54th degree of latitude, and this with the trading post established by Thompson, to which the Undersigned has just adverted, and possibly some others afterwards, previous to October 1818, constitutes the claim of Great Britain by actual settlement.

Even British geographers have not doubted our title to the territory in dispute. There is a large and splendid globe now in the Department of State, recently received from London and published by Malby and Company, manufacturers and publishers to the Society for the Diffusion of Useful Knowledge, which assigns this territory to the United States.

Upon the whole, from the most careful and ample examination which the Undersigned has been able to bestow upon the subject, he is satisfied that the Spanish-American title now held by the United States, embracing the whole territory between the parallels of 42° and 54° 40′, is the best in existence to this entire region, and that the claim of Great Britain to any portion of it has no sufficient foundation.

Notwithstanding such was, and still is, the opinion of the President, yet, in the spirit of compromise and concession, and in deference to the action of his predecessors, the Undersigned, in obedience to his instructions, proposed to the British Plenipotentiary to settle the controversy by dividing the teritory in dispute by the 49th parallel of latitude, offering at the same time to make free to Great Britain, any port or ports on Vancouver's Island south of this latitude which the British Government might desire. The British Plenipotentiary has correctly suggested that the free navigation of the Columbia River was not embraced in this proposal to Great Britain; but, on the other hand, the use of free ports on the southern extremity of this island had not been included in former offers.

Such a proposition as that which has been made, never would have been authorized by the President had this been a new question.

Upon his accession to office he found the present negotiation pending. It had been instituted in the spirit and upon the principle of compromise. Its object was, as avowed by the negotiators, not to demand the whole territory in dispute for either country; but, in the language of the first protocol, "to treat of the respective claims of the two countries to the Oregon Territory, with the view to establish a permanent boundary between them westward of the Rocky Mountains to the Pacific Ocean."

Placed in this position, and considering that Presidents Monroe and

Adams had, on former occasions, offered to divide the territory in dispute by extending the 49th parallel of latitude to the Pacific Ocean, he felt it to be his duty not abruptly to arrest the negotiation, but so far to yield his own opinion as once more to make a similar offer.

Not only respect for the conduct of his predecessors, but a sincere and anxious desire to promote peace and harmony between the two countries, influenced him to pursue this course. The Oregon Question presents the only cloud which intercepts the prospect of a long career of mutual friendship and beneficial commerce between the two nations, and this cloud he desired to remove.

These are the reasons which actuated the President to offer a proposition so liberal to Great Britain.

And how has the proposition been received by the British Plenipotentiary? It has been rejected, without even a reference to his own Government. Nay more, the British Plenipotentiary, to use his own language, "trusts that the American Plenipotentiary will be prepared to offer some further proposal for the settlement of the Oregon Question, more consistent with fairness and equity, and with the reasonable expectations of the British Government."

Under such circumstances, the Undersigned is instructed by the President to say, that he owes it to his own country, and a just appreciation of her title to the Oregon Territory, to withdraw this proposition to the British Government, which had been made under his direction, and it is hereby accordingly withdrawn.

In taking this necessary step, the President still cherishes the hope that this long-pending controversy may yet be finally adjusted in such a manner as not to disturb the peace or interrupt the harmony now so happily subsisting between the countries.

The Undersigned, &c.,

(Signed) JAMES BUCHANAN.

No. 30.

The Earl of Aberdeen to Mr. Pakenham.

(Extract.) *Foreign Office, November* 28, 1845.

UNLESS Mr. Buchanan should be disposed to renew his late proposition, which is greatly to be desired, there remains for us but one course to pursue, and that is, to urge again in pressing terms the expediency of a reference of the whole case to the arbitration of some friendly Sovereign or State.

In the present temper of the public mind in the United States, it appears to Her Majesty's Government, that a resort to arbitration is the most prudent, and perhaps the only feasible, step which both Governments could take, and the best calculated to allay the existing effervescence of popular feelings which might otherwise expose both nations to the hazard of a rupture upon a point which, however its importance may be magnified by national pride or popular passion on both sides, is in reality but of comparatively small public value or interest to either party; and certainly not one upon which wise and patriotic Governments would wish to stake the peace and happiness of their people.

It is probable that you may have already taken this step; but if you should not yet have done so, I have to desire that you will present without delay to the United States' Government an official note proposing a reference of the whole question of an equitable division of the territory to the arbitration of some friendly Sovereign or State. In that note you will not fail to express the deep regret which is felt by Her Majesty's Government at the failure of all their efforts to effect a friendly settlement of the conflicting claims by direct negotiation between the two Governments. Her Majesty's Government are still persuaded that great advantages

would have resulted to both parties from such a mode of settlement, had it been practicable; and they rejoice that they cannot charge themselves with having caused its failure. The proposal which you are now instructed to make, is a proof of our confidence in the justice of our own claims; but it is a proof also of our readiness to incur the risk of a great sacrifice, for the preservation of peace and of our friendly relations with the United States. It is made in a spirit of moderation and fairness of which the world will judge. Should the Government of the United States reject this proposal, and at the same time virtually refuse to settle our differences by means of direct negotiation, in a matter which cannot be said to affect the honour or the essential interests of either party, they will render themselves deeply responsible. Be the consequences what they may, Her Majesty's Government will have no choice but to maintain unimpaired those rights which they believe Great Britain to possess, and which they had in vain sought to make the subject of equitable compromise.

No. 31.

Mr. Pakenham to the Earl of Aberdeen.—(*Received December* 29.)

My Lord, *Washington, December* 2, 1845.

I HAVE the honour herewith to transmit copies of the President's message to Congress communicated this day.

I have, &c.,
(Signed) PAKENHAM.

Inclosure in No. 31.

Extract from the President's Message of December 2, 1845.

MY attention was early directed to the negotiation which, on the 4th of March last, I found pending at Washington between the United States and Great Britain, on the subject of the Oregon Territory. Three several attempts had been previously made to settle the questions in dispute between the two countries by negotiation upon the principle of compromise; but each had proved unsuccessful.

These negotiations took place at London, in the years 1818, 1824, and 1826; the two first under the administration of Mr. Monroe, and the last under that of Mr. Adams. The negotiation of 1818 having failed to accomplish its object, resulted in the Convention of the 20th of October of that year. By the Third Article of that Convention, it was agreed, "that any country that may be claimed by either party on the north-west coast of America, westward of the Stony Mountains, shall, together with its harbours, bays, and creeks, and the navigation of all rivers within the same, be free and open for the term of ten years from the date of the signature of the present Convention, to the vessels, citizens, and subjects of the two Powers; it being well understood that this agreement is not to be construed to the prejudice of any claim which either of the two High Contracting Parties may have to any part of the said country; nor shall it be taken to affect the claims of any other Power or State to any part of the said country; the only object of the High Contracting Parties in that respect being, to prevent disputes and differences among themselves."

The negotiation of 1824 was productive of no result, and the Convention of 1818 was left unchanged.

The negotiation of 1826 having also failed to effect an adjustment by

compromise, resulted in the Convention of August the 6th 1827, by which it was agreed to continue in force, for an indefinite period, the provisions of the Third Article of the Convention of the 20th of October 1818; and it was further provided, that "it shall be competent, however, to either of the Contracting Parties, in case either should think fit, at any time after the 20th day of October 1828, on giving due notice of twelve months to the other Contracting Party, to annul and abrogate this Convention; and it shall, in such case, be accordingly entirely annulled and abrogated, after the expiration of the said term of notice." In these attempts to adjust the controversy, the parallel of the 49th degree of north latitude had been offered by the United States to Great Britain, and in those of 1818 and 1826, with a further concession of the free navigation of the Columbia River south of that latitude. The parallel of the 49th degree, from the Rocky Mountains to its intersection with the north-easternmost branch of the Columbia, and thence down the channel of that river to the sea, had been offered by Great Britain, with an addition of a small detached territory north of the Columbia. Each of these propositions had been rejected by the parties respectively.

In October 1843, the Envoy Extraordinary and Minister Plenipotentiary of the United States in London was authorized to make a similar offer to those made in 1818 and 1826. Thus stood the question, when the negotiation was shortly afterwards transferred to Washington; and on the 23rd of August 1844, was formally opened, under the direction of my immediate predecessor. Like all the previous negotiations, it was based upon principles of "compromise;" and the avowed purpose of the parties was, "to treat of the respective claims of the two countries to the Oregon Territory, with the view to establish a permanent boundary between them westward of the Rocky Mountains to the Pacific Ocean." Accordingly, on the 26th of August 1844, the British Plenipotentiary offered to divide the Oregon Territory by the forty-ninth parallel of north latitude, from the Rocky Mountains to the point of its intersection with the north-easternmost branch of the Columbia River, and thence down that river to the sea; leaving the free navigation of the river to be enjoyed in common by both parties; the country south of this line to belong to the United States, and that north of it to Great Britain. At the same time, he proposed, in addition, to yield to the United States a detached territory north of the Columbia, extending along the Pacific and the Straits of Fuca, from Bulfinch's Harbour inclusive, to Wood's Canal; and to make free to the United States any port or ports south of latitude forty-nine degrees which they might desire, either on the main land, or on Quadra and Vancouver's Island. With the exception of the free ports, this was the same offer which had been made by the British, and rejected by the American, Government in the negotiation of 1826. This proposition was properly rejected by the American Plenipotentiary on the day it was submitted. This was the only proposition of compromise offered by the British Plenipotentiary. The proposition on the part of Great Britain having been rejected, the British Plenipotentiary requested that a proposal should be made by the United States for "an equitable adjustment of the question."

When I came into office, I found this to be the state of the negotiation. Though entertaining the settled conviction that the British pretensions of title could not be maintained to any portion of the Oregon Territory upon any principle of public law recognised by nations, yet, in deference to what had been done by my predecessors, and especially in consideration that propositions of compromise had been thrice made by two preceding Administrations to adjust the question on the parallel of forty-nine degrees, and in two of them yielding to Great Britain the free navigation of the Columbia, and that the pending negotiation had been commenced on the basis of compromise, I deemed it to be my duty not abruptly to break it off. In consideration, too, that under the Conventions of 1818 and 1827, the citizens and subjects of the two Powers held a joint occupancy of the country, I was induced to make another effort to settle this long-pending controversy in the spirit of moderation which

had given birth to the renewed discussion. A proposition was accordingly made, which was rejected by the British Plenipotentiary, who, without submitting any other proposition, suffered the negotiation on his part to drop, expressing his trust that the United States would offer what he saw fit to call "some further proposal for the settlement of the Oregon Question, more consistent with fairness and equity, and with the reasonable expectations of the British Government." The proposition thus offered and rejected, repeated the offer of the parallel of forty-nine degrees of north latitude, which had been made by two preceding Administrations, but without proposing to surrender to Great Britain, as they had done, the free navigation of the Columbia River. The right of any foreign Power to the free navigation of any of our rivers through the heart of our country, was one which I was unwilling to concede. It also embraced a provision to make free to Great Britain any port or ports on the cap of Quadra and Vancouver's Island south of this parallel. Had this been a new question, coming under discussion for the first time, this proposition would not have been made. The extraordinary and wholly inadmissible demands of the British Government, and the rejection of the proposition made in deference alone to what had been done by my predecessors, and the implied obligation which their acts seemed to impose, afford satisfactory evidence that no compromise which the United States ought to accept can be effected. With this conviction, the proposition of compromise which had been made and rejected, was, by my direction, subsequently withdrawn, and our title to the whole Oregon Territory asserted, and, as is believed, maintained by irrefragable facts and arguments.

The civilized world will see in these proceedings a spirit of liberal concession on the part of the United States; and this Government will be relieved from all responsibility which may follow the failure to settle the controversy.

All attempts at compromise having failed, it becomes the duty of Congress to consider what measures it may be proper to adopt for the security and protection of our citizens now inhabiting, or who may hereafter inhabit, Oregon, and for the maintenance of our just title to that territory. In adopting measures for this purpose, care should be taken that nothing be done to violate the stipulations of the Convention of 1827 which is still in force. The faith of treaties in their letter and spirit, has ever been, and I trust will ever be, scrupuously observed by the United States. Under that Convention, a year's notice is required to be given by either party to the other, before the joint occupancy shall terminate, and before either can rightfully assert or exercise exclusive jurisdiction over any portion of the territory. This notice it would, in my judgment, be proper to give; and I recommend that provision be made by law for giving it accordingly, and terminating, in this manner, the Convention of the 6th of August 1827.

It will become proper for Congress to determine what legislation they can in the mean time adopt, without violating this Convention. Beyond all question, the protection of our laws and our jurisdiction, civil and criminal, ought to be immediately extended over our citizens in Oregon. They have had just cause to complain of our long neglect in this particular, and have, in consequence, been compelled, for their own security and protection, to establish a provisional Government for themselves. Strong in their allegiance, and ardent in their attachment to the United States, they have been thus cast upon their own resources. They are anxious that our laws should be extended over them, and I recommend that this be done by Congress with as little delay as possible, in the full extent to which the British Parliament have proceeded in regard to British subjects in that territory, by their Act of July the 2nd, 1821, "for regulating the fur trade, and establishing a criminal and civil jurisdiction within certain parts of North America." By this Act Great Britain extended her laws and jurisdiction, civil and criminal, over her subjects engaged in the fur trade in that territory. By it, the courts of the Province of Upper Canada were empowered to take cognizance of causes civil and criminal, justices of the peace and other judicial officers were authorized to

be appointed in Oregon, with power to execute all process issuing from the courts of that province, and to "sit and hold Courts of Record for the trial of criminal offences and misdemeanours not made the subject of capital punishment; and also of civil cases, where the cause of action shall not "exceed in value the amount or sum of two hundred pounds."

Subsequent to the date of this Act of Parliament, a grant was made from the "British Crown" to the Hudson's Bay Company of the exclusive trade with the Indian tribes in the Oregon Territory, subject to a reservation that it shall not operate to the exclusion "of the subjects of any foreign States who, under or by force of any convention for the time being, between us and such foreign States respectively, may be entitled to, and shall be engaged in, the said trade."

It is much to be regretted, that, while under this Act British subjects have enjoyed the protection of British laws and British judicial tribunals throughout the whole of Oregon, American citizens in the same territory have enjoyed no such protection from their Government. At the same time, the result illustrates the character of our people and their institutions. In spite of this neglect, they have multiplied, and their number is rapidly increasing in that territory. They have made no appeal to arms, but have peacefully fortified themselves in their new homes by the adoption of republican institutions for themselves; furnishing another example of the truth that self-government is inherent in the American breast, and must prevail. It is due to them that they should be embraced and protected by our laws.

It is deemed important that our laws regulating trade and intercourse with the Indian tribes east of the Rocky Mountains, should be extended to such tribes as dwell beyond it.

The increasing emigration to Oregon, and the care and protection which is due from the Government to its citizens in that distant region, make it our duty, as it is our interest, to cultivate amicable relations with the Indian tribes of that territory. For this purpose, I recommend that provision be made for establishing an Indian agency and such sub-agencies as may be deemed necessary, beyond the Rocky Mountains.

For the protection of emigrants whilst on their way to Oregon, against the attacks of the Indian tribes occupying the country through which they pass, I recommend that a suitable number of stockades and block-house forts be erected along the usual route between our frontier settlements on the Missouri and the Rocky Mountains; and that an adequate force of mounted riflemen be raised to guard and protect them on their journey. The immediate adoption of these recommendations by Congress will not violate the provisions of the existing treaty. It will be doing nothing more for American citizens than British laws have long since done for British subjects in the same territory.

It requires several months to perform the voyage by sea from the Atlantic States to Oregon; and although we have a large number of whale-ships in the Pacific, but few of them afford an opportunity of interchanging intelligence, without great delay, between our settlements in that distant region and the United States. An overland mail is believed to be entirely practicable; and the importance of establishing such a mail at least once a-month, is submitted to the favourable consideration of Congress.

It is submitted to the wisdom of Congress to determine whether, at their present session, and until after the expiration of the year's notice, any other measure may be adopted, consistently with the Convention of 1827, for the security of our rights, and the government and protection of our citizens in Oregon. That it will ultimately be wise and proper to make liberal grants of land to the patriotic pioneers, who, amidst privations and dangers, lead the way through savage tribes inhabiting the vast wilderness intervening between our frontier settlements and Oregon, and who cultivate, and are ever ready to defend the soil, I am fully satisfied. To doubt whether they will obtain such grants as soon as the Convention between the United States and Great Britain shall have ceased to exist, would be to doubt the justice of Congress; but, pending the year's

notice, it is worthy of consideration whether a stipulation to this effect may be made, consistently with the spirit of that Convention.

The recommendations which I have made as to the best manner of securing our rights in Oregon, are submitted to Congress with great deference. Should they, in their wisdom, devise any other mode better calculated to accomplish the same object, it shall meet with my hearty concurrence.

At the end of the year's notice, should Congress think it proper to make provision for giving that notice, we shall have reached a period when the national rights in Oregon must either be abandoned or firmly maintained. That they cannot be abandoned without a sacrifice of both national honour and interest, is too clear to admit of doubt.

Oregon is a part of the North American continent to which it is confidently affirmed the title of the United States is the best now in existence. For the grounds on which that title rests, I refer you to the correspondence of the late and present Secretary of State with the British Plenipotentiary during the negotiation. The British proposition of compromise, which would make the Columbia the line south of forty-nine degrees, with a trifling addition of detached territory to the United States north of that river, and would leave on the British side two-thirds of the whole Oregon Territory, including the free navigation of the Columbia and all the valuable harbours on the Pacific, can never, for a moment, be entertained by the United States without an abandonment of their just and clear territorial rights, their own self-respect, and the national honour. For the information of Congress, I communicate herewith the correspondence which took place between the two Governments during the late negotiation.

No. 32.

Mr. Pakenham to the Earl of Aberdeen.—(*Received January* 16, 1846.)

(Extract.) *Washington, December* 29, 1845.

I HAVE the honour herewith to inclose a copy of an official note, which, in obedience to the instructions contained in your Lordship's despatch of 28th November, I presented, two days ago, to Mr. Buchanan, proposing a reference of the whole question of an equitable division of the Oregon Territory to the arbitration of some friendly Sovereign or State.

I did not put this note into Mr. Buchanan's hands, until I had, as likewise contemplated by your Lordship's instructions, ascertained from him that there was no disposition on the part of the United States' Government to renew their late proposal.

He read the note over in my presence, and then proceeded to say, that in point of form and language there was nothing in it to object to; but that his impression was, that the President would not accept the proposal, and furthermore, that if the President did accept it, it would not receive the sanction of the Senate.

Nevertheless, he went on to say that the matter was too grave to be lightly dealt with; that it required and would receive the most serious attention of the Cabinet, and consequently that it would be some days before he should be prepared to give me an answer.

Inclosure in No. 32.

Mr. Pakenham to Mr. Buchanan.

Washington, December 27, 1845.

AN attentive consideration of the present state of affairs with reference to the Oregon Question, has determined the British Government to instruct the Undersigned, &c., again to represent, in pressing terms, to the Government of the United States, the expediency of referring the whole question of an equitable division of that territory to the arbitration of some friendly Sovereign or State.

Her Majesty's Government deeply regret the failure of all their efforts to effect a friendly settlement of the conflicting claims by direct negotiation between the two Governments. They are still persuaded that great advantages would have resulted to both parties from such a mode of settlement, had it been practicable; but there are difficulties now in the way of that course of proceeding, which it might be tedious to remove, while the importance of an early settlement seems to become at each moment more urgent.

Under these circumstances, Her Majesty's Government think that a resort to arbitration is the most prudent, and perhaps the only feasible, step which could be taken, and the best calculated to allay the existing effervescence of popular feeling, which might otherwise greatly embarrass the efforts of both Governments to preserve a friendly understanding between the two countries.

The Government of the United States will see in the proposal which the Undersigned is thus instructed to make, a proof of the confidence of the British Government in the justice of their own claim. They will also see in it a proof of the readiness of the British Government to incur the risk of a great sacrifice for the preservation of peace and of their friendly relations with the United States. It is made in a spirit of moderation and fairness of which the world will judge.

The British Government confidently hope that the Government of the United States will not reject a proposal made with such a friendly intention and for a purpose so holy.

There is nothing in it, they are convinced, not perfectly compatible with the strictest regard for the honour and just interests of both parties, particularly when it is considered of what small value to either is the portion of territory which in reality forms the subject of controversy, compared with the importance of preserving a state of peace and good-will between two such nations.

The Undersigned, &c.,

(Signed) R. PAKENHAM.

No. 33.

Mr. Pakenham to the Earl of Aberdeen.—(Received January 28.)

(Extract.) *Washington, January* 5, 1846.

I HASTEN to transmit to your Lordship the inclosed copy of a note which I received this morning from Mr. Buchanan, containing the answer of the United States' Government to the proposal which I was lately instructed by your Lordship to make, for referring the whole question of an equitable partition of the Oregon Territory to the arbitration of some friendly Sovereign or State.

Inclosure in No. 33.

Mr. Buchanan to Mr. Pakenham.

Department of State,
Washington, January 3, 1846.

THE Undersigned, Secretary of State of the United States, has the honour to acknowledge the receipt of the note of Mr. Pakenham Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, dated the 27th ultimo, by which, under instructions from his Government, he proposes to the Government of the United States the expediency of referring the whole question of an equitable division of that (the Oregon) territory to the arbitration of some friendly Sovereign or State.

The Undersigned has submitted this note to the President, who, after having bestowed upon it that respectful consideration so eminently due to any proposition emanating from the British Government, has instructed him to give it the following answer.

The British Government do not propose to refer to arbitration the question of the title to the Oregon Territory, claimed by the two Powers respectively. It is a proposition to refer to a friendly Sovereign or State merely the partition or equitable division of that territory between the parties. It assumes the fact that the title of Great Britain to a portion of the territory is valid, and thus takes for granted the very question in dispute. Under this proposition, the very terms of the submission would contain an express acknowledgment of the right of Great Britain to a portion of the territory, and would necessarily preclude the United States from claiming the whole before the arbitrator. This, too, in the face of the note of the Undersigned to Mr. Pakenham, of the 30th August last, by which the President had asserted in the most solemn form the title of the United States to the whole territory. Even if there were not other conclusive reasons for declining the proposition, this alone would be deemed sufficient by the President.

The President heartily concurs with the British Government in their regret that all attempts to settle the Oregon Question by negotiation have hitherto failed. He cannot, however, concur with that Government in the opinion that a resort to arbitration on the terms proposed would be followed by happier consequences. On the contrary, he believes that any attempt to refer this question to a third Power, would only involve it in new difficulties.

In declining this proposition, the President refers to the sentiment expressed in the note of the Undersigned of the 30th August last, to which allusion has already been made, that "he cherishes the hope that this long-pending controversy may yet be finally adjusted, in such a manner as not to disturb the peace, or interrupt the harmony now so happily subsisting between the two nations."

The Undersigned, &c.,

(Signed) JAMES BUCHANAN.

No. 34.

Mr. Pakenham to the Earl of Aberdeen.—(*Received February* 15.)

(Extract.) *Washington, January* 29, 1846.

WITH my despatch of the 5th instant, I had the honour to transmit a copy of the answer which I had received from Mr. Buchanan to the note which, in obedience to the instructions contained in your Lordship's despatch of 28th November, I addressed to him on 29th of last month,

proposing that the whole question of an equitable division of the Oregon Territory should be referred to the arbitration of some friendly Sovereign or State.

The objection of the United States' Government to that proposal seemed to rest principally, although not exclusively, on the fact that according to the terms of the proposed reference, the United States would be denied the power to claim the whole territory before the arbitrator.

My reply to Mr. Buchanan's note was a simple acknowledgment of its receipt, adding that I should take an early opportunity to transmit it to Her Majesty's Government.

On further reflection, however, it occurred to me that, in the present state of affairs, it might be advantageous to give further proof of a desire, if possible, to effect an amicable settlement of the question, by inquiring of Mr. Buchanan whether, supposing Her Majesty's Government to entertain no objection to such a course of proceeding, it would suit the views of the United States' Government to refer, not the question of an equitable division of the territory, but the question of title to the whole, to arbitration; and even to go so far as to suggest that, if the Government of the United States objected to the arbitration of a friendly Sovereign or State, some other mode of adjustment on the principle of arbitration might be adopted for the accomplishment of the object desired.

For this purpose I delivered to Mr. Buchanan, on the 16th instant, the note of which I have the honour to inclose a copy. I humbly hope that, in the step I have thus taken, I shall not have acted contrary to the wishes of Her Majesty's Government.

Inclosure in No. 34.

Mr. Pakenham to Mr. Buchanan.

Washington, January 16, 1846.

WITH an anxious desire to contribute, by every means in his power, to a satisfactory conclusion of the question pending between the two Governments respecting Oregon, the Undersigned Her Britannic Majesty's Envoy Extraordinary, &c., has reflected on the contents of the note addressed to him on the 3rd instant by the Secretary of State of the United States, in answer to that which the Undersigned had the honour to address to him on the 27th of last month.

The note of the Undersigned proposed to the Government of the United States, that the whole question of an equitable partition of the Oregon Territory should be referred to the arbitration of some friendly Sovereign or State.

In his answer, the Secretary of State informed the Undersigned that this proposition could not be accepted. That it did not propose to refer to arbitration the question of the title to the Oregon Territory, claimed by the two Powers respectively. That in proposing to refer to a friendly Sovereign or State merely the partition or equitable division of the territory between the parties, it assumes the fact that the title of Great Britain to a portion of the territory is valid, and thus takes for granted the very question in dispute. That under this proposition, the very terms of the submission would contain an acknowledgment of the right of Great Britain to a portion of the territory, and would necessarily preclude the United States from claiming the whole territory before the arbitrator; and this, too, the Secretary of State goes on to observe, in the face of his note to the Undersigned of 30th August, by which the President had asserted in the most solemn form the title of the United States to the whole territory.

It is not the purpose of the Undersigned, in the present note, to renew the discussion as to the title of either party, Great Britain or the United States, to the whole or to any part of the Oregon Territory. He

must, however, beg leave, with reference to the observation which he has just quoted, to remind the United States' Secretary of State that if the Government of the United States have formally advanced a claim to the whole of the Oregon Territory, it is no less certain that Great Britain has in a manner equally formal declared that she too has rights in the Oregon Territory incompatible with the exclusive claim advanced by the United States.

This declaration arising from a conviction equally sincere will, the Undersigned is persuaded, be viewed with the same consideration by the Government of the United States as they expect that their own declaration should receive at the hands of Great Britain.

This premised, the object of the Undersigned in addressing to Mr. Buchanan the present communication, is to ascertain from him whether, supposing the British Government to entertain no objection to such a course, it would suit the views of the United States' Government to refer to arbitration, not as has already been proposed, the question of an equitable partition of the territory, but the question of title in either of the two Powers to the whole territory, subject of course to the condition that if neither should be found, in the opinion of the arbitrator, to possess a complete title to the whole territory, there should in that case be assigned to each that portion of territory which would in the opinion of the arbitrating Power be called for by a just appreciation of their respective claims.

The Undersigned has suggested a reference on the above principle, to some friendly Sovereign or State. This the Undersigned believes to be the course usually followed in such cases, it is that which has already been resorted to by the two Governments, and more than once. But there may be other forms of arbitration perhaps more agreeable to the Government of the United States.

There might be, for instance, a Mixed Commission, with an umpire appointed by common consent, or there might be a Board composed of the most distinguished civilians and jurists of the time appointed in such a manner as should bring all pending questions to the decision of the most enlightened, impartial, and independent minds.

In the present position of affairs, and feeling how much the interest of both countries requires an early as well as an amicable and satisfactory adjustment of existing difficulties, the Undersigned earnestly invites the Secretary of State to take the subject of this note into consideration, with a view to such an arrangement on the principle of arbitration, as may seem to the Government of the United States to be most just, wise, and expedient.

The Undersigned, &c.,

(Signed) R. PAKENHAM.

No. 35.

The Earl of Aberdeen to Mr. Pakenham.

Sir, *Foreign Office, March* 3, 1846.

I HAVE much satisfaction in conveying to you the entire approval by Her Majesty's Government of the steps which, as reported in your despatch of the 29th January, you took, and of the letter which you addressed to the American Secretary of State, for the purpose of ascertaining clearly and authoritatively whether the United States' Government would be disposed to admit the application of the principle of an arbitration in the Oregon Question on any other terms than those which they had already rejected.

In thus acting, you have in the most judicious and satisfactory manner anticipated the instructions which I was preparing to forward to you on this subject.

We have now nothing to do but to await Mr. Buchanan's reply to your appeal to him, although I collect from your despatch that your proposal will certainly be refused. Should that reply however be of such a nature as to give any ground of hope that the matter in dispute may yet be brought to an amicable issue by means of direct negotiation, I shall gladly avail myself of such an opening. If not, it will then be for Her Majesty's Government to consider what measures it may be expedient to adopt, in order to meet any emergency which may arise.

I am, &c.,
(Signed) ABERDEEN.

No. 36.

Mr. Pakenham to the Earl of Aberdeen.—(Received March 3.)

My Lord, *Washington, February* 5, 1846.

I HAVE the honour herewith to inclose a copy of a note which I received yesterday from Mr. Buchanan, in answer to that which I addressed to him on the 16th of January, of which I had the honour to transmit a copy with my despatch of the 29th ultimo.

I have, &c.,
(Signed) R. PAKENHAM.

Inclosure in No. 36.

Mr. Buchanan to Mr. Pakenham.

Department of State,
Washington, February 4, 1846.

THE Undersigned, Secretary of State of the United States, has the honour to acknowledge the receipt of the note of Mr. Pakenham, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, dated on the 16th ultimo, by which he again proposes a reference of the Oregon Question to arbitration. Under his present proposition, the powers of the arbitrator would not as in his last, be limited in terms to the division of the territory between the parties, but would extend to the question of their conflicting titles. There is, however, a condition annexed to this offer which exposes it to the same objection in point of fact, if not in form, which was prominently presented in the answer of the Undersigned to Mr. Pakenham's last proposal. This condition is, "that if neither (party) should be found in the opinion of the arbitrator to possess a complete title to the whole territory, there should, in that case, be assigned to each that portion of territory which would, in the opinion of the arbitrating power, be called for by a just appreciation of the respective claims of each." If the Government of the United States should consent to an arbitration upon such a condition, this might and probably would be construed into an intimation, if not a direct invitation, to the arbitrator to divide the territory between the parties. Were it possible for the President, under any circumstances, to consent to refer the subject to arbitration, the title, and the title alone, detached from every other consideration, is the only question which could be submitted. If not confined to a single point, so strong is the natural disposition of arbitrators to please both parties, that in almost every instance, whether of national or individual controversies, they make a compromising award. We have a memorable example of this in our last arbitration with Great Britain.

Notwithstanding that the arbitrator, under the terms of the submission, was clearly and explicitly confined to the decision of which was the line of highlands described in the Treaty of Peace of 1783; yet, instead of pursuing any range of highlands whatever, he advised that the line should run along the bed of a river; and actually divided the territory in dispute between the parties by "the middle of the deepest channel of the St. John's."

The Undersigned might content himself, in answer to the present proposition, with a reference to the observations contained in his last note to Mr. Pakenham of the 3rd ultimo. In that it was plainly intimated not only that there are "other conclusive reasons for declining the proposition," independently of the one which had been prominently stated, but it was expressly asserted, as the belief of the President, "that any attempt to refer this question to a third Power would only involve it in new difficulties."

The Undersigned will however proceed to state a simple reason, which, apart from the intrinsic difficulty of selecting a suitable arbitrator, as well as other considerations that might be adduced, is conclusive on the mind of the President against a reference of this question to arbitration in any form which can be devised, no matter what may be the character of the arbitrator—whether sovereign, citizen, or subject. This reason is, that he does not believe the territorial rights of this nation to be a proper subject for arbitration. It may be true that, under peculiar circumstances, if the interest at stake were comparatively small, and if both parties stood upon an equal footing, there might be no insuperable objection to such a course. But what is the extent of territory in dispute on the present occasion? It embraces nearly thirteen degrees of latitude along the north-west coast of the Pacific, and stretches eastward to the summit of the Rocky Mountains. Within its limits several powerful and prosperous States of the Union may be embraced. It lies contiguous, on this continent, to the acknowledged territory of the United States, and is destined, at no distant day, to be peopled by our citizens. This territory presents the avenue through which the commerce of our Western States can be profitably conducted with Asia and the western coasts of this continent, and its ports, the only harbours belonging to the United States to which our numerous whalers and other vessels in that region can resort. And yet, vast as are its dimensions, it contains not a single safe and commodious harbour from its southern extremity until we approach the 49th parallel of latitude.

It is far from the intention of the Undersigned again to open the discussion of the conflicting claims of the two Powers to the Oregon Territory. It is sufficient for him to state the continued conviction of the President, that the United States hold the best title in existence to the whole of this territory. Under this conviction he cannot consent to jeopard for his country all the great interests involved, and by any possibility, however remote, to deprive the Republic of all the good harbours on the coast, by referring the question to arbitration.

Neither is the territory in dispute of equal, or nearly equal, value to the two Powers. Whilst it is invaluable to the United States, it is of comparatively small importance to Great Britain. To her Oregon would be but a distant colonial possession of doubtful value, and which, from the natural progress of human events, she would not probably long enough enjoy to derive from it essential benefits; whilst to the United States it would become an integral and essential portion to the Republic. The gain to Great Britain, she would never sensibly feel, whilst the loss to the United States would be irreparable.

The Undersigned is perfectly aware that such considerations can have no bearing upon the question of the title of either party. They are presented solely for the purpose of explaining the views of the President in his refusal to adopt any measure which should withdraw our title from the control of the Government and the people of the United States, and place it within the discretion of any arbitrator, no matter how intelligent and respectable.

The President cordially concurs with the Government of Great Britain in desiring that the present controversy may be amicably adjusted. Of this he has given the strongest proof before the whole world. He believes that as there are no two nations on the earth more closely bound together by the ties of commerce, so there are none who ought to be more able or willing to do each other justice, without the interposition of any arbitrator.

The Undersigned, &c.,

(Signed) JAMES BUCHANAN.

No. 37.

The Earl of Aberdeen to Mr. Pakenham.

Sir, *Foreign Office, March* 3, 6 P. M., 1846.

SINCE my preceding despatch of this day's date, was written, I have received your despatch of 5th February with its inclosure, by which you put me in possession of the final rejection by the United States' Government, of our proposal of a reference of the Oregon Question to arbitration.

There is of course no time before the departure of the mail of this evening, for the consideration of so serious a question as that which is involved in the President's decision as now announced.

I am, &c.,

(Signed) ABERDEEN.

TREATY

BETWEEN

HER MAJESTY

AND THE

UNITED STATES OF AMERICA,

FOR THE

SETTLEMENT OF THE OREGON BOUNDARY.

Signed at Washington, June 15, 1846.

Presented to both Houses of Parliament by Command of Her Majesty.
1846.

LONDON:
PRINTED BY T. R. HARRISON.

TREATY

BETWEEN

HER MAJESTY

AND

THE UNITED STATES OF AMERICA,

FOR THE

SETTLEMENT OF THE OREGON BOUNDARY.

Signed at Washington, June 15, 1846.

[*Ratifications exchanged at London, July* 17, 1846.]

HER Majesty the Queen of the United Kingdom of Great Britain and Ireland, and The United States of America, deeming it to be desirable for the future welfare of both countries, that the state of doubt and uncertainty which has hitherto prevailed respecting the Sovereignty and Government of the Territory on the North-west Coast of America, lying westward of the Rocky or Stony Mountains, should be finally terminated by an amicable compromise of the rights mutually asserted by the two Parties over the said Territory, have respectively named Plenipotentiaries to treat and agree concerning the terms of such settlement, that is to say:—

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland has, on Her part, appointed the Right Honourable Richard Pakenham, a Member of Her Majesty's Most Honourable Privy Council, and Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States; and the President of the United States of America has, on his part, furnished with full powers, James Buchanan, Secretary of State of the United States; who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:—

ARTICLE I.

From the point on the forty-ninth parallel of north latitude, where the boundary laid down in existing Treaties and Conventions between Great Britain and the United States terminates, the line of boundary between the territories of Her Britannic Majesty and those of the United States shall be continued westward along the said forty-ninth parallel of north latitude, to the middle of the channel which separates the continent from Vancouver's Island; and thence southerly, through the middle of the said channel, and of Fuca's Straits, to the Pacific Ocean: provided however, that the navigation of the whole of the said channel and straits, south of the forty-ninth parallel of north latitude, remain free and open to both Parties.

ARTICLE II.

From the point at which the forty-ninth parallel of north latitude shall be found to intersect the great northern branch of the Columbia River, the navigation of the said branch shall be free and open to the Hudson's Bay Company, and to all British subjects trading with the

same, to the point where the said branch meets the main stream of the Columbia, and thence down the said main stream to the ocean, with free access into and through the said river or rivers; it being understood, that all the usual portages along the line thus described, shall in like manner be free and open.

In navigating the said river or rivers, British subjects, with their goods and produce, shall be treated on the same footing as citizens of the United States; it being, however, always understood, that nothing in this Article shall be construed as preventing, or intended to prevent, the Government of the United States from making any regulations respecting the navigation of the said river or rivers, not inconsistent with the present Treaty.

ARTICLE III.

In the future appropriation of the territory south of the forty-ninth parallel of north latitude, as provided in the First Article of this Treaty, the possessory rights of the Hudson's Bay Company, and of all British subjects who may be already in the occupation of land or other property lawfully acquired within the said territory, shall be respected.

ARTICLE IV.

The farms, lands, and other property of every description, belonging to the Puget's Sound Agricultural Company, on the north side of the Columbia River, shall be confirmed to the said Company. In case, however, the situation of those farms and lands should be considered by the United States to be of public and political importance, and the United States' Government should signify a desire to obtain possession of the whole or of any part thereof, the property so required shall be transferred to the said Government at a proper valuation, to be agreed upon between the parties.

ARTICLE V.

The present Treaty shall be ratified by Her Britannic Majesty, and by the President of the United States, by and with the advice and consent of the Senate thereof; and the ratifications shall be exchanged at London at the expiration of six months from the date hereof, or sooner if possible.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at Washington, the fifteenth day of June, in the year of our Lord one thousand eight hundred and forty-six.

RICHARD PAKENHAM. (L.S.)
JAMES BUCHANAN. (L.S.)

CANADA AND NEW BRUNSWICK BOUNDARY.

PAPERS

RELATIVE TO THE

SETTLEMENT OF THE DISPUTED BOUNDARIES

BETWEEN THE

PROVINCES OF CANADA

AND

NEW BRUNSWICK.

Presented to both Houses of Parliament by Command of Her Majesty.

11th JULY, 1851.

LONDON:

PRINTED BY WILLIAM CLOWES AND SONS, STAMFORD STREET;
FOR HER MAJESTY'S STATIONERY OFFICE.

1851.

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PAPERS

RELATIVE TO THE

SETTLEMENT OF THE DISPUTED BOUNDARIES BETWEEN THE PROVINCES OF CANADA AND NEW BRUNSWICK.

(No. 507.) No. 1.

Copy of a DESPATCH from Earl Grey to Governor-General the Earl of Elgin and Kincardine.

My Lord, Downing-street, June 27, 1850.

I have now to acknowledge your Despatch, No. 159, of 9th March last, inclosing the copy of a Minute of your Executive Council, and of a report by the Commissioner of Crown Lands, impugning, on some points, the conclusions arrived at by the Commission appointed by Her Majesty to investigate and report upon the respective claims of Canada and New Brunswick to the territory ceded to Great Britain by the Treaty of Washington.

It is of great importance that this long-standing dispute should be finally settled; and if there is no prospect of agreement between the two Provinces on the subject, Her Majesty's Government must necessarily take on themselves the task of arranging it, unless the decision of a court of justice could be obtained.

This last course, however, appears unsuited to the case. The question, in a legal point of view, seems to turn on the words of the Quebec Act of 1774. But a tribunal could scarcely pronounce a decision which should define the whole line of separation between the provinces. And, even if it could do so, it could only interpret and follow the letter of the Act, and not adopt any line of compromise which might be more advantageous to both parties.

It appears to me, therefore, that the matter can only be finally disposed of by Parliamentary enactment, explaining, or if necessary, modifying the language of the Quebec Act. It would be impossible, in the present Session, to introduce and carry through Parliament a Bill of this importance. And there appears to be room, in the interval which must thus elapse, for a settlement which I should consider as by far the most desirable, namely, by mutual agreement.

I therefore propose that, unless the terms of such an agreement can be settled by some more expeditious means the following course should be adopted:—That your Lordship and the Lieut.-Governor of New Brunswick, with the advice of your Executive Council, should each name an Arbitrator on behalf of your respective Provinces to meet at Quebec, or at any other place which may be preferred by both parties. That the arbitrators should name an umpire. That, if, within a specified time, they could not agree on an umpire, you (or the Lieut.-Governor of New Brunswick, if the arbitration were held in his province) should forthwith notify this to me: on receiving which notification, Her Majesty's Government would themselves name an umpire. That the arbitrators and umpire should proceed to consider the question, having before them the report of Her Majesty's Commission, and all other documents with which the governments of the respective provinces might think proper to furnish them; but not being authorized to examine the ground itself. For although I perceive that on some points the topographical accuracy of the Report No. 1 of Major Robinson and Captain Henderson is impugned by the Surveyor-General of Canada, I do not think these alleged errors appear to be of sufficient importance (especially when it is con-

CANADA.

sidered how many other existing reports and surveys may be referred to by way of evidence) to justify the great expense and delay which such a further investigation would demand; nor would such investigation add much to the prospect of a satisfactory solution of questions which are much more of inference than of fact. That the arbitrators and umpire should be directed to report to Her Majesty's Government, and in that report to point out the line which they consider the most convenient and most equitable, without being tied to the mere interpretation of the law as it stands. And on receiving such a report, whether unanimously adopted or by a majority, Her Majesty's Government would proceed to introduce into Parliament a Bill to carry it into effect. But, if, within a specified time, the parties could not agree, then Her Majesty's Government would take on themselves the decision of the question by introducing a Bill based on the terms of the conventional arrangement recommended in the Report of the Commission of 20th July 1848.

The times which I suggest for the various stages of this transaction are:—That the arbitrators should hold their first meeting on or before November 1st:—That if they did not agree on the selection of an umpire by November 8th, that duty should then devolve on Her Majesty's Government; and that the report should be drawn, and ready for submission to Her Majesty's Government, by February 1st. But I name these dates only for the convenience of affording you a basis for negotiation, being willing to admit of any modification of them to which your Lordship and Sir Edmund Head may jointly agree.

As the ultimate proceeding must necessarily be by Act of Parliament, it does not appear to me that any legal formalities are necessary to give validity to the proceedings of the referees, which will be in the nature of a voluntary arbitration only. They might be appointed merely by the Minute of the Governor and Executive Council, and their report merely drawn up in the ordinary form of a memorial. And as what I proposed is an arrangement based on existing data, and not a fresh inquiry, there appears to be no occasion for investing them with the power of examining witnesses on oath.

I have instructed Sir Edmund Head (to whom I have communicated a copy of this Despatch) to correspond directly with yourself on the subject of it, and to arrange with you any further points of detail which may present themselves, unless matters should arise rendering a further reference to myself necessary; which, if my proposal is adopted, I hope may be avoided; and I have further authorized him to proceed to Toronto for the purpose of personally conferring with your Lordship on this subject, if that course should appear to yourself and to him likely to lead to an adjustment of the question between the two provinces.

I have, &c.,
(Signed) GREY.

The Earl of Elgin and Kincardine,
&c. &c. &c.

No. 2.

(No. 215.) No. 2.

COPY of a DESPATCH from the Earl of ELGIN AND KINCARDINE to Earl GREY.

Government House, Toronto,
MY LORD, October 10, 1850.

(Answered 1st November 1850, No. 525, page 32.)

Enclosure No. 1, 30th September.

I HAVE the honour to enclose herewith, for your Lordship's information, the copy of a Minute of the Executive Council of this province, stating the conditions under which it appears to the Council that the question of disputed boundary between Canada and New Brunswick may be submitted to arbitration, with a reasonable prospect of a decision being arrived at which shall be equitable and satisfactory to the people of both provinces. The course suggested in this Minute is adopted in pursuance of the recommendation contained in your Lordship's Despatch No. 507, of 27th of June, and on a Minute of the Executive Council of New Brunswick, the copy of which I likewise enclose.

Enclosure No. 2, 5th September.

2. In accordance with the permission granted to me by your Lordship in the Despatch above referred to, I requested the Lieutenant-Governor of New Brunswick to visit me here, for the purpose of conferring with me on this important subject. I enclose the copy of a communication addressed to me by Sir Edmund

Gov.-General to Sir E. Head, Enclosure No. 3, 1st October.

CANADA.

Sir E. Head to Gov.-General. Enclosure No. 4.

Head, expressing his approval of the terms of the Minute of Council of Canada herewith transmitted. I beg, at the same time, to acknowledge the valuable assistance which I received from that officer in maturing the necessary arrangements for the settlement of these long-pending questions,

I have, &c.,

(Signed) ELGIN AND KINCARDINE.

The Right Hon. Earl Grey,
&c. &c. &c.

Enclosure 1 in No. 2.

Encl.1 in No. 2.

EXTRACT from a REPORT of the Committee of the EXECUTIVE COUNCIL, dated September 30, 1850; approved by his Excellency the Governor-General.

THE Committee of Council have had under consideration, upon your Excellency's reference, the Despatch of Her Majesty's Secretary of State for the Colonies, dated the 27th day of June last, concerning the question of the disputed territory between Canada and New Brunswick; also a copy of a Minute of the Executive Government of the latter province, dated the 5th day of September, inst., on the same subject.

It is proposed in the Despatch of the Colonial Secretary, that the matter in dispute be referred to arbitrators who should be directed to report to Her Majesty's Government that your Excellency and the Lieutenant-Governor of New Brunswick should each name an arbitrator on behalf of the respective provinces, and these two arbitrators should name an umpire.

As it is very desirable that this important question be finally settled, and as the object of an arbitration is to afford Her Majesty's Government more efficient means to effect such a final settlement of the respective claims of the two provinces, the Committee of Council are of opinion that, under the circumstances of the case, it is advisable that the proposition to refer the matter to an arbitration should be agreed to. As to the terms of such an agreement, the Committee having duly considered the suggestions offered in the Despatch of the Colonial Secretary, as well as those made by the Government of New Brunswick, would respectfully recommend the following:—

1st. A new survey of the ground may be dispensed with, all other points being agreed upon, as hereinafter proposed.

2nd. It is fully understood that in considering the question referred to them, all facts, titles, and documents which may be submitted by either of the parties shall be taken into consideration by the arbitrators, whether existing or bearing date before or after 1763, leaving it to such arbitrators to determine the value which attaches to each class of proofs.

3rd. Neither province shall be represented by counsel before the arbitrators.

4th. The arbitration shall be held in London, and the arbitrators selected in the mother-country.

5th. Three arbitrators shall be appointed; one by the Governor-General of British North America, and one by the Lieutenant-Governor of New Brunswick, neither of whom shall be member of the Imperial Parliament; the third arbitrator to be some member of the Judicial Committee of the Privy Council, or some Barrister of eminence and high standing at the English bar, to be agreed upon by the arbitrators named on behalf of the provinces; and in case the latter are unable to agree, they are to report the fact of such disagreement to Her Majesty's Secretary of State for the Colonies, and thereupon the third arbitrator shall be appointed by Her Majesty's Government. The award to be made by the three arbitrators, or by any two of them.

6th. The arbitrators to be notified of their appointment through the Colonial Office.

7th. When the arbitrators have been appointed, and shall be ready to go into the arbitration, notice to be given to Her Majesty's Secretary of State for the Colonies when the statements and evidence of the respective provinces are to be transmitted to them by him; all further statements with references to any published pamphlets, or other works on the subject intended by the respective parties, to be laid before the arbitrators to be transmitted by them respectively, both to the Colonial Secretary and the sister province, on or before the 15th day of November next; it being, however, fully understood that this stipulation is not to preclude the arbitrators from consulting any published pamphlets, or other works which they may themselves find in the course of their investigations, nor from examining any documents that they may obtain access to through the Imperial Government, though not transmitted or referred to by the respective parties, or either of them.

8th. The net proceeds of the funds in the hands of both Governments arising from the disputed territory, to be applied:—

1st. To defray the expenses of the arbitration.

2nd. To defray the necessary expenses of running the line as settled. In case such funds should prove insufficient, the expenses to be borne equally by the respective Governments.

3rd. And the balance of such funds to the improvement of the land and water communication between the Great Falls of the St. John and the St. Lawrence.

9th. The remuneration of the arbitrators to be fixed by the Colonial Secretary.

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10th. The arbitrators shall report within three months from the first of January next, unless on the application of the arbitrators, or any two of them, the time shall be extended by Her Majesty's Government.

It is further respectfully recommended, that this minute, if approved by your Excellency, be communicated to the Government of New Brunswick, for their concurrence in the same.

Certified,

The Hon. Col. Bruce, (Signed) J. JOSEPH, C. E. C.
Government Secretary.

Encl. 2 in No. 2.

Enclosure 2 in No. 2.

In Council, September 5, 1850.

Present:—

His Excellency the Lieutenant-Governor,
&c. &c. &c.

READ a Despatch from Earl Grey, dated the 27th June, together with a correspondence between his Excellency the Governor-General and the Lieut.-Governor of this Province, with reference to the boundary; whereupon—

Resolved,—That the Attorney-General be requested to meet his Excellency the Lieut.-Governor, at Toronto, for the purpose of conferring with the Governor-General.

Further resolved,—That in the opinion of this Board, as the arbitrators and umpires to be named as suggested by Earl Grey would have to report to Her Majesty's Government, it will save time and secure greater confidence in their impartiality if such arbitrators and umpire be appointed in England rather than in the colonies. The evidence being wholly documentary, there can be no difficulty in the decision of the question in London.

That this Board will nominate any person as arbitrator on the part of New Brunswick whom the Lieut.-Governor and the Attorney-General may select; but they wish, if possible, that the umpire selected by the arbitrators should be a member of the Judicial Committee of Her Majesty's Privy Council, or some barrister of eminence and high standing at the English bar. The Council think, moreover, that both the arbitrators, or neither, should be in the Imperial Parliament.

The Council are also of opinion that it would be expedient, with the consent of the Canadian Government, to appropriate the net proceeds of the funds in the hands of both Governments arising from the disputed territory in the following manner:—

1. To defray the necessary expense of running the line.
2. To the improvement of the road or water communication between the Grand Falls of the St. John and the Riviere du Loup.

It is also considered important that the arbitrators and umpire should, if possible, report in London, before the last day of December in the present year, and that the intention of Her Majesty's Government to introduce a Bill into the Imperial Parliament for the purpose of settling a particular line of boundary should be announced officially to the Lieut.-Governor of this province before the 1st day of February, 1851.

Finally, the Council are most desirous that the matter should be brought to a speedy and amicable termination; and therefore, in expressing these opinions, they do not intend to make such conditions indispensable, or to fetter the discretion which the Lieut.-Governor, acting with the advice of the Attorney-General, may see fit to exercise when at Toronto, with a view to an immediate settlement.

Placed in the hands of his Excellency the Governor-General, September 27, 1850.

(Signed) EDMUND HEAD.

Encl. 3 in No. 2.

Enclosure 3 in No. 2.

SIR, Government House, Toronto, October 1, 1850.

WITH reference to the conference which I had yesterday with your Excellency, on the subject of the arbitration proposed by Earl Grey for the settlement of the question of boundary between the provinces of Canada and New Brunswick, I have the honour to transmit herewith the copy of a Minute of the Executive Council of this province, which will, I trust, be satisfactory to you.

30th Sept. 1850.

I have, &c.,

His Excellency (Signed) ELGIN AND KINCARDINE.
Lieut.-Governor Sir Edmund Head, Bart.,
&c. &c. &c.

CANADA.

Encl. 4 in No. 2.

Enclosure 4 in No. 2.

MY LORD, Toronto, October 1, 1850.

I HAVE the honour to acknowledge your Lordship's letter of this day, with its enclosure.

Acting on behalf of the Government of New Brunswick, I beg to express my assent to the terms laid down in the Minute of Council transmitted by your Excellency.

I have, &c.,

His Excellency the Governor-General, (Signed) EDMUND HEAD.
&c. &c. &c.

(No. 60.) No. 3. No. 3.

EXTRACT of a DESPATCH from Lieut.-Governor Sir EDMUND HEAD, Bart. to Earl GREY, dated Government House, Fredericton, New Brunswick, October 24, 1850.

(Received November 11, 1850.)

1. I HAVE the honour to inform your Lordship that, after communicating with his Excellency the Governor-General, on the 5th of September last, I laid your Despatch of June 27, with reference to the Canadian boundary, before my Executive Council.

2. A Minute of Council was then approved by me, of which a copy is enclosed. No. 1.

In pursuance of that minute, and of your Lordship's instructions, I proceeded to Canada, and on the 25th of September I met his Excellency the Earl of Elgin at Toronto. The Hon. Mr. Wilmot, as a member of my Executive Council, was also there by appointment.

3. After some conversation with Lord Elgin, a copy of the minute of my Council of September 5 was placed in the hands of his Excellency's advisers, and on three several days a conference took place between myself and the the Governor-General, in the presence of his Executive Council and of Mr. Wilmot.

4. The result of these conferences was, that we agreed to certain terms as the basis of an arbitration to be conducted in London, as being better calculated to secure confidence in the impartiality of the arbitrators, and less delay in reporting to Her Majesty's Government, than any arbitration in the Colonies could be. These terms will have been transmitted to your Lordship by the Earl of Elgin, as being in the form of a minute of the Canadian Council. It is, however, perhaps necessary that I should attach a copy of them to this Despatch, and I have accordingly done so. No. 2.

5. The Governor-General then formally communicated the minute to me, and I, as on behalf of New Brunswick, signified my concurrence in it. Nos. 3 and 4.

I trust your Lordship will approve of the precautions taken to ensure fairness and impartiality without unnecessary delay, and that you will see the expediency of our proposal of applying the balance of the disputed territory funds (if any) to improving the communications between the provinces.

6. My Council met again yesterday, October 23, and I then approved a minute recognizing the steps taken by myself on behalf of this province, and nominating two persons as arbitrators. Two are named in order that if one refuse the office, the other may be applied to, and no delay may arise.

These persons are gentlemen conversant with questions of English and international law, and either of them would be fully competent to form a fair and impartial judgment on the questions at issue.

7. I have to request, therefore, that your Lordship will cause application to be made to Dr. Travers Twiss in the first place, and should he decline the office, then to Dr. Robert Phillimore. It will be seen that by the Canadian minute (9th clause) the remuneration of the arbitrators is to be fixed by your Lordship. I assume that the arbitrators will have access to all documents and papers relating to this subject at present in the Colonial office, and it does not, therefore, seem probable that any additional information will be required from hence. The arguments on behalf of New Brunswick are pointed out pretty

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clearly in our minutes of Council, and in the Commissioners' Report. Should any fresh information present itself, it will be sent by me within the time prescribed by the Canadian minute, subject, of course, to the exceptional proviso in the seventh clause of such minute.

8. As the arbitrators will have reported before the end of March, I should hope that nothing will prevent the Act for the settlement of the question passing in the next session of the Imperial Parliament—an object of great importance to this colony.

Encl. 1 in No. 3.

Enclosure 1 in No. 3.

EXTRACT from a REPORT of a Committee of the Honourable the Executive Council on matters of State, dated 30th September, 1850, approved by his Excellency the Governor-General in Council on the same day.

THE Committee of Council have had under consideration, upon your Excellency's reference, the Despatch of Her Majesty's Secretary of State for the Colonies, dated the 27th day of June last, concerning the question of the disputed territory between Canada and New Brunswick; also a copy of a minute of the Executive Government of the latter province, dated the 5th day of September instant, on the same subject.

It is proposed in the Despatch of the Colonial Secretary, that the matter in dispute be referred to arbitrators, who should be directed to report to Her Majesty's Government; that your Excellency and the Lieutenant-Governor of New Brunswick should each name an arbitrator on behalf of the respective provinces; and these two arbitrators should name an umpire.

As it is very desirable that this important question be finally settled, and as the object of an arbitration is to afford Her Majesty's Government more sufficient means to effect such a final settlement of the respective claims of the two provinces, the Committee of Council are of opinion that, under the circumstances of the case, it is advisable that the proposition to refer the matter to an arbitration should be agreed to. As to the terms of such an agreement, the Committee having fully considered the suggestions offered in the Despatch of the Colonial Secretary, as well as those made by the Government of New Brunswick, would respectfully recommend the following:—

1st. A new survey of the ground may be dispensed with, all other points being agreed upon, as hereinafter proposed.

2nd. It is fully understood that in considering the question referred to them, all facts, titles, and documents which may be submitted by either of the parties shall be taken into consideration by the arbitrators, whether existing or bearing date before or after 1763, leaving it to such arbitrators to determine the value which attaches to each class of proofs.

3rd. Neither province shall be represented by counsel before the arbitrators.

4th. The arbitration shall be held in London, and the arbitrators selected in the mother-country.

5th. Three arbitrators shall be appointed, one by the Governor-General of British North America, and one by the Lieutenant-Governor of New Brunswick, neither of whom shall be members of the Imperial Parliament; the third arbitrator to be some member of the Judicial Committee of the Privy Council, or some barrister of eminence and high standing at the English bar, to be agreed upon by the arbitrators named on behalf of the Provinces; and in case the latter are unable to agree, they are to report the fact of such disagreement to Her Majesty's Secretary of State for the Colonies, and thereupon the third arbitrator shall be appointed by Her Majesty's Government. The award to be made by the three arbitrators, or by any two of them.

6th. The arbitrators to be notified of their appointment through the Colonial Office.

7th. When the arbitators have been appointed, and shall be ready to go into the arbitration, notice to be given to Her Majesty's Secretary of State for the Colonies, when the statements and evidence of the respective provinces are to be transmitted to them by him. All further statements with references to any published pamphlets or other works on the subject, intended by the respective parties to be laid before the arbitrators, to be transmitted by them respectively, both to the Colonial Secretary and to the sister province, on or before the 15th day of November next; it being, however, fully understood that this stipulation is not to preclude the arbitrators from consulting any published pamphlets or other works which they may themselves find in the course of their investigations, nor from examining any documents that they may obtain access to through the Imperial Government, though not transmitted or referred to by the respective parties or either of them.

8th. The net proceeds of the funds in the hands of both Governments arising from the disputed territory to be applied,

1st. To defray the expenses of the arbitration.

2nd. To defray the necessary expenses of running the line as settled. In case such funds should prove insufficient, the expenses to be borne equally by the respective Governments.

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3rd. And the balance of such funds to the improvement of the land and water communication between the Great Falls of the St. John and the St. Lawrence.

9th. The remuneration of the arbitrators to be fixed by the Colonial Secretary.

10th. The arbitrators shall report within three months from 1st January next, unless, on the application of the arbitrators, or any two of them, the time shall be extended by Her Majesty's Government.

It is further respectfully recommended that this minute, if approved by your Excellency, be communicated to the Government of New Brunswick for their concurrence in the same.

(Certified)
(Signed) J. JOSEPH, C. E. C.

Enclosure 2 in No. 3.

Encl. 2 in No. 3.

In Council, October 23, 1850.

Present—

His Excellency the LIEUTENANT-GOVERNOR, &c. &c. &c.

His Excellency the Lieut.-Governor laid before the Council a copy of a Report approved in the Executive Council of Canada by his Excellency the Governor-General on the 30th of September last, together with a correspondence between himself and the Governor-General on the subject of such minute.

The Lieut.-Governor and Council now express their approval of the terms agreed on in such minute and correspondence with reference to the arbitration on the boundary, and hereby nominate one of the following persons as arbitrator on the part of New Brunswick:—

TRAVERS TWISS, D.C.L.

Or if he declines to undertake it, then—

ROBERT PHILLIMORE, D.C.L.

(No. 226.) No. 4. No. 4.

COPY of a DESPATCH from Governor-General the Earl of ELGIN AND KINCARDINE to Earl GREY.

Government House, Toronto,
October 31, 1850.

(Received November 18, 1850.)

(Answered November 29, 1850, No. 535, page 32.)

MY LORD,

IN pursuance of the Minute of the Executive Council of this province which was concurred in by his Excellency Sir Edmund Head on behalf of the Government of New Brunswick, and a copy of which I forwarded to your Lordship in my Despatch No. 215, of the 10th instant, I have now the honour to transmit herewith the copy of a further Minute of Council, covering a report of the Commissioner of Crown Lands and sundry documents on the subject of the disputed territory between Canada and New Brunswick.

Enclosure No. 1, 31st Oct., 1850.

Enclosure No. 2. Report of Commissioner of Crown Lands.

2. I beg that your Lordship will cause the several documents enumerated in the Schedule, which accompanies this Despatch, to be laid before the gentlemen who may be appointed to arbitrate on this important case; and that you will have the goodness to request Thomas Falconer, Esq., Barrister, to act as arbitrator on behalf of this province.

I have, &c.,

(Signed) ELGIN AND KINCARDINE.

The Right Hon. Earl Grey,
&c. &c. &c.

CANADA.

Enclosure 1 in No. 4.

Encl. 1 in No. 4. EXTRACT from a REPORT of a Committee of the Honourable the Executive Council on Matters of State, dated 31st October, 1850, approved by his Excellency the Governor-General in Council on the same day.

THE Committee of Council have had under consideration, upon your Excellency's reference, the Report of the Honourable the Commissioner of Crown Lands, dated the 30th October instant, on the subject of the disputed territory between this province and New Brunswick, together with the several Reports of the said Commissioner on the same subject, and respectively dated the 10th and 27th March last, and the 7th October instant.

The Committee concur in the said Reports, and respectfully recommend that the same be approved by your Excellency.

And in conformity with a former Minute of Council, dated the 30th September last, the Committee respectfully recommend that copies of the said several Reports, and Appendices and Schedules thereunto annexed, as well as a copy of this Minute, should it meet with your Excellency's approbation, be transmitted, in due time, both to Her Majesty's Secretary of State for the Colonies and his Excellency the Lieut.-Governor of New Brunswick.

The Committee further respectfully recommend, as a gentleman in whom every confidence can be placed for the performance of such important duty, Thomas Falconer, Esquire, of the English bar, to act as arbitrator in this matter on behalf of this province, and that, in compliance with the Minute of Council above referred to, he be requested, through the Colonial Office, to accept of the appointment.

The Hon. Col. Bruce, (Certified) J. JOSEPH, C. E. C.
Government Secretary.

Encl. 2 in No. 4.

Enclosure 2 in No. 4.

Crown Land Department, Toronto,
March 27, 1850.

In obedience to his Excellency the Governor-General's Order of Reference, dated 15th March, transmitting copy of a Despatch from the Right Hon. the Secretary of State for the Colonies, and enclosing a Despatch from the Lieut.-Governor of New Brunswick on the subject of a Report of the Executive Council of New Brunswick relative to a certain Act of the legislature of that province to divide the county of Carleton, a copy of which Report is therewith accompanying, the undersigned has the honour to lay before his Excellency in Council the following remarks in reference to certain parts of the Report of Council of New Brunswick, in connexion with the question of boundary pending between that province and Canada, requesting leave to premise that the delay of about eighteen months that has taken place since the receipt of the Despatch of the Secretary of State, dated 26th August, 1848, transmitting the Report of the Commissioners, or about ten months since the receipt of the Despatch of the Secretary of State, transmitting tracings of the maps referred to in that Report, without Her Majesty's Government being in possession of the decision of the authorities of the province upon the Report of the Commissioners, has been, apart from the time necessary for the proper investigation and due consideration of the subject of that Report, wholly unavoidable under the peculiar political circumstances of this province, and the consequent removal of the public departments to Toronto.

The authorities of New Brunswick in the mean time, on the plea of injury and inconvenience sustained by that province in consequence of the protracted delay above mentioned, appear to have been urging Her Majesty's Government to obtain the confirmation of the Act in question by the Queen—an Act which the province of New Brunswick, under the unsettled state of the question of boundary with Canada, was not justified in passing—and to which the Imperial Government, with a just sense of deference and consideration in respect to the legal claims of this province, very judiciously did not advise the Queen's assent, from the apprehension lest its confirmation should give rise to a further difference concerning territorial limits.

About the period at which arose the differences under the Treaty of 1783, between the United States and the government of Canada, the well-known range of highlands in the vicinity of the Grand Falls on the River St. John's, in connexion with, and in continuation of, the highlands or "height of land" at the head of the Connecticut river to the Bay des Chaleurs, were considered by Canada as its southern boundary under the Royal Proclamation of 1763, and the Quebec Act of 1774;* a circumstance which the proceedings of the executive authorities of this province, in 1784, as well as the correspondence of George Sproule, Esq., Surveyor-General of New Brunswick, and of Major Holland, the Surveyor-General of the province of Quebec,† sufficiently manifest; whilst the view thus entertained of the southern boundary of Canada, according to those public Acts, is powerfully sustained in the argument of Her Majesty's agent under the Treaty of Ghent.

During the discussion and inquiry which the differences above adverted to between Great Britain and the United States gave rise to in the adjustment of a line of boundary, this province did not attempt, certainly, to organize any part of the territory in dispute, whilst it became a necessary measure on the part of the Imperial Government to limit the jurisdiction of the province of New Brunswick to the Little Falls on the river Madawaska, under the

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* See extracts of a pamphlet published in New Brunswick, 1839.
† Report of Alphonso Wells, Esq. Appendix 32.

Despatch dated 8th April, 1830, of the Right Hon. Sir George Murray, Secretary of State for the Colonies, addressed to Sir James Kempt, then Lieut.-Governor of Lower Canada.

The assertion, therefore, in the Report of the Council of New Brunswick, that "the Canadian claims to any portion of the territory claimed by New Brunswick were never made or heard of until some time after the Treaty of Washington, for several years subsequent to that treaty," is at the least as surprising as it is unfounded; whilst the earliest maps of the country delimit the disputed territory lying west of the due north line to the Ristigouche as lying within the province of Canada.

Agreeably to the limits assigned respectively to both provinces, under the Despatch above cited, at the Little Falls, situate about 30 miles above the Grand Falls, each province exercised its jurisdiction in respect to the seizure of timber cut or any depredation committed upon the disputed territory, as appears by the letter of Sir Archibald Campbell, Lieut.-Governor of New Brunswick, dated 4th August, 1836. Since the Treaty of Washington in 1842, this province, on the application of individuals wishing to lumber in that part of the territory within the jurisdiction assigned to Canada, granted certain licences for cutting timber on the land lying between the River Madawaska and the River St. Francis, or boundary of the province; against which the province of New Brunswick remonstrated, and therefore rendered absolutely urgent the settlement of the question of boundary with this province, as well as of suspending the further action of the Government for the organization of this part of its territory into townships, as contemplated by the instructions for a preliminary survey of the Upper St. John, in 1845, under the authority of the Executive Government of Canada.

During the unsettled state of the question of the line of boundary with New Brunswick, in order to avoid collision between the lumbering parties, this province desisted from taking any active measure towards the improvement of the territory disputed by New Brunswick, even within its jurisdiction; whilst the province of New Brunswick, by the Act which its Legislature has passed as far back as 1845, erecting into a new county a territory beyond the limits of its jurisdiction, has departed from the injunction of the Despatch of Sir George Murray.

The undersigned, under the circumstances above stated, is not aware of any authority in the Executive of New Brunswick to appoint a seizing officer, or to seize any timber within the Canadian jurisdiction, whilst he would recommend to the consideration of his Excellency in Council the propriety of naming one or more persons to examine the disputed territory within the jurisdiction of Canada, with a view of ascertaining the depredations committed, and to seize the timber cut without licence or authority from this province upon the disputed territory, as apprehended by the Despatch of the Lieut.-Governor of New Brunswick, on which subject the undersigned begs to advert to a recent Report from the Assistant Commissioner of Crown Lands, dated 14th March instant.

The Report of Council, in adverting to the survey of the country by "disinterested and competent Commissioners," announces the assent (at the apparent sacrifice of a portion of its territory) of the Government of New Brunswick to the line of boundary proposed in the Report of the Commissioners; of so much importance did that Government consider the settlement of the whole question.

It cannot be doubted that the Government of Canada is equally ardent for a settlement of a line of boundary with its sister province of New Brunswick, whilst, on the other hand, she is compelled to record her dissent against the line of boundary proposed by the Commissioners in their Report on the result of their exploration of the country, and the investigation of the strict legal claims of the provinces at issue, a line which would in effect deprive Canada not only of a large extent of territory situate between the Tobique ridge of mountains and the Ristigouche, but to a larger extent lying west of the due north line, as demonstratively shown in the Report which the undersigned has had the honour of laying before the Governor-General in Council, and whereupon the Executive Government of the province have taken action according to the approved Report of Council, dated February, 1849. To Canada the adjustment of its southern boundary is of far higher importance than appears to be estimated in New Brunswick, inasmuch as the extension of the settlement beyond the boundaries of these seigniories occupying the valley of the St. Lawrence is, to the great injury of its inhabitants, restricted, although the rapid tendency to settle the disputed portion of its territory, composing chiefly the county of Rimouski, is with difficulty repressed, because the Government of this province withholds making any disposal of the public lands therein until the the boundary with New Brunswick shall have been definitively drawn.

Disregarding the right of Canada to the disputed territory as a question of boundary, the province of New Brunswick appears to have issued grants of the land on the north bank of the River St. John, "in virtue of the equitable provisions of the Treaty of Washington, whilst the Courts of that province have extended jurisdiction over the whole of the settlements upon the Upper St. John, since the organisation of that province."

The Treaty of Washington does not appear to give such powers to New Brunswick. The provisions of the Third Article of the Treaty are purely commercial, and the omission therein, whether intentionally or through ignorance of the territorial right of Canada to the country lying north of the American conventional line, of inserting the word "Canada" along with the words "New Brunswick" cannot impair or affect the strict legal right of this province to the territory ceded to Her Majesty under that treaty.

The authorities of New Brunswick, under their interpretation of the treaty, appear to have taken legislative action for the opening of roads for the advantage of the settlements along the River St. John; but it is also true that large sums of money for improving the communication called the "Temiscouata portage road" have, at different times, been voted by the Legislature of Lower Canada, as well as large sums of money expended in

the opening and maintenance of the Canadian portion of the mail road, viz., from Fort Ingal and Lake Temiscouata, and along the Madawaska River to the Little Falls at its confluence with the River St. John. The Act of the Legislature of this province, 9th Vict., chap. 15, alluded to, extending municipal advantages to the inhabitants of the Magdalen Islands, and to certain localities in the County of Saguenay, and to that part of the County of Rimouski, known as the "Madawaska Territory," was predicated upon the existing limits of the province, as exhibited on the ancient as well as later maps of the British North American provinces, and cannot, as appropriating no territory whatever, be of that nature and importance as to be brought on a parallel with the Legislative Act of New Brunswick, already quoted, which erects into a county a portion of this province, and it, therefore, cannot compromise any claim of New Brunswick in the settlement of the line of boundary by the Imperial Government, whilst the citation of the Canadian Act in the report under consideration is an additional proof that the New Brunswick authorities were well aware of the claims and views of Canada respecting that territory.

Although the Government of Canada, whilst it has refrained during the adjustment of the question of boundary with the sister province from disturbing the jurisdiction assumed by the latter over all the settlements on the Upper St. John, or pressing the provisions of the Canadian legislative enactment, it is satisfactory to have to report the earnest desire of the inhabitants (with few exceptions) in that part of the County of Rimouski, called the "Madawaska Territory," to belong to Canada rather than to New Brunswick, the laws, customs, and language in the former being more congenial and better adapted to them than those of the latter, whilst, on the grounds of commercial intercourse, its inhabitants would be greatly benefited, as more fully stated in their petition, a copy of which is herewith transmitted.

The undersigned would, therefore, apprehend, that the confirmation by Her Majesty of this Act of the Legislature of New Brunswick would considerably complicate the present question of boundary with Canada, inasmuch as such confirmation might be assumed as an approval by the Imperial Government of the line of boundary proposed in the report of the Commissioners appointed by Her Majesty to investigate the respective claims of this province and New Brunswick to the territory ceded under the Treaty of Washington, against which a preliminary report was submitted by this department as early as the 21st October, 1848.

All which is nevertheless most respectfully submitted.

I have, &c.,
J. H. Hill.

Hon. James Leslie,
Provincial Secretary, &c.

Extracts from the Compendium of the British Agent the Hon. Ward Chipman, Chief Justice of the Province of New Brunswick, before the Commissioners under the Treaty of Ghent, 1821.

Words descriptive of the eastern boundary to be construed in a sense correspondent with the other parts of the Treaty.
Br. Com. Rep., p. 52.

It is here observable, that the words subsequently used in the treaty designating the eastern boundary of the United States taken in their literal and individual signification would involve a construction inconsistent with the other parts of the Treaty, and the facts within the knowledge of the framers of it, from which the inference is so clear that the dividing highlands are not to be sought in the due north line; and if the construction above given to the first words be correct, the subsequent words must be interpreted in a corresponding sense, so as "to give," in the words of Vattel, "to each expression not so much the signification which it may individually admit of, but that which it ought to have from the contract and spirit of the discourse."

The phraseology of the Treaty in this instance accords with the Proclamation of 1763.
Br. Com. Rep., p. 151, &c.; 237, &c.

The peculiar phraseology of the Treaty in this instance also accords with the description of the boundaries of Quebec in the Proclamation of 1763, and the Act of Parliament of 1774; the highlands referred to in these documents, along which the line is to pass, being the same conspicuous height of land well known at that day as containing the sources of rivers lying very near to each other and flowing in opposite directions. These highlands are also at the western extremity of the line where the original description of boundary in this quarter in the Proclamation of 1763 commences, and from whence the line is to proceed eastwardly to the Bay of Chaleur. Now it is evident from an inspection of the map, that a line continued around the sources of the St. John and Ristigouche, or, in other words, dividing these rivers from rivers falling into the River St. Lawrence, will be carried to Cape Rosier without ever striking the Bay of Chaleur. Neither the line of the Proclamation, therefore, nor that of the Act of Parliament, was intended to divide these rivers. But a straight line drawn from the Connecticut to the Bay of Chaleur, running, in the first instance, along the heights of land, does not widely differ from the line of boundary claimed on the part of His Majesty in the present case.

Mars Hill, the first highland intersected by the due north line and a continuation of highlands from thence to the head of the Connecticut.
Br. Com. Rep., p. 70, &c.; p. 230, &c.
Ibid. p. 112, &c.

Ibid. p. 64.

The first highland which the line drawn due north from the source of the St. Croix, the first line of the north-west angle meets is Mars Hill, a mountain distant about six miles westerly from the River St. John, from the banks of which river it rises gradually, and is formed into two peaks, the one upwards of 1,300 feet, the other of 1,500 feet above tide-water in the St. Lawrence. The height of land above mentioned has been traced by Mr. Campbell, a surveyor under the present Commission, extending easterly for many miles in a distinct and unbroken ridge, and afterwards, as the results of the other surveys fully prove, in a succession of mountains and ridges to that part of the due north line which intersects Mars Hill. And it is here to be observed, that the term highlands is

evidently used in the treaty as denoting high or mountainous tracts elevated above the circumjacent country, in which the rivers to be divided were considered to have their sources, and as forming conspicuous landmarks by which the boundary would be obviously designated.

This line of boundary along the highlands dividing the rivers last mentioned fully satisfies the words of the Treaty, corresponds with its obvious spirit and intention, and, moreover, accords with the description of the southern boundary of Quebec, originally designated in the Proclamation of 1763, afterwards in the Act of Parliament of 1774, to which the framers of the Treaty of 1783 may have had a general reference, although their ignorance of the country eastward of the heights of land rendered the locality of this part of the boundary of Quebec altogether uncertain, and the words of the Treaty are not the same with those either of the Proclamation or of the Act of Parliament, which also differ from each other.

This line of boundary conformable to the letter and spirit of the Treaty, and to the Proclamation in 1763. Br. Com. Rep., p. 288, &c. seq.

The American Commissioners also assumes that the term "highlands" in the Treaty does not mean lands of any peculiar elevation, but such lands only "as lie between the sources of waters running in contrary directions." But it is evident that the framers of the Treaty contemplated highlands forming a natural fence through the country, like the height of land which was known to them, and which is remarkable for its elevation, some of the mountains in this height of land being 2,000 feet, and several of them upwards of 1,500 above tide-water in the St. Lawrence. This assumption of the American Commissioner, however, is accounted for by the fact, that throughout by far the greater part of the line of boundary claimed by the United States there is no appearance of highland whatever.

Am. Com. Rep., p. 10.

Vide Table of Heights, Map 4 in. Atlas. Br. Com. Rep., p. 51.

EXTRACT from the REPORT of the Commissioners appointed by the QUEEN on the disputed Boundary between CANADA and NEW BRUNSWICK.

THESE can have little effect on the question of title, for the same differences of opinion that now agitate the two provinces on this subject existed as early as 1785; and it is clear they have not been adjusted or waived from that time to the present.

EXTRACTS of a PAMPHLET supposed to have been written by the Hon. Ward Chipman, intituled, "Remarks upon the disputed points of Boundary, under the fifth Article of the Treaty of Ghent, principally compiled from the statements laid by the Government of Great Britain before the King of the Netherlands as Arbiter. St. John, New Brunswick, 1839."

THE point remaining to be noticed is the state of actual possession and jurisdiction in the disputed territory; and on this point a series of important facts and documents will be presented. Page 60.

There is, on the Public Records at Quebec, a grant or concession from the French Government of Canada, to a French subject, of a territory called the Fief of Madawaska, dated on the 25th November, 1683, eight years prior to the date of the Massachusetts Charter, which forms the basis of the American claim. This Fief of Madawaska includes the whole of the Temisquata Lake, and nine miles further in length down the Madawaska River, extending in depth six miles for the whole distance, as well around the lake as on each side of the river.

In the "Quebec Gazette" of the 24th January, 1765, there is a notice issued from the office of the Provincial Secretary of that province, by which all Canadian inhabitants are prohibited from interfering with the hunting-grounds of the Indians, "down to the Great Falls of the River St. John:" this is an act of clear jurisdiction by the Government of Quebec down to the place mentioned in the notice, viz., the Great Falls of the River St. John; and such a jurisdiction could not have been exercised had not the place have been deemed to be within the limits of the Province of Quebec, according to the bounds described in the then recent Proclamation of 1763. Page 61.

In the month of November, 1784, Charles Nichau Noiste, a native Indian, was tried and convicted in the Court of King's Bench, at Quebec, for the murder of one Archibald M'Neil, at Madawaska. The place where the offence was committed is thus described in the indictment, "near unto the village of Madawaska, in the district of Quebec, in the Province of Quebec."

The Province of Quebec continued to claim, and in some instances to exercise, jurisdiction, down to the Great Falls of the River St. John, until the year 1792, as will appear from the following documents:— Page 62.

1. Proceedings in the Court of Common Pleas at Quebec.
2. Extract from the "Quebec Gazette," of 10th November, 1791, of a Sheriff's Notice of the sale of lands of Pierre Dupere, at Modawaska, at the suit of Anselme and Michel Robichaud. Page 63.
3. Minutes of the Executive Council of the Province of Quebec, relative to the Temisquata Road, 7th July, 1785. Page 64.
4. Minutes of the Executive Council of the Province of Quebec, 9th July, 1787. Page 65.
5. Report of the Committee of Council appointed to consider the Boundary between the Provinces of Quebec and New Brunswick, and the means of encouraging the communication, and settle the lands in that vicinity.
6. Judgment of the Court of Common Pleas at Quebec. Page 66.
7. Report of the Solicitor-General and Surveyor-General. Page 67.
8. Minutes of the Executive Council of the Province of Quebec, 4th August, 1792. Page 69.
9. Extract from a list of the parishes in the Province of Quebec, contained in the Minutes of the Executive Council of that province, for the year 1791.

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Page 70.

These documents clearly prove the unsettled condition, in point of fact, of the eastern part of the southern boundary of the Government of Quebec, from the Bay of Chaleurs along the highlands. They also show that immediately after the Treaty of 1783, when settlements began to be made on the upper part of the River St. John, pretensions widely different were set up by the respective Provinces of Quebec and New Bruswick as to this boundary. The discussions between these provinces upon this subject appear to have been terminated with the proposition made by the Government of Quebec, on the 4th August, 1792, to call on the Government of the mother-country to adjust the limits between them. At this period, the question of what was the true River St. Croix intended in the Treaty of 1782, had arisen between Great Britain and the United States. The decision of this question, upon which the very starting point of the boundary of the United States in the interior necessarily depended, was provided for in the Treaty of 1794; and, since that time, the other subjects of difference between the two powers on points of boundary have been in a gradual process of development and decision, the most important among them being that which forms the subject of these remarks. The conflicting intercolonial claims between Canada and New Brunswick as to the southern boundary of the former, have been awaiting the issue of the national controversy, and the result of this controversy will undoubtedly have a material influence on the judgment of the mother-country in the future adjustment of these provincial boundaries.

No. 165.—On the Report of the Commissioners on the Boundary-line between New Brunswick and Canada.

Crown Lands Department, Montreal, October 21, 1848.

It was intended to postpone the consideration of the Report of the Commissioners appointed by the Queen to investigate and report upon the respective claims of Canada and New Brunswick, respecting the territory in dispute between them, until in possession of the maps alluded to in Earl Grey's letter of the 26th August, transmitting the Report; and which, it is to be hoped, will be accompanied by the exploring Commissioners' observations on the result of their field operations; but the recommendations of the Report are so greatly at variance with what the people of Canada were led to expect from their long-settled conviction of their right to a territory which, if acknowledged as British, could, by no possibility, belong to any other province than Canada, that it may be unadvisable to allow the Report to remain any longer unnoticed. Silence might be construed as a tacit acquiescence in the views of the Commissioners against which this province must strongly protest.

New Brunswick, a province of comparatively recent creation, and a dismemberment of older provinces, was, by proclamation under its former designation of Nova Scotia, and by subsequent documents, bounded at the west by the River St. Croix, and a line due north to be extended to the southern limits of Canada. This line, in position, irrespective of courses of rivers, or any other consideration whatsoever.

It has been established in the field, and formerly acknowledged by the Governments of Great Britain and the United States, up to the River St. John, there cannot be the slightest difficulty in extending it from that river even to the shores of the St. Lawrence. West of that line New Brunswick can have no legal or even equitable claim. It therefore required much ingenious and specious argumentation on the part of Mr. Johnson (the Report is evidently drawn by a lawyer, not by a military man), based altogether upon presumed or supposed intentions, and skilfully commencing the discussion of the boundary at what ought naturally to have been its closing point, to enable the Commissioners to suggest a deviation from the due north line, which, if carried into effect, would virtually amount to the spoliation of one province for the aggrandizement of the other.

On the southern boundary of Canada, from the western extremity of the Baie de Chaleur, westward to the due north line, which is to form the northern limits of New Brunswick, it would be premature to offer any remark until the maps and Report of the gentlemen intrusted with the exploration which was to enable Her Majesty's Government to decide on the claims of the two provinces have been received. It is, however, difficult to imagine what new feature has been discovered in the general aspect of the country to justify their joining in the Report in question.

In the mean time it is well to observe that there is an important feature in the present question which ought not to be lost sight of. At the time New Brunswick was erected, the sovereign had an undoubted right, not only to assign to each province what limits he saw fit, but even (it is presumed) to take from the acknowledged territory of one province to add to that of another, without consulting either. But the Imperial Act, which has transferred the Crown lands to the provinces, has, it would seem, circumscribed the power of the Sovereign in that respect, by giving the provinces an interest in the soil, and a sort of ownership which they did not previously possess. The question of limits, therefore, now involves one of property, which (unless imperial interests intervene) must be decided by the strict legal rights of the parties.

It is to be hoped that Her Majesty's Government will be induced to suspend all further action on this Report until such time as the claims of Canada can be laid fairly before them.

It must be remarked, however, before concluding these observations, that the perusal of the Commissioners' Report must leave a painful impression on the inhabitants of Canada, that their interests have not been sufficiently consulted in the nomination of Mr. Johnson as one, and apparently as the adjudicating Commissioner.

As a supposed disinterested party, he may have been intended as an umpire, but the whole tenor of the Report shows him the decided advocate and special pleader of the cause of New Brunswick.

(Signed) T. Bouthither.

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SIR, Government House, Fredericton, August 4, 1836.

I HAVE the honour to acknowledge the receipt of your letter of the 29th ult., reporting your arrival at Madawaska, by order of his Excellency the Earl of Gasford, for the purpose of examining into the depredations reported by me as having been committed within the limits of the disputed territory.

That these depredations have been carried on to a very great extent I have but too much reason to believe; and this, I have no doubt, you will find to be the case in the course of your investigation.

To afford you every information on this subject, I have directed J. A. McLaughlan, Esq., the Warden of the disputed territory, to join you without delay; he is well acquainted with every step already taken in regard to the question under discussion, as well as the matter that I now wish particularly to be followed; and I trust that your united exertions will lead to the conviction of all the parties concerned in the crime of having daringly and lawlessly cut great quantities of timber on Crown lands, whether in the jurisdiction of Canada or New Brunswick, of course equally culpable.

Great efforts will, I doubt not, be made by the parties accused to make it appear that a proportion of the said timber was cut on granted lands, but of that you will be able to satisfy yourselves by personal inspection on the spot.

I have, &c.,

J. Bouchette, Esq., D. S. G., &c. &c.

(Signed) ARCHIBALD CAMPBELL, Lieut.-Governor.

SIR, Quebec, October 15, 1836.

IN pursuance of the commands of his Excellency the Governor-in-Chief, and the instructions accompanying your letter dated the 22nd July last, in which his Lordship is pleased to name and appoint me agent on the part of this province to investigate the extent of the depredations which had been reported by his Excellency Sir Archibald Campbell, Lieut.-Governor of the Province of New Brunswick, to have been committed in the cutting of pine timber, by sundry lawless offenders, on the territory in dispute at the Madawaska.

I have the honour most respectfully to report, for the information of his Excellency the Governor-in-Chief, that having repaired to the river Madawaska, I thence, on the 29th of said month of July, communicated by letter my arrival, and the object of my mission to his Excellency Sir Archibald Campbell, requesting at the same time further instructions for my guidance from the authorities of that province.

Waiting these instructions, I proceeded in the mean time to examine and explore the different ways and roads attached to and connected with the lumbering camps and brows, established along the river Madawaska, extending more or less to a mile in depth, and in one place upwards of two miles across to the Iroquoiz river, down which the timber was rafted to the river St. John's.

The result of the information of the facts thus obtained from actual inspection, in which I was essentially aided and assisted by one Andre Albair, a Canadian, who I engaged as guide from his intimate and general acquaintance with the brows and camps of the lumberers concerned in the depredations in question, I noted carefully in the tabular order exhibited in the statement marked B.

A doubt existing whether the lumbering establishments of Cummings were upon the Crown lands, or whether they might not be found to fall within the limits of the Seigniory of Madawaska which were not marked in the field, induced me to determine that important point. Wherefore, being furnished with the requisite information of the extent of that Seigniory, from prior examination of the title and the description thereof, I admeasured, beginning at the outlet of the river Madawaska, out of Lake Temiscouata, the front of three perpendicular French leagues down the said river; and at right angles with the general course thereof, I planted squared cedar-posts on each side of the river bearing in depth astronomically north-east and south-west (variation 15° west), and being conformable to the rectangular course of the Seigniories, on the river St. Lawrence, established by ancient ordinance of the province.

On the 11th of August, having been honoured with a reply from his Excellency Sir Archibald Campbell, in his Despatch dated Government House, Fredericton, 4th August, stating his Excellency's nomination of James McLaughlan, Esq., Warden of the disputed territory, to join me, on the service under consideration, accompanied with a note from Mr. McLaughlan of his arrival at Madawaska, I proceeded to meet him at the Grand Falls on the river St. John's, when we mutually communicated our instructions from our respective Governments, agreeably to which I had so far operated, and which, I beg leave to state, satisfactorily met the views entertained by those of Capt. McLaughlan.

We then repaired together up the river Madawaska; and having obtained a variety of incidental and important information, and completed, to the fullest extent, our investigation of the depredation committed on this portion of the disputed territory, we proceeded to the town of Fredericton, where, on the 27th August, we had the honour of submitting, in audience, to his Excellency the Lieut.-Governor our joint report and statement of the whole of our proceedings, a copy whereof (under the letter B), duly signed, I have the honour to submit, and to annex to this General Report for the information of his Excellency the Governor-in-Chief.

The Lieut.-Governor, on the presentment of this report and statement, was pleased to state that these documents would be submitted for the deliberation of the Council and authority of the province, and we should then be made acquainted with such further steps as might be deemed necessary and expedient to attain the end of the present service. His Excellency also

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expressed a desire that the extent of the military location to Louis Stripman, at Trout River, should be clearly defined and actually laid off, in order that the authorities might be justified in effecting the final condemnation of the timber seized by the Warden of the disputed territory to the full extent of the quantity of timber reported by us to have been cut by Joseph Terrian and Peter Paradis, which desire on the part of Sir Archibald Campbell I had the honour of communicating to you on the same day, and requesting a specific authority to that effect from the Government of Lower Canada.

Being returned from St. Andrews, whither I had proceeded by special leave from his Excellency, pending the deliberation of the Council, his Excellency informed me, in audience, that the law officers of the Crown, being now enabled, from the nature of the information contained in the joint report and statement, to enter legal proceedings, if it should be found expedient, to enforce the payment of the bonds taken from the persons concerned or connected in the depredations for the timber seized by the Warden of the disputed territory, his Excellency was pleased to permit my return to Canada.

Having been honoured with your letter of the 6th ult., authorizing me to lay off the extent of 100 acres of land for Louis Stripman, a disbanded private, located, in 1815, under the military government, on the communication between New Brunswick and Canada, I made the necessary preparations to that effect and proceeded to the Trout River, on the Madawaska, where I laid off the front and depth of the lot located to the said Louis Stripman, so as to include his improvements; and the quantity of 100 acres and the highways, without interference with the adjoining military location, to Sergeant Francis MacDonnell, established under the same military authority, on the south side of Trout River, a description and sketch whereof are herewith annexed, under letter D.

Having reported the result of the above operation to his Excellency Sir Archibald Campbell, in an official letter to Capt. Spencer, Private Secretary, dated the 29th ult. (a copy whereof is hereunto annexed under the letter E), I returned with all possible despatch to Canada, and reached this capital on Tuesday, the 4th inst.

In concluding this Report in summary of my proceedings, I would respectfully beg leave to offer a few observations which have occurred in the course of the service connected with the origin of the depredations in question.

By the Despatch of Sir George Murray, dated the 8th April, 1830, the jurisdiction of the Province of Lower Canada, being limited in this section of the province to the mouth of the river Madawaska, an impression of non-interference on the part of this province appears to have been entertained. Hence several of the inhabitants of Madawaska and other individuals from various parts, many of them aided by pecuniary resources from Messrs. Rice, Combs, and Beckwith, who became accessaries by furnishing men, provisions, and means to carry on the Lumbering establishments, committed the extensive and notorious depredations and trespasses on the Madawaska River, which called forth the attention of the executive of New Brunswick, in the authority given to James MacLaughlan, Esq., to seize all timber rafted down the river St. John, above the Grand Falls, as having been cut on the disputed territory; and in order to give more effect to this measure, his Excellency the Lieut.-Governor deemed it proper to impose a duty of 20*s.* per ton on the timber seized, demanding from its owners bonds to the amount of tonnage surveyed, payable at fixed periods, in liquidation of such duty. Several of the parties concerned, and who had purchased at very low rates the timber thus cut from the actual depredators, denied the right of seizure by the authority of New Brunswick, of timber cut on Crown lands within the jurisdiction of another province, which circumstance called forth the timely interference adopted by Lower Canada, upon communication thereof made by his Excellency Sir Archibald Campbell.

It is therefore satisfactory to make it known to his Lordship, from the knowledge I possess of the fact that the extensive Lumbering intended to have been carried on this ensuing winter on the waste lands along the Madawaska river, has been effectually checked by the decisive measures adopted by his Excellency Sir Archibald Campbell, under the co-operation therein by the executive of this province.

These measures, which were thus imperatively called for, cannot fail to be demonstrative of the earnest prohibition given by His Majesty's Government, against cutting of timber on the waste lands of the Crown within the jurisdiction of either province, and must also manifest its vigilant guardianship over a territory still involved in the question of disputed boundary between His Britannic Majesty and the United States.

All which is most respectfully submitted.

I have, &c.,

Stephen Walcott, Esq.,
Civil Secretary, &c.

(Signed) Jos. Bouchette, Jun.,
Deputy-Surveyor-General, and
Agent for Lower Canada.

(Translation.)

To his Excellency The Right Honourable Charles Murray Earl Cathcart, of Renfrew, Administrator of the Government of Our Province of Canada, and Commander-in-Chief of Her Majesty's Forces in British North America, &c., &c., &c.

The undersigned resident inhabitants on the north side of the River St. John, and forming the population of the parishes St. Bruneau, St. Bayile, and St. Luce, in that part of Her Majesty's dominions commonly called Madawaska, respectfully take the liberty of humbly representing to your Excellency,

That the boundaries and lines of demarcation which ought to be laid out, in order to

permanently establish the division between the provinces of Canada and New Brunswick not having, as yet, been fixed upon, your petitioners are unaware whether they reside in, and are subject to the laws of one or the other of the said before-mentioned provinces; and as it appears that a boundary line is on the point of being definitely fixed upon between the said provinces, your petitioners, desiring to form part of the province of Canada, deem it their duty to inform your Excellency that, with few exceptions, all the inhabitants and subjects of Her Majesty, residing in the before-mentioned parish of Madawaska are Canadians who emigrated from the heretofore province of Lower Canada, and are consequently habituated to the laws, customs, and habits of the said province; and on the other hand are not in anywise acquainted with the usages of the neighbouring province of New Brunswick, the laws and regulations of which are published in a language which the greater portion of your humble petitioners do not understand.

That since the establishment of the said before-mentioned parishes, and principally since the opening of the new roads, and the easy means of communication afforded to them, your petitioners find it cheaper and more expeditious to communicate with Canada, with regard to their domestic and daily business, than with the province of New Brunswick, as, thereby they have a much shorter distance to travel, and easier means of communication.

That in the event of this portion of the provinces of North America being united to New Brunswick, your humble petitioners would find themselves exposed to the payment of a Custom House duty that would be exacted from them upon all goods bought by them in Canada, and would, consequently, in order to obviate this, be obliged to transact their affairs at New Brunswick, which would be the means of their incurring considerable expenses.

That if the territorial limits and demarcation boundaries extend to the River St. John, it would have the effect of retaining under Her Majesty's authority a great number of Canadians, who by the Ashburton treaty find themselves American subjects, and who prefer to establish themselves in a province, the laws and language of which they are acquainted with, otherwise it would be immaterial to be subjects of Her Majesty or the United States, being equally strangers as well with the language as the laws of that country and the province of New Brunswick.

Taking these reasons into consideration, your humble petitioners pray your Excellency that, by the projected division between the said provinces, that portion of territory in which is comprised the said above-mentioned parishes, viz., from the place commonly called the "*Grand Sault*" to the River St. François, comprising the land found to the north-west of the River St. John, do form part of the province of Canada.

Your humble petitioners pray that your Excellency may deign to make known to their Gracious Sovereign the desire they entertain to form part of the province of Canada, and, if expedient, to lay this, their humble and sincere requisition at the foot of the Throne.

And your petitioners will ever pray.

Madawaska, 20 le Fevrier, 1846. (Signed) SIMON HEBERT and 569 others.

Crown Land Department, Toronto, October 7, 1850.

THE undersigned has the honour of respectfully submitting, for the information of his Excellency the Governor-General in Council, the following remarks in reference to the Resolutions in the Minute of the Executive Council of New Brunswick, referred to me for report with the Despatch of his Excellency Sir Edmund Head, Lieutenant-Governor of New Brunswick, on the subject of the line of boundary between Canada and that province.

The Executive Council by its first Resolution would exclude from the discussion in support of the Canadian claim, arguments drawn from "old French maps or the grants of the Crown of France," which established the ancient limits of Canada or those of the adjacent countries equally involved in the present question of boundary, and would restrict the investigation, as cited in the extracts from the Report of the Royal Commissioners, to the Proclamation of 1763 and to the Quebec Act.

The instructions, however, from the Right Honourable Mr. Gladstone to the Commissioners do not appear to confine their inquiry within any specified limits in directing them to consider whether any "line could be drawn for the demarcation of the two provinces which would satisfy the strict legal claims of each;" nor have the Commissioners themselves in fact adhered to the restricted interpretation they have placed upon those instructions, when after they had traced the line claimed by New Brunswick, and in view of the partition of that part of the disputed terrritory lying west of the due north line, and extending along the conventional line of boundary with the United States to the sources of the Chaudière, they declare that according to the "strict legal right of the two provinces it belongs to neither, as forming in 1763 part of the ancient territory of Sagadahoe."

But the claim to this territory was set up in the controversy between Great Britain and the United States, under the treaty of 1783, and successfully refuted by the British Commissioners. Yet, singular as the case may appear, reference to this important feature in the arguments connected with the question of boundary under the treaty of 1783, is another departure from the line of argument prescribed in the second Resolution in the Minute of Council, under its quotation from the Report of the Commissioners.

At the period of the treaty of 1763, the northern boundary of the country known as Acadia, afterwards called Nova Scotia, did not extend further north by right of title than the 46th degree of latitude; whilst Canada, or La Nouvelle France, extended at least as

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far south as that parallel: hence the Commissioners, in extending the claim of New Brunswick to the "Northern Highlands," assume to rely on the Royal Proclamation and the Quebec Act to the exclusion of all anterior authorities, although on behalf of Canada it is contended that the Proclamation and Act in question are equally favourable to the pretensions of Canada, as the titles that would be excluded from consideration, the geographical features of the country being such as to justify the line of boundary claimed by this province.

The province of New Brunswick being, to the northward, limited in the Royal Commissions by the southern boundary of the province of Quebec, it behoved Canada to prefer her titles in defending her legal right to the line of boundary claimed in the present dispute. This became the more urgent in the event of the (apprehended) impossibility of a line of demarcation being discoverable according to the Public Acts, which described the southern boundary of Canada, in order in such case to sustain the right of this province to a just and equitable share in the division of the disputed territory, contemplated in the Instructions.

On the above grounds this province deemed itself justifiable in invoking public records, and especially those of a geographical and topographical character, which relate to the physical features of the country equally involved in the consideration of the intercolonial and international question of boundary. In that light was to be considered the Report of the Royal Commissioners, Colonel Mudge and G. W. Featherstonhaugh, Esq., the result of whose exploratory operations determined the geographical position of the highlands (they designate as the axis of maximum elevation) which fulfil the conditions required in the Proclamation of 1763, and define the southern boundary of the province of Quebec in accordance with the Quebec Act, thus establishing the north-west angle of Nova Scotia under the Treaty of 1783, and consequently the northern limit of New Brunswick.

According to the third Resolution in the Minute of Council, the Commissioners (whose appointment, the Council presumed, was made to obtain, after inspection of the ground, an impartial finding on the facts of the case), would distinctly lay down as an essential requisite for fulfilling both the letter and the spirit of the Quebec Act and the Proclamation of 1763, viz., "that the line of highlands to be taken as the basis of the northern boundary of New Brunswick is to be a line from which streams flow into the St. Lawrence."

The tracing of such a line could have offered no difficulty along the sources of the streams, whether mediately or immediately flowing into the St. Lawrence, and consequently have thereby disposed of the two-fold questions of the north-west angle of Nova Scotia and the southern boundary of Canada,—a condition which, apart from the physical impossibility of connecting "by highlands" this line with the head of the Bay des Chaleurs, would have rendered nugatory any attempt on the part of Canada on the grounds of "old French grants" anterior to the treaty of 1763 to interfere with the assumed right of New Brunswick to the territory south of the Ristigouche.

But upon re-perusal, however, of the Report of the Commissioners, the following appears to be the conditions resulting from the descriptions of the Public Acts taken together, viz., "That those highlands shall be the highlands which divide the rivers that empty themselves into the river St. Lawrence from those that fall into the sea."

The question, however, now at issue under the scientific exploration that have been made of the country would appear to be one purely of a geographical nature, viz., which of the highlands, whether the "southern highlands," designated as the "axis of maximum elevation," reported by the Royal Commissioners in 1840, or the northern highlands, reported by the Royal Commissioners in 1848, are really the highlands contemplated in the Royal Proclamation of 1763, or in the Imperial Act, 14 Geo. III., c. 83, as the southern boundary of Canada?

In claiming for the southern boundary of Canada the highlands reported under the former Commissioners as sustained by the actual surveys of the country, the undersigned, when submitting in his Report for the consideration of the Executive Government of this province a conventional line of boundary between the provinces in dispute, did not contemplate the cession of any section of the disputed territory lying south of the Ristigouche, in the light of a *compensation*, but as an earnest of the intentions of this province in meeting the views of Her Majesty's Government, manifested in the instructions of Her Majesty's Secretary of State to the Commissioners for the adjustment of the line of boundary between New Brunswick and this province.

The Royal Commissioners of 1848 have indeed reported a "continuity of highlands," from a point at Tracadigach on the north coast of the Bay of Chaleurs (which point they designate as the western extremity of that bay), along the sources of the rivers falling into the St. Lawrence and the Chaudière to the head of the Connecticut river, as fulfilling the "attributes of the highlands" dividing the rivers described in the Quebec Act and the Proclamation of 1763, upon which the Commissioners have returned a verdict against the line of boundary claimed by Canada.

Yet after giving this verdict, they report the disputed territory to belong to neither province; and failing to discover a line of demarcation, prescribed in the instructions from the Right Honourable Mr. Gladstone comporting with the strict legal rights of either province, propose a conventional line of boundary between the provinces, represented by a red line on their map, circumscribing a territory lying wholly west of the due north line prolonged to the northern highlands, which they report as the highlands of the Proclamation and the Quebec Act.

To the foregoing features of their report, the undersigned would solicit the special attention of the Governor-General in Council, in connexion with the Minute of the Executive Council

of New Brunswick, on the finding of the Royal Commissioners, to which that Government would appear disposed to adhere and adopt the conventional line of boundary proposed by the Commissioners.

In the Reports which the undersigned has had the honour of laying before his Excellency in Council in reference to the Report of the Commissioners, and in the remarks he submitted on the reference from his Excellency under a Despatch from the Secretary of State, on the subject of the proposed erection of the county of Carleton out of the disputed territory, by an Act of the legislature of New Brunswick, it has been shown by official documents and surveys of high authority and accuracy, as well as by the examination of the physical character of the highlands in a geological point of view, by the provincial geologist, corroborated in a work of great research and celebrity, intituled " Physical Atlas exhibiting the geographical distribution of Natural Phenomena (Map IV. Article B.)," by Alexander Keith Johnston, Esq., F.R.S., in 1849, that the continuity of the northern highlands, reported by the Royal Commissioners, is evidently incorrect; and hence that the conclusions arrived at by the Commissioners in their Report are founded upon an erroneous hypothesis and a defective knowledge of the physical structure of the highlands, which limit to the southward the Great Valley of the St. Lawrence from Cape Rosier to the Mississippi, and the highlands which form the natural barrier between the " Old English provinces" and Canada, called the Green Mountains, which range along the head waters flowing into the sea, and thence eastwardly to the head of the Bay des Chaleurs, the same highlands which Great Britain justly contended to be the highlands of the Treaty of 1783, and which Canada now claims as its southern boundary under the Public Acts, invoked by the province of New Brunswick, and supported by claims to a larger territory on the grounds of early discovery, ancient possession, and the solemn rights of treaties.

The claim of Canada to these highlands has been rejected by the Commissioners, and their finding on the assumed facts of the case is indeed favourable to the line claimed by New Brunswick, along the " northern highlands," which in that light are to be taken as the northern boundary of that province. Hence, that angle at B, on their map, formed by the due north line drawn from the source of the St. Croix, as one side, and the said northern highlands as the other side, would in fact determine the long sought-for north-west angle of Nova Scotia, an angle which in the language of one of the negotiators of the Treaty of 1783 was left to the investigation of the "then next century." This "finding" of the Commissioners, as the result of their explorations, may fairly be availed of by Canada as a further argument in favour of its claim to the disputed territory west of the due north line.

In the Commissions to the Governors of New Brunswick (which province was erected out of Nova Scotia in 1784 with the same northerly, westerly, and easterly boundaries), that province is bounded on the west by a line " drawn due north from the source of the St. Croix to the southern boundary of the province of Quebec, to the northward by the said boundary as far as the western extremity of the Bay des Chaleurs."

According to the spirit of the Act of 1774, as it has already been urged, it is manifest that all the seigniorial grants or concessions made by the Crown of France anterior to the treaty of 1763, as well as all settlements and fishing establishments on the north coast of the Bay des Chaleurs, and on the frontier of Canada, with the adjacent countries, were intended to be included within the province of Quebec, thus the seigniory of Lake Matapedia, conceded in the year 1694, and the seigniory of Cloridon, situate on the river Ristigouche, in 1691, resumed by the Government of Canada in 1787, are concessions which, under a legal interpretation of the Act of 1774, properly form part of, and fall within the limits of the province of Quebec.

In following the line of boundary assumed by the Royal Commissioners agreeably to the line claimed by New Brunswick from the point B (on the map), to the point A on the Bay des Chaleurs, not only would the seigniories of Matapedia and Cloridon be placed out of the limits of the late province of Quebec, and now of Canada, but also a large portion of the north coast of the Bay des Chaleurs from the said point A, at Tracadigash to Mission Point (the western extremity of the Bay des Chaleurs, reported by the Honourable Mr. Bailey, Commissioner for New Brunswick, as the western extremity of the Bay des Chaleurs), a distance of about thirty miles of coast, partly conceded as the seigniory of Shoolbred, in the year 1788, and partly laid out into townships under the executive government of this province from the period of the earliest settlements along that coast, and the bay and river of Ristigouche to the present time, would be excluded from the limits of Canada in the face of the letter as well as the spirit of the Public Acts relied upon by New Brunswick.

It would therefore be impossible to draw a line of boundary as claimed by New Brunswick for its northern boundary, without violating the spirit of the Quebec Act, apart from the consideration of the physical character of the country which it has been shown does not sustain the pretensions of New Brunswick, even when supported by the Royal Commissioners in the adoption of the hills of Carleton at Tracadigash, instead of Mission Point, as the western extremity of the Bay des Chaleurs.

The conventional line of boundary proposed in the report of the undersigned having been objected to by the province of New Brunswick, as at variance with the " finding of the Royal Commissioners," the undersigned would now propose that the aforesaid point B, at the extremity of the due north line or west boundary of the province of New Brunswick, where that line meets the " northern highlands" claimed by New Brunswick, be assumed as another alternative by this province, and that a line be thence drawn towards the head of the Bay des Chaleurs, in accordance with the spirit of the Royal Proclamation and the Quebec Act.

According to the western boundary of New Brunswick, as thus established, that province can, even on the showing of the Commissioners themselves, have no legal claim to any territory lying on the west side of the due north line, especially in admitting the extension of that

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line to the "northern highlands," whilst Canada claims to be conterminous with the "old English provinces" by right of its ancient titles and treaties, and the exercise of its jurisdiction at an early period of the settlements on the Madawaska and the River St. John, down to the Grand Falls, in the year 1792, when the Government of Canada submitted to His Majesty's Imperial Government the settlement of the question of the provincial boundary, a decision which could not then be come to until the settlement of the national question of boundary with the United States, under the Treaty of 1783.

That boundary has now been settled by the late treaty of Washington (1842), commonly called the Ashburton Treaty. This province claims to be conterminous, as above stated, with the United States, agreeably to its ancient limits as *la nouvelle France*, and claiming her right of title to the highlands ranging in continuity with the highlands which trend north-easterly from the sources of the Connecticut river, described in the Royal Proclamation and the Quebec Acts.

By the line of boundary defined in the Ashburton Treaty, the United States are bounded on the north partly by a natural and partly by an artificial boundary, that is to say, by that part of the River St. John, from a point where it is intersected by the due north line (which in effect is the "north-east angle of the State of Maine"), up as far as the mouth of the river St. Francis, thence up that river to the outlet of Lake Pohenegamook, thence by a line to the north-west branch of the River St. John, and thence by another line to the intersection of the River St. John, in latitude 45° 25', and thence by that river to the portage of Metzermette, thence by the highlands to the north-westernmost head of the Hall Stream, and by that river to the line originally run by Valentine and Collins, &c., which line of boundary is now claimed by this province as its southern boundary.

The foregoing proposition for a line of boundary, resulting, as it naturally does, from the very terms and admissions of the Royal Commissioners, in reference to the "northern highlands," claimed by New Brunswick, exposes the futility of the claim set up by that province to those highlands, which are in fact identical with the pretended boundary of the United States under the Treaty of 1783. For admitting that the Treaty of Washington cedes to Great Britain the territory lying between the Ashburton line and the boundary claimed by the United States (the same now claimed by New Brunswick west of the due north line), the settlement of a provincial line of boundary from the then pretended north-west angle of Nova Scotia (at B), would still have remained to be settled upon the basis herein above proposed that would include the grants under the Crown of France within the limits of the "province of Quebec."

The question of boundary then turns upon the legal right of Canada to the territory ceded to Great Britain by the Treaty of Washington, and which it has been clearly shown in the reports prepared on the subject, to belong to Canada, according to a just and equitable interpretation of the words "strict legal right of each province."

Reverting to the jurisdiction exercised by this province at an early period over the settlements on the Madawaska, and now lying in that part of the territory "ceded" by the Treaty of Washington, on the north bank of the river St. John, the undersigned would beg to call the attention of the Government of this province to the petition of the inhabitants occupying that portion of the disputed territory, praying to be allowed to remain under the jurisdiction of Canada, and that any line that may be drawn to divide Canada from New Brunswick should be so drawn that they be included within this province as most congenial to them in regard to their laws, language, and religion, and conducive to their commercial advantage.

The undersigned deems the present occasion a fitting one to respectfully urge the claim of Canada to all the territory extending along the northerly boundary of the United States to the due north line, and along the highlands reported by the Royal Commissioners in 1839, to the head of the Bay des Chaleurs, and in the event of the rejection of the Conventional line, proposed in the Report of the undersigned, as an amicable adjustment of the provincial boundary, that as an alternative proposition, the intersection of the northern highlands by the due north line at the point B, be assumed as the north-west angle of New Brunswick, whence a line be drawn to the western extremity of the Bay des Chaleurs, so as to exclude all the seigniorial grants from New Brunswick, and include them within the limits of Canada, in the spirit of the Royal Proclamation and the Quebec Act.

Map of the Commissioners, 1848.

All which is nevertheless respectfully submitted.

J. H. PRICE, Commissioner.

A l'Honorable D. B. PAPINEAU, Commissaire des Terres de la Couronne, &c. &c.

MONSIEUR,

EN vertu d'instructions émanées du Bureau des Terres de la Couronne, datées, Montréal, 7 Février, 1846, et signées D. B. Papineau, E.L.R., m'ordonnant de procéder à faire le relevé des Rivières Madawaska et St. Jean, et à mesurer les terres des personnes établies sur ces rivières, et m'informer des noms des personnes ainsi établies sur les terres auprès des dites Rivières Madawaska et St. Jean, et de la date de leur résidence, sur les lieux, à faire le relevé de la Rivière à la Tortue et des Lacs qui lui sont contigus, et enfin à faire le relevé du Lac Longou Namjamcutcook et dela Rivière Cabineau. J'ai l'honneur de vous informer que quelques jours après avoir recu ces instructions, je partis des Trois Rivières, le Vendredi 6 Mars, et me rendis à Québec, et delà à la Rivière du Loup, distance de deux cents dix milles, qu'à cette dernière place je fus retenu plusieurs jours par un abât de pluie qui mit les chemins impraticables ; après que j'eus cessé de m'occuper à engager les hommes qui devaient m'accompagner durant mon expédition et à me procurer les provisions nécessaires pour notre

campagne, que ce ne fût que le Mercredi, 18 Mars, que je pus partir de la Rivière du Loup et qu'après avoir traversé le chemin du portage et le Lac Temiscouata je couchai au Dégelie, et que j'arrivai enfin après avoir parcouru une distance de 67 milles, au lieu où devait commencer mes opérations, c'est-à-dire, à la ligne sud-est de la Seigneurie du lac. Il est peut-être à propos de vous informer que le chemin du portage qui commence à la Rivière du Loup, suit une direction sud-est; traverse la Rivière du Loup à une petite distance au-dessus du village, et continu dans la même direction jusqu'à la Rivière Verte, distance d'environ huit ou neuf milles, et qu'il y a des établissements sur presque toute cette route; que delà le chemin incline un peu plus à l'est, jusqu'à la Rivière St. François où il y a deux maisons pour la réception des voyageurs, que la Rivière St. François est à 17 milles de la Rivière du Loup, et qu'en générale cette partie du chemin est assez planche, mais que delà au lac, c'est une montée et descente presque continuelle, ayant à traverser plusieurs montagnes dont les principales sont *La Grande Fourche*, *La Montagne à Paradis*, *La Buard et La Petite Fourche;* de la Rivière St. François au Lac Témiscouata la distance est de 18 milles, on y trouve quatre établissements éloignés les uns des autres, en générale, ce chemin est bon et assez bien entretenu à même les revenues perçus au *Pont de Péage* sur la Rivière Verte. Au lac il y a environ une douzaine de maisons, outre un Etablissement Militaire consistant en plusieurs bâtisses ordinairement usitées en pareil cas; à cet endroit les côtes sont assez élevées et commandent une bien belle vue du lac à l'est et l'ouest. Le trajet du lac se fait en hiver sur la glace, et en été en canot; il y a même un *horse boat,* qui voyage de là au Dégelie. Il y a aussi un chemin qui fait le tour du lac, mais on me dit qu'il n'a jamais été achévé, et qu'il y a des endroits bien mauvais. Dans cette distance qui est d'environ 20 milles, il n'y a qu'un seul habitant. Au tour du Lac les Montagnes paraissent hautes et peu fournies de bois, le feu y ayant passé à plusieurs reprises. Les seules rivières de conséquence qui déchargent dans ce Lac, sont la Rivière Touladie à l'est, dans laquelle il se descend beaucoup de bois quarré, et sur laquelle il y a plusieurs chantiers. La Rivière Madawaska qui est la décharge du Lac Témiscouata est une jolie rivière de deux à trois chaines de large, et qui est navigable par des chalans et des canôts seulement dans ce moment ci, mais qui le serait pour des bateaux de plus grandes dimensions à l'aide seulement de trois ou quatre écluses. A l'endroit où les établissements sur cette rivière commencent, l'aspect en est d'autant plus agréable que les premières fermes sont bien ouvertes et laissent voir des bâtiments bien construits sur icelles. La rivière offre de tres belles pointes sur lesquelles l'on y fait beaucoup de foin. Les montagnes sont à une distance raisonnable de la rivière et quoiqu'élevées, elles n'en sont pas moins prises par les cultivateurs qui les trouvent faciles à défricher et très productive. Les habitants de ces lieux sont généralement aisés et vivent bien. Les principales rivières tributaires de la Rivière Madawaska qui se joint à la Rivière St. Jean, un peu en bas du petit Sault, distance de douze milles de la Seigneurie, sont la Rivière aux Bouleaux à l'est, et la Rivière à la Truite à l'ouest. Les habitations sont généralement construites sur le bord de la rivière, ou auprès du chemin qui passe à l'ouest de la rivière et qui arrive au petit Sault où il intersecte celui de la Rivière St. Jean à l'est de la rivière, quoiqu'aussi bien établi, il n'y a pas encore eu de chemins d'ouvert et lorsque les gens ont à voyager il leur faut traverser la rivière ou faire leurs voyages en canôts. L'Ardoise et le Tuffe sont les seules espèces de pierre que j'ai vu dans cet endroit. A environ un mille à l'ouest de la rivière on découvre la petite Rivière Iroquoise qui course parallèle à la Rivière Madawaska et qui tombe dans la Rivière St. Jean à presque la même distance. Sur cette rivière il y a plusieurs moulins, tels que moulins à farine, à scie, à carder et à fouler. Les habitants sont presque tous des Canadiens Français, à l'exception de quelques irlandais dont j'ai fournis les noms dans mon journal. Au petit Sault, il y a deux villages qui se forment, un à l'est et l'autre à l'ouest de la Rivière Maintenant, celui de l'est est plus considérable, il y a là aussi un Etablissement Militaire, un *Block House* et autres dépendances érigés sur un rocher élevé et qui commande une vue considérable sur la Rivière St. Jean. Le petit Sault est un joli poste, où il se fait des affaires considérables; il ne peut qu'augmenter vû que c'est là où le chemin de communication avec le Nouveau Brunswick se joint au chemin de Madawaska, et que c'est la seule route de communication avec le Fleuve St. Laurent pour tous les habitans établis le long de la Rivière St. Jean, tant de ceux de l'Etat du Maine que du Canada. La Rivière St. Jean qui a généralement cinq arpents de large est peu profonde, et le courant dans cette rivière est très fort; il y a bien quelques rapides dans cette rivière, mais ils sont peu considérables. Cette rivière est parsemée d'isles et d'islots qui sont presque tous défrichés et sur lesquels les propriétaires font une grande quantité de foin. On y trouve les poteaux ou bornes de fonte plantés par les Commissaires commis à l'effet de regler et établir la ligne de démarcation entre l'Etat du Maine et le Canada, et qui indiquent sur quel coté ils se trouvent situés. En générale, les côtes de la rivière sont d'un accès facile, et les montagnes sont éloignées. Il y a de belles pointes de terres sur la rivière, que les cultivateurs savent mettrent à profit. De la Rivière Madawaska à l'embouchure de la Rivière St. François, il y a 179 lots de terre établis, outre plusieurs qui ne le sont pas encore. Ces lots sont tous occupés par des Canadiens et Acadiens. En générale, les terres ont un mille et demi de profondeur, telles que je les ai trouvé avoir été arpentées par des arpenteurs du Nouveau Brunswick. Dans cet arpentage il appert que les arpenteurs ont en partie suivi le défrichement fait par les propriétaires ou possesseurs des terres arpentées, et qu'ensuite l'on a donné aux lignes différentes directions, tel qu'il appert par le plan qui accompagne mon journal. Sur cette partie là de la Rivière St. Jean, les terres m'ont paru d'une bonne qualité et les habitans y vivent dans l'aisance. J'y ai rencontré plusieurs établissements de grande valeur, ce qui m'a fait regretter encore davantage qu'il n'y eût point de chemin d'ouvert sur ce coté là de la rive. Les cultivateurs de ces endroits n'ayant point de chemins, voyagent en canôts ou pirogues, ce qui occasionne une perte de temps si considérable que leurs établissements doivent en souffrir

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beaucoup et être par cela seul retardés dans leur avancement. Dans cette partie de terrain, il y a trois rivières qui tombent dans la Rivière St. Jean, telles que la Rivière St. François, où se bornaient mes opérations, la Rivière à la Tortue, que j'ai exploré et sur le compte de laquelle je reviendrai, et enfin la petite Rivière ou "Webster River," outre plusieurs ruisseaux assez considérables pour y bâtir des moulins et sur l'un desquels, il y a déjà un moulin à farine et à scie en opération. En arrière de la concession de cette rivière, au dire des gens, les terres sont d'une qualité supérieure et elles seraient bientôt établies si elles étaient arpentées et divisées par lots, que ça aurait l'effet d'attirer de ce côté une grande partie des Canadiens qui, par la ligne de démarcation entre l'Etat du Maine et le Canada, se trouvent dans un pays étranger, séparés de leurs parents et amis, et forcés pour ainsi dire, d'accepter la loi d'autorité qu'ils n'ont jamais appris à respecter et qu'ils ne peuvent aimer. A neuf milles, à l'est de la Rivière St. François, il y a une chapelle Catholique en construction, c'est la seule de ce côté, celle érigée plus bas se trouvant dans l'Etat du Maine. La Rivière à la Tortue qui tombe dans la Rivière St. Jean à environ quinze milles au-dessus du petit Sault, a une chaine de large et fournie beaucoup d'eau; elle est alimentée par des lacs considérables et quelques bras de cette rivière, qui eux aussi prennent leurs eaux dans des lacs, il s'y descend beaucoup de bois quarré et des billots. Presqu'à l'embouchure de cette rivière sont bâtis un moulin à farine et un moulin à scie, appartenant à Mr. John Baker qui à là un très bel établissement. A 16½ milles on rencontre le bras sud-ouest de cette rivière, qui est aussi considérable que la rivière elle-même, et qui conduit à un très joli lac, appelé "Portage;" ce lac a environ 5 milles de longueur, généralément 3/4 d'un mille de largeur et est très poissonneux. Les terres d'auprès du lac m'ont paru des meilleurs et sont boisées en bois franc. A 23½ milles, à l'extremité de cette rivière, se trouve le "Jerry Lake," qui a 7 milles de long et d'un demi à un mille de large. Sur la rivière il y a plusieurs beaux sites de moulins, l'on pourraient en outre y former de beaux établissements, la terre y étant des meilleurs et des plus faciles à défricher. Les bois de pin sur la rivière et les lacs ont été exploités sur une grande échelle, on trouve plusieurs chemins des chantiers sur les bords de la rivière et des lacs. A l'extrémité nord-ouest de Jerry Lake, j'ai tiré une ligne de cinq mille et un quart au Lac Long; dans cette ligne j'ai trouvé le sol très bon et planche. Quoique ce terrain soit élevé j'ai rencontré des ruisseaux qui peuvent fournir de l'eau en abondance à ceux qui s'établiraient dessus ces terres. Le Lac Namjamscutcook on Lac Long a 15 milles de long et dans sa plus grande largeur a 35 chaines; il décharge dans la Rivière Cabineau et le bois de toute espèce abonde sur les terres qui le bordent, au dire de quelques personnes de chantiers, que j'y ai rencontré; ces terres sont très propres à former des établissements. A l'extrémité sud-ouest de ce lac est un chemin qui conduit à la Rivière St. Jean et qui a été ouvert par les personnes employées à faire du bois quarré, c'est par ce chemin qu'ils montent les provisions dont ils ont besoin pour leurs chantiers. La Rivière Cabineau, qui est la décharge du Lac Long, a 27 milles de long et tombe dans le Lac Témiscouata, à deux milles du fort; cette petite rivière est très tortueuse et sert à descendre le bois qui est coupé sur les terres du Lac Long: l'on me dit qu'entre cette rivière et la Rivière St. François, il y a une très jolie rivière, nommée "La Rivière Bleue," et qui se décharge dans la Rivière St. François. Entre ces rivières le terrain est un peu montagneux, mais d'un accès assez facile. Au sud de la Rivière Cabineau, il y a aussi un bon chemin de portage d'un lac à l'autre, par lequel les provisions nécessaires aux chantiers sont transportées. Enfin, Monsieur, ce terrain ne peut manquer d'être établi aussitôt qu'il sera connu, et je suis persuadé que les surplus de la population des paroisses sur le St. Laurent s'y portera spontanément le moment où les communications avec cette partie là du pays sera devenue assez facile pour leur permettre de la visiter. Le tout plus amplement désigné aux plan et journal qui accompagne le présent, que j'ai bien l'honneur de soumettre.

Donné au Trois Rivières, le 12 Avril, 1847.

(Signé) J. P. Bureau, D.A.P.

True copy from the Entry of Record, Crown Lands' Office, Montreal, 1st October, 1850.

E. T. Fletcher.

Rapport Preliminaire.

Monsieur, Rivière Cabineau, le 6 Décembre, 1846.

En vertu d'instructions émanées du Bureau des Terres de la Couronne, datées, Montréal le 7th Février, 1846, et signées D. B. Papineau, C. T. C., à moi adressées, m'ordonnant de procéder à faire le relevé des Rivières Madawaska et St. Jean, de mesurer la largeur des terres, des personnes y résidants, leurs noms et la date de leurs établissements, le relevé de la rivière à la Tortue, ainsique les lacs qui alimentes cette rivière, le Lac Long, ainsique la Rivière Cabineau, &c.

J'ai l'honneur de vous informer que me conformant strictement aux instructions ci-haut mentionnées, j'ai depuis la ligne de la Seigneurie du Lac Témiscouata, fait le relevé de la Rivière Madawaska jusqu'à sa jonction avec la Rivière St. Jean du petit Sault, et mésuré la largeur des terres de chaque individu, suivant leur possession, et celà de chaque côté de la dite rivière du Petit en remontant la Rivière St. François, en y mesurant les terres et isles qui sont dans cette rivière et qui appartiennent au Canada, me bornant à remarquer les isles qui sont de l'Etat du Maine, afin de les marquer sur mon plan.

De la Rivière St. François je suis redescendue à l'embouchure de la Rivière à la Tortue, et dont j'ai fait le relevé jusqu'à sa branche sud-ouest que j'ai suivi jusqu'à son premier lac, et dont j'ai en partie fait le relevé, après quoi j'ai continué le relevé de la Maitresse rivière, jusqu'à sa tête, au Jerry Lake que j'ai aussi relevé. Au bot de ce lac il y a une

petite rivière, longue d'environ sept milles, au bout de laquelle est le Lac des Aigles que j'aurais désiré parcourir, mais le manque de provisions m'a forcé d'abandonner ce projet.

De la tête de Jerry Lake j'ai pris une ligne vrai ouest jusqu'au Lac Long, distance de cinq milles et un tiers, où étant entièrement about de vivres, j'ai heureusement rencontré des gens de chantiers qui m'en ont prêté, ce qui m'a mis en état de pouvoir me rendre au Lac Témiscouata, afin de me procurer un nouvel approvisionnement, les mauvais temps presque continuels que j'ai enduré dans ce trajet ont mis mes calculs en défaut.

Du Lac Témiscouata d'où j'ai eu l'honneur de vous addresser, j'ai commencé le relevé de la Rivière Cabineau, et dont il me reste qu'environ six où sept milles à faire pour me rendre au Lac Long, que j'aurais bien arpenté, les glaces étant assez bonnes pour porter. Ceci n'étant qu'un rapport préliminaire, je me borne à donner qu'un aperçu des différentes rivières et lacs que j'ai visité, vu que j'aurais à entrer dans de plus grands détails dans le rapport final que j'aurai à fournir aussitôt cet arpentage complété.

Le tout néanmoins très humblement soumis,

(Signé) J. P. Bureau, D.A.P.

A l'Honorable D. B. Papineau,
Commissaire des Terres de la Couronne, &c.

True Copy, from the Entry of Record, Crown Lands' Office, Montreal,
1st October, 1850.

E. T. Fletcher.

Instructions to Mr. Joseph P. Bureau, Provincial Land Surveyor for the Angular Survey of part of the River Madawaska, to its mouth in the River St. John, thence westerly up the said River St. John, to the mouth of the River St. Francis.

Sir,

Having nominated you for the execution of this important survey of the rivers Madawaska and St. John's, and the tributaries of the same, being part of the service required by the approved Report of Council, dated , I now beg your attention to the following Instructions for your guidance in the performance of that service.

You will repair, with your chain-bearers, as soon as possible after you shall have filed your returns for the survey you have been instructed to perform at Three Rivers, and prepare the necessary outfits for this service, so as to take the earliest advantage of the ice for the execution of this service, to River du Loup, county of Rimouski, where you will engage the remainder of your surveying party, to consist of no more than six men, including your chain-bearers; then proceed by the Temiscouata Portage Road and Lake Temiscouata to the River Madawaska, to the south-easterly boundary of the seigniory of Madawaska and Lake Temiscouata, shown, by stone boundary and monuments planted on both banks of the said river, at about three leagues perpendicular from the Degelés or outlet of the said River Madawaska, where you will, by meridianal observation, determine the variation of the magnetic needle, and then proceed to scale, by angular survey, the said River Madawaska, setting down the courses by the needle, and the angle by the limb, at every station, noting in your field-book the breadth of the river, the rapids, falls, the islands, their length and breadth, the mouth of the various tributaries on both sides of the river, remarking the intersection of the different settlements, the occupants of the land on both sides, how long settled, distinguishing the position of the lands belonging to Serjeant Macdonald, Private Stripman, located by Government at Trout River, and their boundaries set off by Mr. Bouchette, in 1836, according to the annexed plan, taking note of the bearings of the existing line of fences or division between the different actual settlements on both sides of the river, to its mouth at the Little Falls. You will, in the same manner, effect the angular survey of the River St. John's, from the said Little Falls at the mouth of the Madawaska, to the entrance of the River St. Francis, restricting your remarks of the existing settlements to the north bank of the River St. John's, which river divides the state of Maine from the province of Canada between the aforesaid limits, the line of separation running up the middle of the said river; you will consequently take note of the islands and of the channels thereby formed in the river, and ascertain the portion of the islands, which, by the operations of the Commissioners under the Treaty of Washington, belongs to Great Britain, for the future disposition of the Crown, remarking whether the same is occupied and cultivated, or by whom, and whether claimed by grant or leased by competent authority.

In view of the future organization of the tract of land lying on the north bank of the River St. John's, between the Rivers Madawaska and St. Francis, you will, to that effect, in scaling the former river, at the extremity of eight miles from the boundary of the seigniory of Madawaska aforesaid, plant a large squared post or monument on the westerly bank of the said river, inscribed on the north-west side T. D., No. 1, for territorial division, No. 1, T. D., No. 2, on the south side, the year and your name. You will plant another monument on the north bank of the River St. John's, at the perpendicular distance of nine miles, more or less, as the case may be, so as to adopt the division line between the existing farms, which you will inscribe similarly to the first monument, except that the number will here be 2 and 3. You will set off a line due north for a distance of a few chains, and plant two posts to mark the direction of the line to divide those territorial divisions hereafter; and thirdly, at the perpendicular distance of nine miles west of last-mentioned monument, you will plant another monument in the same manner as the preceding, marked 3 and 4, the whole as represented on the annexed plan.

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In performing the survey of the settlements on the River St. John's, you will notice any survey that may have been performed under the authority of the province of New Brunswick, and represent the same on your plan, and show how far the existing improvements have conformed to them.

You will then effect an angular survey of the Turtle River, and of the border of the lake at the head thereof, and run a check line thence to Long Lake, at the head of the River Cabineau, which discharges into Lake Temiscouata.

From the said Long Lake you will draw a check line on the course due west to the lake on the River St. Francis, and scale some part of the border of the same, so as to connect your survey with the operations of Mr. Gamache, of that river.

You will then scale the border of Long Lake and the River Cabineau down to its outlet, and close your survey.

Of all which operations you will transmit an ample report and plan, on a scale of 80 chains to one inch, accompanied with your field-book and journal, and a specification of the names of the occupants of the lands along the Rivers Madawaska and St. John's, and the quantity of land which each person is desirous of acquiring from Government.

For the time you will be employed in the execution of this service you will be allowed 20*s.* per diem, and 2*s.* 6*d.* for finding yourself; and also a surveying-party, to consist of six men. To the principal chain-bearer will be allowed 5*s.* per diem; to the axemen, 3*s.*, and to the labourers 2*s.* 6*d.* each per day, and a daily allowance of 1*s.* 3*d.* each for rations, and a reasonable time allowed them for going to and returning from the field of operations. Your disbursements to be supported by vouchers annexed to your account.

Your pay and allowances for rations to be continued while engaged in preparing your returns of survey, and accounts for the execution of the service now intrusted to you, which said returns and accounts will be subject to careful and strict examination in this office.

No advances will be made on account of this survey until the returns are made and approved by this Department.

Given under my Hand, at the Crown Land Office, Montreal, this 7th day of February, 1846.

(Signed) D. B. PAPINEAU, C.C.L.

True Copy, from the Entry of Record, Crown Lands Office, Montreal, 1st October, 1850.

E. T. FLETCHER.

Office of the Commissioner of Crown Lands, Toronto, 30th October, 1850.

THE Commissioner of Crown Lands has the honour to report, for the information of His Excellency the Governor-General in Council, that he has prepared such reports and documents relating to the disputed territory between this Province and New Brunswick from such data as were within his reach, and which, with the Report of the 19th February, 1849, already transmitted to the Colonial Office and to the Lieutenant-Governor of New Brunswick, were deemed necessary to establish the rights of this Province in the matter in dispute, with a view of their being transmitted to the Arbitrators in England and to the Government of New Brunswick.

Duplicate copies of these papers have been prepared and are ready for transmission. They consist of:

First, the Report of the undersigned of the 10th March, 1850, to which Report are annexed:—

Extracts of the Report of the Geological Survey of Canada, for the years 1847 48 by W. E. Logan, Esq., Provincial Geologist.

Copy of a Map, constructed by Capt. Broughton and Mr. Featherstonhaugh, dated Foreign Office, July, 1842.

Figurative Plan, exhibiting the Features and Character of the Country, dated Quebec, July, 1828, and signed Joseph Bouchette.

Map of New Brunswick and Lower Canada, by Commissioners Mudge and Featherstonhaugh.

Extract of a Pamphlet, supposed to have been written by the Honourable Ward Chipman.

Extract of the Report in the form of Remarks, submitted by Joseph Bouchette, in 1838.

Secondly, Report of the undersigned of the 27th of March, 1850, to which are annexed:—

Extracts from the Compendium of the British Agent, the Honourable Ward Chipman, Chief Justice of the Province of New Brunswick, before the Commissioners under the Treaty of Ghent, 1821.

Extract from the Report of the Commissioners appointed by the Queen, on the disputed Boundary between Canada and New Brunswick.

Extracts of a Pamphlet, supposed to have been written by the Honourable Ward Chipman.

Remarks on the Report of the Commissioners on the Boundary between New Brunswick and Canada, by Tancred Bouthillier, Assistant-Commissioner of Crown Lands.

Copy, letter of His Excellency Sir Archibald Campbell, the Lieutenant-Governor of New Brunswick, of the 4th of August, 1836, to Joseph Bouchette, Esq.

Copy, letter of Joseph Bouchette, Esq., Deputy-Surveyor-General of Lower Canada, of the 15th of October, 1836, to Stephen Walcott, Esq.

Petition of Simon Hebert and 569 others, inhabitants of the north side of the River St. John, to His Excellency the Right Honourable Charles Murray Earl Cathcart of Renfrew, Administrator of the Government of Canada, &c., dated Madawaska, 20th of February, 1846.

Returns of Survey by the Surveyor-General of Lower Canada (A & B), dated 29th June, 1814, locating lands to disbanded soldiers on the Madawaska and St. Francis Rivers.

Thirdly, the Report of the undersigned of the 7th of October, 1850, to which is annexed:—

A Plan of the disputed Territory between the Provinces of Canada and New Brunswick.

The Commissioner of Crown Lands begs further to state, that he has annexed hereto a list of the authorities, works, and documents consulted in the preparation of the Reports on behalf of Canada, and which are to be invoked before the Arbitrators in England.

That the following books, pamphlets, and maps, which he respectfully recommends to be transmitted with the rest of the papers to the Colonial Office, for the use of the Arbitrators, are the only documents of that description which he has been enabled to collect, viz.:—

Notes on the South-western Boundary-line of the British Provinces, &c., Montreal, 1839.

Remarks upon the disputed points of Boundary, &c., St. John, New Brunswick, 1839.

The Right of the United States of America to the North-eastern Boundary, claimed by them, &c.: revised by Albert Gallaher, with Appendix, &c., New York, 1840.

Notes of the South-western Boundary-line of the British Province of Lower Canada and New Brunswick, &c.: dated Quebec, 1830, by Andrew Stuart.

Succinct Account of the Treaties and Negotiations between Great Britain and the United States of America, relating to the Boundary, &c.: by Andrew Stuart, 14th July, 1838.

Map of that portion of Her Majesty's Colonies of New Brunswick and Lower Canada, &c.: dated 1839; constructed by direction, by Richard L. Mudge and G. W. Featherstonhaugh, Commissioners.

Map B, referred to in the Report of Mudge and Featherstonhaugh, Commissioners, of the 16th April, 1840.

Map of a portion of the Country in dispute with the United States, including the plain that separates the Highlands claimed by that Government, &c.: constructed by W. E. Delves Broughton and J. D. Featherstonhaugh, dated Foreign Office, July, 1842.

Map, showing the various proposals for the adjustment of the Territory in dispute between Canada and New Brunswick: prepared by Mr. Arrowsmith, 12th September, 1845.

Extract from a Map of the British and French Dominions in North America, by John Mitchell, 13th February, 1755.

All which is most respectfully submitted.

J. H. PRICE,
Commissioner of Crown Lands.

AUTHORITIES consulted in the preparation of the REPORTS on behalf of CANADA, on the question of Boundary between that Province and the Province of NEW BRUNSWICK.

1. L'Escarbot, Histoire de la Nouvelle France, 1609.
2. Charlevoix, Histoire du Canada, 1744.
3. Champlain (Voyages) edition of, 1830.
4. Memoirs des Commissaires, 1750-51.
5. Chalmers' Political Annals.
6. British Dominions in North America, by Joseph Bouchette, Esq., Surveyor-General, 1830.
7. Treaties:—

   St. Germain En Laye (de Restitution), 29th March, 1632.
   Breda, 31st July, 1667.
   Ryswick, 20th September, 1697.
   Utrecht, 11th March, 1713.
   The Capitulation, 8th September, 1760.
   Treaty of Peace, 10th February, 1763.
   Royal Proclamation, 7th October, 1763.
   Quebec Act, 14 Geo. III. cap. 83, 1774.
   Treaty of Paris, 1783.
   Treaty of London, 1794.
   Treaty of Ghent, 1814.
   Treaty of Washington, 1842.

8. Reports and Plans of the Surveys performed under the Treaty of Ghent, 1817.
9. Reports of His Majesty's Agents and Commissioners under that Treaty.
10. Reports of the Exploration of the Country at the sources of the River Chaudière and sources of the River St. John, 1828.

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11. Pamphlets by Andrew Stuart, Esq., on the Boundary-line under the Treaties of 1783 and 1794. 1830 and 1838.
12. Pamphlet supposed to have been written by the Honourable Ward Chipman, 1839.
13. Report of the Royal Commissioners, Colonel Mudge and G. W. Featherstonhaugh, 1839.
14. Geological Survey of Canada, by W. E. Logan, Esq., 1845-50.
15. Compendium of the Arguments of the British Agent, the Honourable Ward Chipman, before the Commissioners, under the Treaty of Ghent.
16. Exploratory operations of Major Robertson and Captain Henderson, Royal Engineers, for a line of Railway between Halifax and Quebec, 1849.
17. Physical Atlas of Natural Phenomena, Map IV., Article B, by Alexander Keith Johnston, F.R.S., 1849.

MAPS

Accompanying the Report dated in February, 1849.

A. Partie Orientale du Canada, ou la Nouvelle France, par Coronelli, 1689.
B. Grande Rivière du Canada, Côté de l'Ocean en la Nouvelle France, 1609.
C. Carte de la Nouvelle France, par Champlain, 1632.
D. Map of the Province of Canada, 1830.
E. Hydrographical Chart of the Bay of Chaleurs, by Captain Bayfield, R.N., 1839.
F. Carte du Canada (red line map), par Guillaume Delisle, 1782.
G. Part of New Brunswick, representing the Boundary claimed by that Province, by — Bailley, Esq., Surveyor-General New Brunswick, and Commissioner.
H. Map (B) by Alphonso Wells, Esq., Commissioner, 1844.

Accompanying Supplementary Report, dated in March, 1850.

Map (A) of the Royal Commissioners, Colonel Mudge & G. W. Featherstonhaugh, Esq., 1839.

Map of the Country at the sources of the River St. John's, and Eastern Tributaries of the River Chaudière, by Joseph Bouchette, Esq., 1828.

Map of a portion of the Country in dispute with the United States, by W. E. D. Broughton, Captain R.E., and J. D. Featherstonhangh, Esq., 1840.

Map of New Brunswick, by J. S. Saunders, Esq., Surveyor-General of that Province, 1842.

And the Maps accompanying the Report of Major Robinson, Captain Henderson, and J. W. Johnstone, Esq., Royal Commissioners, 1848.

J. H. PRICE,
Commissioner of Crown Lands.

Crown Land Department, Toronto,
October 1, 1850.

Crown Land Department, Toronto,
March 10, 1850.

SIR,

AMONG the maps transmitted to this department by command of the Governor-General, conveyed in Major Campbell, the Civil Secretary's letter, dated 6th June last, enclosing copy of a Despatch from the Secretary of State for the Colonies, under date of the 12th May last, and covering the above maps referred to in the Report of the Commissioners appointed by Her Majesty to investigate the respective claims of Canada and New Brunswick, to the territory ceded to Great Britain, under the Treaty of Washington, there is one "styled a map of a portion of the country in dispute with the United States, including the plain that separates the highlands claimed by that Government from the highlands of the Treaty of 1783," which I respectfully beg leave to bring under his Excellency's especial notice.

This map (dated Foreign Office, 1842), constructed by W. E. D. Broughton, Captain Royal Engineers, and J. D. Featherstonhaugh, Esq., as sustaining most satisfactorily the description of the characteristic features of a large section of the territory in dispute between this province and New Brunswick, being therefore of paramount importance, in justifying the legal claims of Canada to the line of boundary claimed by her under the Royal Proclamation of 1763, and Imperial Statute of 1784, called the "Quebec Act," I have the honour to submit in respect to this map a few observations supplementary to the report I had the honour of laying before the Governor-General in February, 1849, in obedience to his Excellency's order of reference, under copy of the Despatch from the Right Honourable Earl Grey, the Secretary of State for the Colonies, dated 26th August, 1848, accompanying the Report of the Commissioners referred to me for my report thereon.

Upon examination of the map alluded to, it is apparent, that Messrs. Broughton and Featherstonhaugh have manifested much scientific ability and accuracy of observations in the explorations of the country it exhibits, establishing beyond all manner of doubt the existence of the extensive plain or level tract of country lying in the region of the sources of the south-west branches of the River St. John's and the sources of the easterly tributaries of the River Chaudiere, bounded towards the south by an elevated ridge of mountains, in which the Metgermette and Portage Rivers, branches of the River du Loup discharging into the River Chaudière, together with the south branches of the River St. John's, take their sources opposed to sources of the Penobscot falling into the Atlantic Ocean, and towards the north bounded by the hills and mountains at the sources of the Etchemins and Du Sud Rivers, emptying into the St. Lawrence, opposed to the northerly tributaries of the Matawaquam, or of the north-west branches of the River St. John's, respectively forming the mountain ranges which are plainly

identified with the " southern and northern highlands" mentioned in the Report of the Commissioners, whilst the features of the plain or valley, and the direction of the mountain ranges that form its north-westerly and south-easterly boundaries, are fully corroborated and borne out by the exploratory surveys performed in 1828, under the authority of a Despatch from Earl Bathurst, the Secretary of State for the Colonies, in reference to the boundary question with the United States, exhibited on the accompanying tracing, under letter B of the original plan recorded in this office.

An inspection and comparison of these maps cannot fail to lead to the impression that the Commissioners, Major Robinson and Captain Henderson, have been deceived in the aspect of that part of the country, or have been erroneously informed in respect to the true position and course of the " highlands" they designate, and were unaware of the existence of the plain or valley separating the northern highlands claimed by New Brunswick, from the southern highlands claimed by Canada, when they report as the topographical result of their labours and exploratory research, " that highlands do exist, that divide the waters which empty themselves into the River St. Lawrence, from those that fall into the sea; that these highlands connect themselves continuously by highlands with the north coast of the Baie des Chaleurs, at its western extremity, and reach the 45° of the latitude at the eastern branch of the Connecticut River, thus essentially fulfilling the several requirements of the Proclamation Act of Parliament and Commission for the southern boundary of Canada, and laying the foundation for establishing the strict legal claims of the two provinces.

" On the accompanying map prepared by Major Robinson and Captain Henderson, this line is coloured green, and it will be seen that the northern highlands claimed by New Brunswick are adopted, and the line contended for by Canada as her southern boundary, rejected."

The Commissioners by the adoption of the northern highlands claimed by New Brunswick as her line of boundary, would consequently maintain the continuity of the " northern highlands" across this plain or valley; an assertion which is not borne out or sustained by the well ascertained features of the country, and which is wholly at variance with the result of the exploratory operations of the Royal Commissioners, Messrs. Featherstonhaugh and Mudge, contained in their Report to Her Majesty, dated 1839, alluded to in my Report, page 28, who in describing the distinctive features of the highlands claimed by the United States under the Treaty of 1783, and of the highlands claimed by Great Britain, most clearly point out (as delineated on the map A accompanying their Report), the character and extent of the valley in question, as bounded by those highlands, of which the plain exhibited on No. 2 forms part.

If there were any necessity for further proof or evidence of the truth or correctness of the highly scientific and disinterested men herein mentioned, who were instructed by Her Majesty at different periods with the exploration of the disputed territory, I would beg leave to adduce the important and valuable Report to his Excellency the Governor-General, of the examination in a geological point of view of that section of the province, by W. E. Logan, Esq., Provincial Geologist, published in 1847-48, in the Appendix G. of the journals of the Legislative Assembly, which corroborates the previous descriptions of the characteristic features of the valley or plain in question, and the physical attributes of the mountain ranges, as they form the boundaries of this valley towards the north-west and south-east, in accordance with the delineation of the country on the maps herewith accompanying.

From the foregoing statements grounded upon unobjectionable official authorities, it is manifest that there are absolutely no " highlands" that connect themselves continuously by highlands with the north-east coast of the Baie des Chaleurs and the Connecticut River, represented by the green line on the plan of the Commissioners, and hence, that the conclusions the Commissioners have come to, so based upon erroneous data, cannot obtain, nor justify the claim of New Brunswick to the line of boundary claimed by that province, or to any part therefore of the disputed territory.

I have deemed it incumbent upon me to submit the foregoing remarks relative to the plain, exhibited on plan No. 2 of the Commissioners, with a view of the same, accompanying my Report on the question of the line of boundary between this province and the province of New Brunswick, for the action of the Colonial Government thereon.

All which is respectfully submitted.

I have, &c.,

The Hon. James Leslie, Provincial Secretary, (Signed) J. H. Price.
&c. &c. &c.

Extract of the Report of the Geological Survey of Canada for the Year 1847-48, by W. E. Logan, Provincial Geologist.

Geographical Characteristics.

Between Montreal and Quebec the valley of the St. Lawrence has a general north-east course, and presents a flat surface on each bank of the river. On the north-west side this surface extends in breadth a distance varying from 12 to 20 miles, to the flank of a wide-spread, hilly, but not very elevated country, occupied by syenitic gneiss, interstratified with crystalline limestones, being a continuation of the metamorphic formation described in another Report, as existing on the Ottawa. On the south-east side, the plains exhibit a width of 30 to 40 miles, and, with the intervention of a few moderate undulations in one or two places, reach the foot of a range of mountains, which stand on a breadth of 25 to 30 miles. This range is the continuation of the Green Mountains of Vermont, which, after entering Canada, lose much of the bold character they possess farther south, though they still offer, in

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the district under description, two or three isolated peaks attaining the height of about 4,000 feet above the level of the sea. The opposite sides of the mountain belt run very nearly parallel to one another, and a valley, or continuous line of valleys, bounds it on the south-east side, with a gently-rolling surface by no means so even as the plains on the north-west, but presenting few extraordinary swells or abrupt protuberances. The breadth of this valley may be from 15 to 20 miles; and to the south-east the land gradually rises into a more mountainous tract, extending to the province line, which runs upon its ridge from the sources of the Connecticut River to those of the Chaudière.

These ranges of mountain and valley are parallel to one another and to the St. Lawrence, and the whole coincide with a strike of the formations constituting the district. The streams conveying the waters of the area to the great river, are first the Richelieu and the Yamaska, the main trunks of which run in a direct continuation of the valley of Lake Champlain, with a distance between them equal to about the greatest breadth of the lake, and go with a strike, while the eastern branches of the Yamaska (including the most southern of them, bearing the name of the stream), all of which have their sources west of the Green Mountain range, or among its peaks, run transverse to the stratification. Next are the St. Francis and the Chaudière, about 80 miles asunder, the lower part of each of which makes a straight section across the measures, including the rocks constituting the mountain range, while their upper parts drain the line of valleys beyond. The upper part of the St. Francis and its tributary, the Massawippi, flowing in opposite directions along the foot of the mountain range, occupy about 80 miles of the line in the general strike of the formations, and join at Lennoxville, after being supplied by several transverse tributaries, which take their sources in the southern mountains. The Chaudière, springing in these mountains, overlaps the upper part of the St. Francis, flowing in an opposite course, and more southern but parallel line for some distance below Lake Megantic. It then turns up northward, and is joined by the Rivière du Loup, which flows across the measures in the same direction as the lower part of the Chaudière, and further on it meets another tributary called the Famine. This tributary is in the same relation to the rocks of the country as the upper part of the St. Francis and the Massawippi. Flowing in the strike, it takes its source to the eastward, in a level tract, which is also the source of the Mitaywaçon and constitutes part of the valley of the St. John River, to which this is tributary; and it appears probable that the valley of the St. John, presenting a continuation of the line of valleys, will be found to display the same relation to the stratification as that portion of the depression to the south-west already mentioned.

EXTRACTS of a PAMPHLET supposed to have been written by Hon. WARD CHIPMAN, entitled "Remarks upon the Disputed points of Boundary under the Articles of the Treaty of Ghent, principally compiled from the Statements laid by the Government of Great Britain before the King of the Netherlands as Arbiter."

"St. John's, New Brunswick, 1839.

Page 12. "Secret Journals of the Old Congress," vol. iii. p. 169. The following are extracts:—

Page 13. "It is to be observed, that when the boundaries of the United States were declared to be an ultimatum, it was not thought advisable to continue the war merely to obtain territory as far as St. John's River, but that the dividing line of Massachusetts and Nova Scotia was to be consigned to future settlement. It must be confessed, also, that this country, which is said in the new charter to border on Nova Scotia and the province of Maine, on opposite sides, and which goes under the name of Sagadahock, cannot be proved to extend to the River St. John as clearly as that of St. Croix. But there is some reason, notwithstanding, to believe that Nova Scotia was never supposed by the British King, in any grant to his subjects, to come to the south of St. John's River, although he might have exacted from France a relinquishment of the lands to the River Penobscot, or even Kennebec, as a part of Nova Scotia."

Page 23. "Topographical Description of the Middle British American Colonies," published in the year 1776.

"All the rivers which have their sources amidst the northern ridges of this great range fall into Canada or St. Lawrence River, as the St. Francis, Chaudière, and many others; all which have their sources amidst the southern ridges, fall into the Bay of Fundy or into the main ocean.

"Connecticut River rises in north latitude 45° 10′, at the height of land in long. 4° east of the meridian of Philadelphia.

"A range running hence across the east boundary line in New Hampshire in lat. 44½°, and trending north-east, forms the height of land between the Kennebec and Chaudière rivers. Of the nature and course of this highland I am totally uninformed.

"As the River Kennebec has been now rendered famous as a pass by a march of some spirit and enterprise, made by the American following its course across the land to St. Lawrence or Canada River, I shall here give a more particular and detailed description of it than I should otherwise have entered into.

"This river, in the years 1754 and 1755, was talked of as a route by which an army might pass the best and shortest way to attack Canada and Quebec.

Page 23. "The River Kennebec, to begin from its principal branch, may be described as rising on the height of land in north lat. 45° 20′, and in east long. from Philadelphia, 5° 10′, or thereabouts.

"The ranges in York and Cumberland counties trend to the northward of north-east; those in the county of Lincoln east of Kennebec, next the coast, do so likewise; but within land

they trend more and more to the east of north-east. All the heads of Kennebec, Penobscot, and Passamaquada rivers are in the height of land running east north-east." [pp. 15, 17, 22, 24.]

Page 24. Speaking of the whole range of highlands at the head of the Atlantic rivers nearest to the Connecticut, the author observes as follows:—"Between this high mountainous tract and the ocean, both in its northern and its eastern range, there is a Piedmont of irregularly broken hilly land. Of that in the eastern parts of New England, especially east of Penobscot, I can say nothing with accuracy, and will therefore say nothing at all." [p. 17.]

This, it is allowed, is the language of an author scrupulously attached to truth, and, on the whole, it may be inferred with safety from his work, that all the rivers flowing into the Atlantic between the Connecticut and the St. Croix were either known or supposed to have their head waters in a range of highlands or mountainous tract, stretching eastward with a strong northerly inclination, and that less was known of the range in proportion as it extended towards Nova Scotia.

Page 26. "What does the north-west angle of Nova Scotia mean? The words which follow in the treaty explains its signification: 'That angle which is formed by a line drawn due north from the source of St. Croix river to the highlands.' This definition, which was not in the article as first proposed by the United States, and which was, therefore, in all probability made necessary by some subsequent consideration, evidently comprehends two lines, the one artificial, viz., a due north line drawn from the source of the River St. Croix, the other a natural line, formed by one of the most striking features of the country, that is to say, the 'highlands.' The former of these lines having been sufficiently ascertained for the purposes of this investigation, the first object of the present inquiry is to fix the proper sense of the term 'highlands,' as intended by the treaty."

"It cannot be denied with any appearance of reason, that in common usage the word 'highlands' suggests the idea of a mountainous tract or range of conspicuous elevations. Such is the idea we naturally convey in speaking of the highlands of Scotland or those of the Hudson river. By the word highlander is meant, in general, a mountaineer."

Page 43. "The place called Mars Hill is that which Great Britain claims as the point of departure for the northern boundary of the United States, and consequently as that spot which is designated in the treaty as the north-west angle of Nova Scotia. It appears from the Reports of the surveyors that the due north line crosses its eastern skirt or flank at a distance of about 40 miles from the monument which marks the source of the St. Croix, as fixed in execution of the treaty."

Page 44. "As to the third point, the British surveyor, Bouchette, in his Report dated the 21st of May, 1818, observes that he took 'the bearings of the principal range of highlands extending from Mars Hill to the Catahdin Mountain, the general course of which is N.N.E. and S.S.W., and highly conspicuous for its height.' another of the surveyors, Odell, states, in a Report filed the 11th of May, 1819, as follows:—'Looking westward from this place (Parks, near the Houlton settlement), which is itself considerably elevated, and is easily seen from the top of Mars Hill, there appears a continued range of highland, the view of which is terminated on one side by Mars Hill, and on the other by the Spencer Mountains.' The general result of these documents, with respect to Mars Hill and the adjacent heights towards the west is, that 'a generally hilly country is found to extend towards the eastern branch of the River Penobscot.' This is confirmed by the Report of the American surveyor, Loring, dated in December, 1820. It may be added, that the British assistant surveyor, Campbell, describes the highlands where the monument is situated on the height of land between the Kennebec and Chaudière rivers, as extending in a N.E. to E.N.E. direction, and consequently tending to communicate with the highlands at the sources of the Penobscot river."

It has been urged on the part of the United States that the three prepositions, "from," "along," and "to," employed in defining the northern boundary line, "are the clearest and strongest which could have been selected for the purpose of declaring that the boundary thus described must, through its whole extent, from its beginning to its termination, be along highlands," such as they presume the treaty to have intended. This remark is indeed made on grounds which do not apply to the view taken by Great Britain of the same subject. It is nevertheless, to be observed that, in two acts of the highest authority connected with this discussion, a Royal Proclamation and an Act of Parliament, the very same prepositions are used in order to describe lines which have since been discovered to be too imperfect to admit of their being traced in conformity with this description. The Acts alluded to are the Proclamation of 1763 and the Quebec Act. The boundary described in the Proclamation has two evident interruptions in the course of its line, notwithstanding the use of the three prepositions, to which so much efficacy has been attributed. In the first place, the line which is described as passing along the highlands, and also along the coast of the Bay des Chaleurs to Cape Rosiers, has an intermediate space to traverse between the highlands, wherever they may terminate according to the supposition hitherto maintained, and the north coast of Chaleurs Bay, for which no provision appears to have been made by the terms of the Proclamation. Secondly, there is a similar interval between Lake Champlain and the opposite extremity of the highlands, which do not extend to the shores of the lake. According to the Quebec Act the line was to go from the Bay of Chaleurs, along the highlands, &c., to a point in 45° north latitude, on the eastern bank of the River Connecticut, keeping the same latitude directly westward through the Lake Champlain. This amendment of the proclamation itself occasioned a fresh difficulty, which it was subsequently found necessary to obviate in the treaty. A line described as passing along the highlands in which the sources of the Connecticut are situated could never, it is manifest, have reached a point on the bank of that river at a considerable distance

CANADA.

below its sources. What relates to the want of continuity between the Bay of Chaleurs and the highlands is the same in the Act as in the Proclamation.

Page 53.

The highlands, which the American argument describes as passing without interruption from the point proposed by the United States as the true north-west angle of Nova Scotia to the north-westernmost head of Connecticut river, are wholly destitute of any marked or conspicuous elevation, though by far the greater part of their extent.

The line which they claim is, in fact, no other than the boundary line which they suppose to have existed as between Canada and Nova Scotia in virtue of the Royal Proclamation of 1763; but that line, it is well known, cannot continue along the highlands according to the condition on which the United States insist. It must leave those highlands in order to pass along the north coast of the Bay de Chaleurs. In this manner it is evident that whatever may be the character of the country in a direct line between Mars Hill and Chaleurs Bay, the line claimed by the United States is defective in that very quality to which they attach so great a degree of importance.

Page 57.

A line extending from the source of the St. Croix "towards the north," to the nearest part of the St. Lawrence, would, at all events, strike that river, owing to the obliquity of its source far to the west of that point where a due north line would intersect it. A reference to the map will make this clear. It must not be forgotten that the Commissioners, under the 5th Article of the Treaty of 1794, in deciding which was the true St. Croix, adopted the northern stream, to the exclusion of the western. Thus the variations of this one grant alone offer four several north-west angles of Nova Scotia. The western stream being the one named in Sir William Alexander's grant, the preference of the northern stream must surely invalidate the authority of the grant as a binding designation of the boundary of Nova Scotia; and at any periods subsequent to the Proclamation of 1763, Sir William Alexander's grant is altogether irrelevant as to the northern boundary of that province.

The charter of Massachusetts, dated 1691, does not mention the territory of Sagadahock, which, according to the Duke of York's grant, extended by its eastern and western limits to the River St. Lawrence. It annexes to the province of Massachusetts only those "lands and hereditaments lying and extending between the said country or territory of Nova Scotia and the said River Sagadahock." Agreeably to these words, the northern limit of Sagadahock, as annexed to Massachusetts, would be a line drawn obliquely from the source of the Sagadahock or Kennebec river to the point of the intersection between the western boundary of Nova Scotia and the south bank of the river St. Lawrence. Besides the considerations arising out of this circumstance, it is to be remembered that the right of Massachusetts to retain any part of Sagadahock, at least that part of it which lies east of the Penobscot river, has been continually questioned and denied by the British Government.

Page 58.

The American line, prolonged in an easterly direction, would extend to Cape Rosiers, leaving an interval of more than half a degree between its own course and that of the north coast of Chaleurs Bay; and supposing the line to be carried along the coast of Chaleurs Bay, agreeably to the terms of the Proclamation, a considerable part of it must necessarily pass, before it reaches that bay, not between rivers falling on one side into the St. Lawrence, and on the other into the sea, but between the streams which fall into the Bay of Chaleurs only, and in a direction nearly at right angles with the direction of the line prolonged to Cape Rosiers. The truth is, that the line described in the proclamation was never put to the test of a practical application, nor did the circumstances of the country require that it should receive a more fixed and positive character throughout that central portion which intervenes from the Bay of Chaleurs to the dividing highlands situated immediately between the sources of the Kennebec and Chaudière rivers. On the Bay de Chaleurs there were settlements connected with the fisheries; at the other end of the line settlements were also to be found; and it was therefore desirable to provide for an actual delimitation relative to the rights of provincial jurisdiction in both those parts of the country.

Page 61.

In the "Quebec Gazette" of the 24th January, 1765, there is a notice issued from the office of the Provincial Secretary of that Province, by which all Canadian inhabitants are prohibited from interfering with the hunting grounds of the Indians "down to the Great Falls of the river St. John." This is an act of clear jurisdiction by the Government of Quebec down to the place mentioned in the notice, viz., the Great Falls of the River St. John; and such a jurisdiction could not have been exercised had not the place have been deemed to be within the limits of the province of Quebec, according to the bounds described in the then recent Proclamation of 1763.

In the month of November, 1784, Charles Nichau Noiste, a native Indian, was tried and convicted in the Court of King's Bench at Quebec for the murder of one Archibald McNeil, at Madawaska. The place where the offence was committed is thus described in the indictment:—"Near unto the village of Madawaska, in the district of Quebec, in the province of Quebec."

Report, 1828.

EXTRACT of the REPORT in the form of remarks, submitted by JOSEPH BOUCHETTE, Esq., Deputy Surveyor-General, relative to the physical features of the "HIGHLANDS," defining the southern boundary of the Province of CANADA, deduced from actual surveys and explorations of the country between the Connecticut and Ristigouche Rivers, communicated to the Royal Commission in 1838.

That from the heights dividing the Rivers Metgermette and Penobscot, proceeding thence northward along a line dividing the waters of the St. Lawrence and those of the River St. John, there are no "lands which can be fairly designated as highlands," but on the contrary, one general level plain, the greater part of it Savanne, prevailing about the

opposed sources of those rivers, until the dividing line attains the northern boundary of the Great Valley, at a point between the north-westernmost branch of the Daaquam or Mittaywanquam, and the north-easternmost branch of the Lafamine River, distant across the valley 28 miles from the Metgermette; thence the dividing line proceeds easterly, northerly, and north-easterly along the edge of an elevated ridge (yet subordinate to the more elevated hills of the source of the river Du Sud and Etchemin) between the tributaries of the Daaquam and Eseganetrogook, opposed to the sources of Etchemin and River du Sud, until it gradually descends upon the broad table land which follows parallel with the St. Lawrence, in the rear of the seigniories of Lepinay or St. Thomas, Bonsecour, Lessard, and River Ouelle, and the township of Ixworth, in which the rivers emptying into the St. Lawrence, and those falling into the St. John's, have their sources commonly in wet, swampy ground, which characterises this table-land, although at a mean elevation of about 1,600 or 1,700 feet above tide-water, and which may be considered as the base of the elevated mountains of Buckland and the Eseganetrogook. Similar features of country as those that have been above described, as marking the line dividing at their sources the waters of the St. Lawrence and St. John's, are to be traced in an equally striking degree in pursuing that line north-easterly towards its intersection with the due north exploring line.

From the north-easternmost source of the Black River, which is opposed to and in the level ground, with a small lake at the head of a branch of the river Ouelle, the dividing line continues for 30 or 40 miles through a varied country, occupying still what is commonly known as the table-land of the St. Lawrence, in which the character of spruce and fir timbered land, occasionally interspersed with white birch and pine, almost invariably prevails.

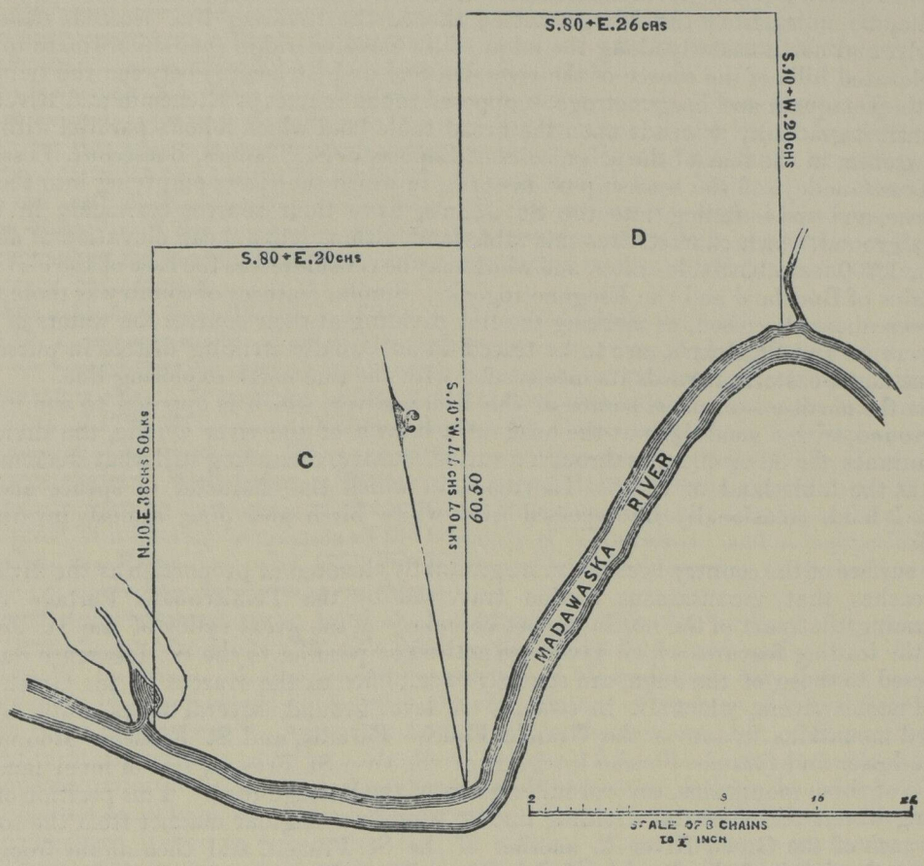
The surface of the country becomes more gradually elevated in proportion as the dividing line reaches that mountainous section traversed by the Temiscouata Portage road, and forming that part of the northernmost boundary of the great valley of the St. John's where the leading features which have been noticed as peculiar to the St. Lawrence waters, as opposed to those of the John, are strongly exemplified at the sources of the Green and Trois Pistoles rivers, which lie in swampy or level ground, several miles south of the elevated mountains known as the Grande Fouche Paradis, and St. François Mountains, and the lesser and Grande Fouche branches of the river St. Francis, rise in level lands at the base of these mountains, several miles north of the Portage road. This position of the opposing waters occasions the dividing line to wind in a singular manner from the source of a branch of the Green River to another of the St. Francis, and then again from the latter to the head of the branch of the River Trois Pistoles, thereby intersecting the postage road in three different places, whence it finally bears N.N.E. through a less mountainous country, south of the River Trois Pistoles, and ultimately attains the generally level tract along the rear line of the seigniory of Nicholas Rioux, in which the eastern branches of the last-mentioned river, and the western branches of the river Rimonski, one of them called Rivière aux Ecores, take their sources in common with the lakes at the head of the streams which fall into Lake Temiscouta.

The dividing line, scarcely 15 miles distant from the banks of the St. Lawrence, continues on a general course east, south-easterly from the south corner of the seigniory of Nicholas Rioux, through a varied country of hill and valley, but still generally flat about the lakes at the head of the opposing rivers, viz., the Toledo falling into Lake Temiscouta, opposed to the southern branches of the River Rimonski, along which rivers the country is broken and mountanous, and in some parts rising to a considerable elevation above the table-land.

The line then proceeds easterly, passing near to the sources of the Quamquerticook or Green River, falling into the River St. John, intercepting in its course some mountains which are the northern extremity of a broken ridge, wending south, between the eastern branches of the Green river and the western tributaries of the Restigouche, continuing thence still easterly, along varied ground, not, however, dividing the waters flowing into the St. John's, but those of the Ristigouche from the south-eastern branches of the Rimonski to a point between an inferior tributary of the River Mistone, falling into the Restigouche and the River Métis, which empties itself into the St. Lawrence, being the termination of the due north line, and the north-west angle of Nova Scotia, according to the American claim.

It has, therefore, been satisfactorily shown that there are no lands which can be fairly designated as highlands along the line of boundary claimed by the American Government, neither at the sources of the rivers emptying into the St. Lawrence nor at the sources of the rivers St. John's, as opposed to each other, save and except where the inferior tributaries of the River Daaquam and Eseganetrogook happen to find their sources in the subordinate elevations which skirt the outlines of the township of Ware, Standon, and Buckland, and which embrace at the sources of the Etchemin and Du Sud, the highest land along the northern limits of the Great Valley.

(Certified) Jos. Bouchette.



In obedience to his Excellency, Sir George Provost, Bart., Governor-in-Chief, &c. &c.'s commands, by Mr. Secretary Brenton's letter of the 5th March, 1814, I have proceeded to White Birch River, on the Madawaska, where I surveyed and laid out two lots of land for the settlers of the 10th R. V. Battalion, viz.:

1st. For serjeant William Smith, lot marked C, on the annexed plan, situated on the north side of the river Madawaska, bounded as follows, viz.: beginning at Birch Point, near a pine tree on said point, which forms the entrance of White Birch River on the easterly side; running from thence magnetically N. 10° E., 38 chains 80 links (having planted square posts on the bank at *a b*, to show more distinctly the course of the said line) to the north-westerly angle of said lot, thence S. 80° E, 26 chains; thence S. 10° W., 44 chains 40 links to the river Madawaska, and from thence along the bank of said river as it winds and turns to the place of beginning, containing 103½ acres, and the usual allowance for highways.

2ndly. For James Simpson, private in the 10th R. V. Battalion, the lot marked D on the annexed plan, bounded as follows, viz.: beginning at a post planted on the bank of the Madawaska, standing on the division line between the lots C and D; running from thence magnetically N. 10° E. along said division line 63 chains 50 links to the north-westerly angle of said lot; thence S. 80° E. 26 chains; thence S. 10° W. 26 chains to the river Madawaska, and from thence along the bank of said river as it winds and turns to the place of beginning, containing 105½ acres, and the usual allowance for highways.

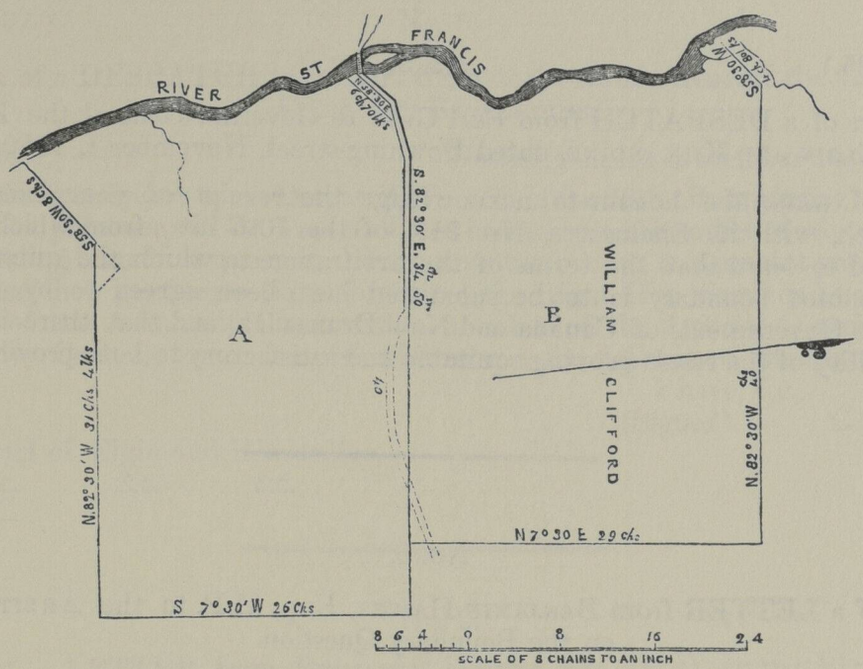
The front of these two lots is in general very good meadow land, a mixture of birch and pine timber, and in rear the soil is still better, and rises gradually.

Given under my hand, Surveyor-General's Office, Quebec, 29th June, 1814.

(Signed) Jos. BOUCHETTE, Surveyor-General.

True copy of Entry on record.

C. L. Department, Montreal, October 1, 1850.



In obedience to his Excellency Sir George Provost, Bart., Governor-in-Chief, &c., &c.'s commands by Mr. Secretary Brenton's letter of the 6th May 1814, I proceeded to the River St. Francis, in the Portage Timiscouata, and on the easterly side thereof surveyed and laid out two lots of land for two settlers of the 10th R. V. Bn., viz., 1st, for David Gardener, lot marked A on the annexed plan situated on the easterly side of the River St. Francis, bounded as follows, viz., beginning at a post planted at 36 links from the easterly bank of the River St. Francis on the Portage road, running from thence magnetically N. 58° 30′ E. 6 chains 90 links from the river to a post planted on the northerly side of the road; thence S. 82° 30′ E. 40 chains to the easterly angle of said lot; thence S. 7° 30′ W. 26 chains; thence N. 82° 30′ W. 31 chains 40 links; thence S. 58° 30′ W. 8 chains to the River St. Francis, and from thence along the bank of the said river, as it winds and turns to the place of beginning containing 106½ acres, and the usual allowance for highways.

2ndly, for William Clifford, also private in the 10th R. V. Bn. The lot marked B on the annexed plan, situated on the easterly side of the River St. Francis, bounded as follows, viz., beginning at a picket planted at 36 links from the bank of the river, on the division line between said lot and that of David Gardener, running from thence along said division line, 6 chains 90 links from the river to a picket on the north side of the Portage road; thence S. 82° 30′ E. 34 chains 50 links to the south-easterly angle of said lot; thence N. 7° 30′ E. 29 chains; thence N. 82° 30′ W. 40 chains; thence S. 58° 30′ W. 4 chains 80 links to the River St. Francis, and from thence along the banks of said river, as it winds and turns to the place of beginning, containing 111½ acres and the usual allowance for highways.

The land in the front of these two lots is low along the river and will afford some meadow ground, but in some parts rather stony, but in the rear the land is high and open; timbered principally with maple and other hard wood.

Given under my hand, Surveyor-General's Office, Quebec, 29th June 1814.

(Signed) Jos. Bouchette, Surveyor-General.

True copy of the Entry on Record.

C. L. Department, Montreal, 1st October 1850.

(Signed) J. H Price, Commissioner of Crown Lands.

CANADA.

No. 5.

(No. 525.)

No. 5.

EXTRACT of a DESPATCH from Earl GREY to Governor-General the Earl of ELGIN AND KINCARDINE, dated Downing-street, November 1, 1850.

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch, with its Enclosures, No. 215, of the 10th ult., from which I am gratified to learn that the terms of the arbitration to which the question of the disputed boundary is to be submitted have been agreed to by the respective Governments of Canada and New Brunswick, and that there is every probability of the result proving equitable and satisfactory to both provinces.

No. 6.

No. 6.

COPY of a LETTER from BENJAMIN HAWES, Esq., M.P. to the ARBITRATORS on the Boundary Question.

SIR, Downing-street, November 28, 1850.

I AM directed by Earl Grey to inform you that you have been appointed by Lord Elgin, with the advice of his Executive Council, to act as arbitrator in the pending question of boundary between the provinces of Canada and New Brunswick.

Sir E. Head, No. 60, Oct. 24, 1850, page 5.

Lord Elgin, No. 215, Oct. 10, 1850, page 2.

I am further directed to transmit to you a copy of the Despatch of the Governor-General and Lieutenant-Governor, and resolutions of his Executive Council, respecting the proposed arbitration; and to inform you that T. Twiss, Esq., has been appointed under similar resolutions on behalf of New Brunswick.

Extract of Lord Grey's Despatch to Lord Elgin, No. 507, June 27, 1850, page 1.

And I am to add, that all documents in the custody of this Department which you may require to consult will be immediately placed under your inspection.

I have, &c.,

Thomas Falconer, Esq., &c. &c. (Signed) B. HAWES.

[Similar letter to T. Twiss, Esq. Arbitrator on behalf of New Brunswick.]

No. 7.

(No. 535.)

No. 7.

COPY of a DESPATCH from Earl GREY to Governor-General the Earl of ELGIN AND KINCARDINE.

MY LORD, Downing-street, November 29, 1850.

A similar Despatch addressed to Sir E. Head.

IN reference to your Despatch, No. 226, of October 31, I have now to inform you that Mr. T. Falconer, has accepted the office of arbitrator in the pending boundary question; and that Travers Twiss, Esq., D.C.L., has been similarly appointed on the part of New Brunswick. These gentlemen will enter on the functions assigned to them without delay, and you shall be further informed of their proceedings as occasion may require.

I have, &c.,

The Earl of Elgin and Kincardine, &c. &c. &c. (Signed) GREY.

(No. 537.) No. 8.

COPY of a DESPATCH from Earl GREY to Governor-General the Earl of ELGIN AND KINCARDINE.

MY LORD, Downing-street, December 10, 1850.

WITH reference to my Despatch, No. 535, of the 29th ult., apprising you that Mr. Thos. Falconer and Dr. Travers Twiss had accepted the office of arbitrators in the pending boundary question, I have now the honour to acquaint your Lordship that these gentlemen have nominated the Right Hon. Stephen Lushington Judge of the Admiralty Court, and a member of the Judicial Committee of the Privy Council, to act as third arbitrator in the decision of the question.

I have, &c.,
(Signed) GREY.

The Earl of Elgin and Kincardine,
&c. &c. &c.

No. 9. No. 9.

COPY of a LETTER from BENJAMIN HAWES, Esq., M.P., to the Right Hon. STEPHEN LUSHINGTON.

SIR, Downing-street, December 14, 1850.

I AM directed by Earl Grey to acquaint you that Dr. Travers Twiss and Thomas Falconer, Esq., the Arbitrators appointed respectively by the Governor of Canada and the Lieut.-Governor of New Brunswick, with the advice of their Executive Councils, to act in the pending question of Boundary between those provinces, have, in pursuance of the powers vested in them, nominated you as third Arbitrator in the decision of the said question.

I am further directed to transmit to you copies of Despatches from Lord Elgin and Sir Edmund Head, together with the Resolutions of their Executive Councils respecting the proposed Arbitration, and I am to state that all documents in the custody of this Department which you may require to consult will be immediately placed under your inspection.

I have, &c.,
(Signed) B. HAWES.

Right Hon. Stephen Lushington,
&c. &c. &c.

No. 10. No. 10.

COPY of a LETTER from the ARBITRATORS on the Boundary Question to Earl GREY.

MY LORD, March 24, 1851.
(Received March 28, 1851.)
(Answered April 2, 1851.)

THE undersigned, the Arbitrators appointed to Report to Her Majesty's Government upon the question of Boundary between the provinces of Canada and New Brunswick, have the honour to request, pursuant to the terms of the reference made to them, that the time for presenting their Report may be extended by Her Majesty's Government to the 21st day of April 1851.

We have, &c.,
(Signed) STEPHEN LUSHINGTON.
TRAVERS TWISS.
THOMAS FALCONER.

The Right Hon. Earl Grey,
&c. &c. &c.

CANADA.
No. 11

No. 11.

COPY of a LETTER from BENJAMIN HAWES, Esq., M.P., to the ARBITRATORS on the Boundary Question.

GENTLEMEN, Downing-street, April 2, 1851.

IN answer to your letter of the 24th of last month applying to have the time for presenting your Report on the question of Boundary between the provinces of Canada and New Brunswick extended to the 21st April, I am directed by Earl Grey to inform you that Her Majesty's Government have extended the time accordingly, and have notified this extension to the Gover nor-General and Lieut.-Governor of New Brunswick.

I have, &c.,

The Right Hon. S. Lushington, (Signed) B. HAWES.
Dr. Twiss,
T. Falconer, Esq.

No. 12. (No. 574.)

No. 12.

COPY of a DESPATCH from Earl GREY to Governor-General the Earl of ELGIN AND KINCARDINE.

MY LORD, Downing-street, April 1, 1851.

THE arbitrators appointed to report upon the question of Boundary between the provinces of Canada and New Brunswick, having requested that the time for presenting their Report may be extended by Her Majesty's Government to the 21st of this month, pursuant to the terms of the Minute of the Executive Council of Canada, approved by yourself, and concurred in by Sir E. Head, Her Majesty's Government have extended the time accordingly.

I have, &c.,
(Signed) GREY.

The Earl of Elgin and Kincardine,
&c. &c. &c.

No. 13.

No. 13.

COPY of a LETTER from the ARBITRATORS on the Boundary Question to Earl GREY.

MY LORD, Eaton-place, April 17, 1851.

WE have the honour to transmit to Your Lordship a scheme for settling the Boundaries of Canada and New Brunswick, which is approved by both of us; we also send two maps which will illustrate that scheme.

We have &c.,
STEPHEN LUSHINGTON.
TRAVERS TWISS.

The Right Hon. Earl Grey,
&c. &c. &c.

MAP

to illustrate a scheme

FOR SETTLING THE BOUNDARIES OF CANADA AND NEW BRUNSWICK

referred to by us in our Report to Earl Grey of 17th April 1851.

Stephen Bunbury
Travers Twiss

LAKE St JOHN
R. Saguenay
Portneuf R.
Portneuf
R. Bersimis
Montmorency R.
R. Metapediac
Malone R.
McLogan 3718 ft.
Shickshock Mts
Seigs of L. Metapediac
Great Cascapedia R.
Tracadigash Mts
Maria
Carleton
Nouvelle
Mann
Restigouche
Metapediac
BAY OF CHALEURS
Campbellton
Dalhousie
Indian Ts
Gt. R. Nouvelle
Gt. R. Ristigouche
Tsoadigusch R.
R. Jacquet
R. Gaumont
Dist. Patrick R.
Wembsook R.
Nepisiguit R.
Portage
Grignet R.
Fish R.
Eagle Lakes
Grand Falls
Fort
R. St. John
L. S.W. Miramichi R.
R. Tepique
Aroostook R.
Ft Fairfield
S.W. Miramichi R.
Bic I.
Mistone I.
L. des Isles
L. Rimouski
L. Metis
R. Rimouski
L. Temiscouata
Ft Ingalls
Squattick R. & Lake
Birch R.
Green R.
Cabasia R.
Golden Ft
Perch R.
Long L.
McDonald
Trout R.
Madawaska Sett.
Lit. Falls
Baker
(Meruimpticook) Baker R.
Ft Kent
Lac Beau or Pechtaweekaacomic
L. Pohenagamuk
Pohenagamuk R.
Blue R.
Lit. Black R.
L. St John
Kijemquospem R.
Woolastcook or River St John
Allagash R.
L. Isheganalshegeek
Green L.
Madousac Harb.
Hare I.
R. Mal Bay
R. du Loup
R. Ouelle
Murrays
St Pierres
R. J. Cartier
R. Batiscan
ORLEANS I.
QUEBEC
Seigs of
R. C. Chap
C. Chat
Ristigouche R.
Green R.
Birch R.
Wagan R.
North
Lit. Black R.
Squattick R. & Lake
Temiscouata
Madawaska
Ristigouche
Gaumont
Patrick
Wembsook
Portage
Grignet
Tsoadigusch
Jacquet
Nepisiguit
Tepique
Aroostook
Fairfield
Grand Falls
Fish
Eagle Lakes
Mistone
Metis
Rimouski
Des Isles
Hare
Bic
Malone
Shickshock
Cascapedia
Tracadigash
Maria
Carleton
Nouvelle
Mann
Restigouche
Metapediac
Campbellton
Dalhousie
Indian
Gt. R. Nouvelle
Gt. R. Ristigouche
Tsoadigusch
Jacquet
Gaumont
Dist.
Patrick
Wembsook
Portage
Grign

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British Parliamentary Papers
Colonies Canadian Boundary

2

Sessions 1842-51

tip in after page 34
Canada No. 11 - 13 +
before page 35
between the provinces

Another map follows
this one, in between
page 34-35.

1st map

RIVER St. FRANCIS

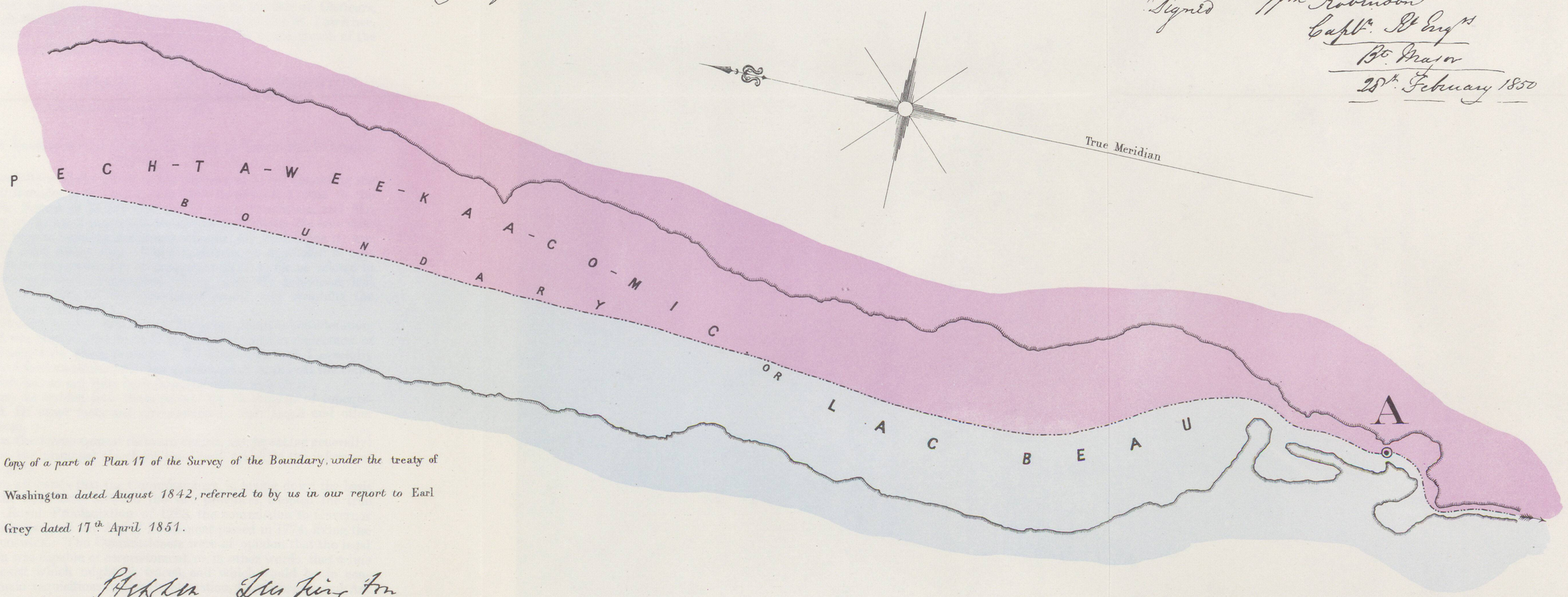
No. XVII

SURVEY BY	
British Commission	U. S Commission
Serg.t Mc Guckin, Roy.l Sapp.rs & Min.rs	Lieut.t Thom, U. S. Top.l Eng.rs

Signed J. Buchanan Lieut.t R. E.
H. B. M. Comm.rs of Boundary

Signed Albert Smith
U. S. Com.rs of Boundary

A true Copy
Signed Jas. Robertson
Capt.n R.t Engr.s
Bo. Depot
28th. February 1850



Copy of a part of Plan 17 of the Survey of the Boundary, under the treaty of Washington dated August 1842, referred to by us in our report to Earl Grey dated 17th April 1851.

Stephen Dearborn for
Travers Twiss

1 Mile ¾ ½ ¼ 0 1 2 Miles

SCALE, FOUR INCHES TO ONE MILE.

John Arrowsmith, litho.

0016200091 6823

British Parliamentary Papers
Colonies Canadian Boundary

2

Sessions 1842-51

[tip in after page 34 +
before page 35

2 maps (2nd map)

No. 14.

CANADA.

No. 14.

THAT New Brunswick shall be bounded on the West by the Boundary of the United States, as traced by the Commissioners of Boundary under the Treaty of Washington, dated August, 1842, from the source of the St. Croix to a point near the outlet of Lake Pech-la-wee-kaa-co-nies, or Lake Beau, marked A in the accompanying copy of a part of Plan 17 of the survey of the boundary under the above treaty; thence by a straight line connecting that point with another point to be determined at the distance of one mile due south from the southernmost point of Long Lake; thence by a straight line drawn to the southernmost point of the Fiefs Madawaska and Temiscouata, and along the south-eastern boundary of those Fiefs to the south-east angle of the same; thence by a meridional line northwards till it meets a line running east and west, and tangent to the height of land dividing the waters flowing into the River Rimouski from those tributary to the St. John; thence along this tangent line eastward until it meets another meridional line tangent to the height of land, dividing waters flowing into the River Rimouski from those flowing into the Restigouche River, thence along this meridional line to the 48th parallel of latitude, thence along that parallel to the Mistouche River, and thence down the centre of the stream of that river to the Restigouche, thence down the centre of the stream of the Restigouche to its mouth in the Bay of Chaleurs, and thence through the middle of that Bay to the Gulf of the St. Lawrence, the Islands in the said Rivers Mistouche and Restigouche, to the mouth of the latter river at Dalhousie being given to New Brunswick.

We have, &c.,

(Signed) STEPHEN LUSHINGTON.
TRAVERS TWISS.

No. 15.

No. 15.

Dr. LUSHINGTON'S REASONS for the OPINION delivered by him in the PRECEDING PAPER.

HAVING carefully read the whole of the papers sent to me respecting the question as to the Boundaries of Canada and New Brunswick, I came to the conclusion that the Report of Major Robinson, Captain Henderson, and Mr. Johnstone, was one of the most important documents to illustrate the true state of the case. That Report (save the comments subsequently made upon it) was a document of the most recent date. The Commissioners appointed to consider the subject were unquestionably of competent skill, so far as related to any question of topographical examination. They, with Mr. Johnstone, had every opportunity of hearing all that previously passed, and weighing the arguments advanced on both sides.

I deemed it necessary to give this Report the most attentive consideration, to test, as far as it was possible, the truth of its premises and the correctness of the deductions formed from these premises. To attain this end I carefully considered all the objections which had been urged against it, and all the views of the subject which had at any time been taken inconsistent with it.

That Report may be divided into three parts: 1st. Statements of topographical facts; 2nd. Of other facts and circumstances; 3rd. Legal and other deductions therefrom.

I do not find that the topographical facts are denied, nor (speaking generally) the other facts, but the principal objections have been raised to the inferences drawn from those facts.

It is admitted on all hands that the Commissioners, in laying down the basis for ascertaining the boundaries between the two provinces, adopted the true grounds, viz., the Royal Proclamation of 1763, the commission to Governor Wilmot in the same year, and the Act of Parliament passed in 1774, fixing the limits of New Brunswick. The Commissioners were of opinion that the legal line of demarcation was capable of ascertainment, or, in other words, that a line of boundary did exist which might be traced, and which would be in conformity with the main requisitions in the Proclamation, Commisssion, and Act of Parliament.

The line so suggested by them was utterly at variance with all the claims preferred on the part of Canada.

The line of the southern mountains suggested by Canada was irreconcilable

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with the main provisions of the Proclamation, Commission, and Act of Parliament, and so obviously so that the position on the part of Canada was abandoned, and not attempted to be urged in the recent discussion with Dr. Twiss and Mr. Falconer.

Whether, however, the Royal Commissioners had discovered the true line, was another and a different proposition. This was denied on the part of Canada, and it was contended that no true line could be discovered. As it is now agreed by all to adopt a conventional line instead of abiding by the true legal limits, the proposition became of less importance; but I think it right to state my opinion that if I had been compelled to say yes or no as to the true line of demarcation stated by the Commissioners, I should, notwithstanding some difficulties, have given my assent to their conclusion.

It was not, as I have said, necessary to prosecute this inquiry to an absolute decision, as all agreed there must be a conventional line; still, the fact of there being a true line of legal demarcation is not wholly foreign to this point.

It appears to me that the Royal Commissioners discharged their duty with great ability—that they weighed with care and impartiality all the facts and arguments adduced on both sides—that their chain of reasoning is just and correct. I was therefore strongly disposed to adopt their conclusions, and in the main to approve of the conventional line suggested by them.

To that line Canada was strongly opposed; New Brunswick had made some objections but had ultimately acquiesced.

When my co-arbitrators and myself commenced the subject, each of them proposed another conventional line. After several conferences and much discussion on paper, it was found impracticable to modify either of these two lines so as to get an unanimous decision.

It became necessary therefore that I should suggest a line myself: I took the line described by the Royal Commissioners as the foundation, and determined not to deviate from it without strong reason.

The Commissioners had stated in their Report that they would have assigned the seigniories of Temiscouata and Madawaskato Canada, had it been possible to do so without much injury to the general arrangement.

On the part of Canada the loss of these fiefs was considered to be a great grievance, not merely on account of intrinsic value, which cannot be great at present, but also as a matter of feeling, and certainly many reasons combined for assigning them to Canada if it could be done; the Commissioners, too, had strongly expressed this opinion, the difficulty was to find a line which would give the fiefs to Canada, and yet not (to use the words of the Report of the Commissioners) do much injury to the general arrangement. I did not think this difficulty wholly insuperable, and endeavoured, to the best of my ability, to chalk out a practicable line giving these fiefs to Canada. I could not, however, feel any confidence in the practicability of this line for want of local and engineering knowledge, I therefore asked for the assistance of Capt. Simmons, and to that gentleman I am greatly indebted for the cordial and efficient manner in which he rendered that assistance. I found in him all that could be asked for,—local knowledge, engineering skill, and an earnest disposition to make them available.

The line now proposed to the Colonial Office has been approved by him as practicable and convenient.

Dr. Twiss, on the part of New Brunswick, acquiesced; I entertained some hopes that, as the fiefs of Temiscouata and Madawaska were now to be assigned to Canada, Mr. Falconer might be induced to acquiesce also, but these hopes were not verified.

The line so suggested by me and approved by Dr. Twiss is founded, as far as possible, upon the principle of possession, a principle laid down by Lord Hardwick in the Baltimore case as the true principle to govern all questions of disputed boundary. This, too, is the basis recommended by Lord Metcalfe.

One of the principal grounds of objection raised by Mr. Falconer was, that the territorial limits of Canada were not extended to the river St. John. It appeared to me that the objection was not tenable—that Canada had no just grounds whatever whereon to maintain this claim—and that with regard to general policy, it would be very inconvenient to establish two claims to this river which might produce confusion and litigation.

The line agreed upon by Dr. Twiss and myself may be described as a line

founded on that of the Royal Commissioners, but modified so as to give Canada the fiefs of Temiscouata and Madawaska, with some slight addition to New Brunswick on the north-west, of little value.

No. 16. No. 16.

COPY of a LETTER from THOMAS FALCONER, Esq., to Earl GREY.

MY LORD, 3, Figtree-court, Temple, April 17, 1851.

THE boundary line between the provinces of Canada and New Brunswick, which the Right Hon. Dr. Lushington and Dr. Twiss have agreed to report to your Lordship, has not received my assent.

The reasons which have compelled me to differ in opinion with my colleagues are contained in a statement of the case, which was delivered by me to them before we met to discuss the subject, and in three papers subsequently written.

I have requested Dr. Lushington, in whose possession these papers now are, to transmit them to the Colonial Office with the other documents, or to be good enough to enable me to transmit them.

Having engaged in the investigation of the case with the most sincere and earnest desire to concede whatever might produce unanimity of opinion among us, compatible with what I might regard to be just and politic in dealing with the ancient and prevailing rights and interests of both provinces, I am anxious that the reasons which have influenced me in opposing the decision that has been made should reach your Lordship, in order that the circumstances which, on my part, have prevented unanimity may be understood.

Every step in the discussion satisfied me that I was unanswered. I, therefore, feel no regret at the course I have pursued, though I should have esteemed it a fortunate event if a unanimous decision could have been made, which both provinces might willingly have assented to, and which might have prevented any future difficulties to Her Majesty's Government.

I have, &c.,

The Right Hon. Earl Grey, (Signed) THOMAS FALCONER.
&c. &c. &c.

No. 17. No. 17.

COPY of a LETTER from THOMAS FALCONER, Esq., to Earl GREY.

MY LORD, 3, Figtree-court, Temple, April 19, 1851.

I HAVE received a letter from Dr. Lushington, in which he promises to send to me the papers to which I referred in my former letter to your Lordship, and which were delivered by me for his perusal and that of Dr. Twiss, before their decision was made respecting the boundary between Canada and New Brunswick.

These papers, which I intend to send with this letter, contain the reasons which prevented my concurring in that decision. In ordinary cases it might not have been desirable to have presented such documents to your Lordship; but as the question is not closed, and any measure to give effect to the decision must be a subject of discussion and debate in the North American provinces and in the Imperial Parliament, they possess some importance.

When any discussion shall take place, these points will be observed:—

1. That so far as the principle of *uti possidetis* applies—territory which, in its application, should have been assigned to Canada has been assigned to New Brunswick.

2. That the effort made by the majority of the arbiters to prevent what is termed a *divisum imperium* on the River St. John was not called for. The principle of an exclusive use to one province of the waters of the St. John, was rejected in the Commission of the Crown issued in the year 1763; that Commission defining the legal western limit of Nova Scotia to be a due north line from the source of the River St. Croix, thus cutting off from Nova Scotia the important River Aroostook, then within British territory, and also cutting off from the same province the upper branches and the northern basin of the St. John. It was again rejected, assuming that Canada did not, as the Commis-

sioners infer, extend over the upper basin of the St. John to the due north line, when New Brunswick was erected into a separate province, and the former western limit of Nova Scotia was assigned to it. And, lastly, such *divisum imperium,* in common with a foreign government, exists under the Treaty of Washington, which transferred to the United States of North America the southern bank of the River St. John along the whole line of territory now in dispute between the provinces on the western side of the due north line.

The present difficulties have not arisen from any alleged evils arising out of the legal exclusion of New Brunswick from the Upper St. John. Moreover, its exclusion is positively and distinctly made under two Imperial Orders—the first being made when the western limit of Nova Scotia was assigned, and the second when Nova Scotia was divided.

The decision of the arbiters will admit New Brunswick, which can have no legal title whatever to the possession of the whole territory of the upper St. John, on the northern side of the river, exclusive of the seigniory of Madawaska, and entirely exclude Canada; yet Canada has the earliest and the most rightful title to this territory.

The principle of excluding Canada from the river St. John ought, I think, to have been sustained by some distinct evidence of an actual necessity of *entirely* condemning the Imperial arrangement of 1763, as respects the territory west of the due north line. Certain New Brunswick settlements, illegally and irregularly made, suggested only a *partial* departure from the arrangement of 1763 and 1784.

3. The proposals and conclusions of the Commissioners were entitled to attention and to examination, but not to the weight and authority given to them by the Right Hon. Dr. Lushington and Dr. Twiss. The moment any presumed legal limits are abandoned and a conventional line is to be traced, the presumptions and conclusions arising out of the solemn acts and declarations of the British Government itself in its negotiations with the United States of America under the Treaty of 1783, respecting the extent of the jurisdiction of the government of Canada, are of pre-eminent importance and authority in opposition to the opinions of the Commissioners.

We had to suggest to the Government the correction of certain words in the Act of 1774, which were similar to the words contained in the Treaty of 1783, and corrected by the Treaty of Washington. But the decision made invites a correction in a manner adverse to prevailing interests, to the enjoyment of existing rights, and to the well-founded public expectations of the Province of Canada; and this is done, chiefly, on the ground of a survey, and the opinions of the Commissioners, which put out of sight the most essential facts and arguments of the case.

" Assuming," states Dr. Lushington, " for the purpose of argument, that no " compensation was due on account of the north bank of the Restigouche being " assigned to Canada, still it must be recollected that some weight is fairly due " to the Report of the Royal Commissioners. Seeing how strong your feeling " was as to Madawaska, I have ventured to disregard that report as to the incon- " venience of assigning that district to Canada. It appeared to me, further, that " if Madawaska (seigniory) was assigned to Canada, still something was due to " New Brunswick on that account, and, therefore, I proposed the lands between " the Kedgewick and the Mistouche." — (Manuscript of the Right Hon. Dr. Lushington, dated the 16th April, 1851.)

The district north of the river Restigouche, as well as that river itself, and its southern side, I believe to be north of the boundary line intended to have been designated in 1763 and in 1774. I accept the arguments and declarations of the British Government under the Treaty of 1783 to be conclusive on this point. But the district north of the Restigouche has also, from the year 1763, been received to be a portion of the territory of Canada. It is now proposed to take from Canada, out of deference to the Report of the Commissioners, part of the received territory of Canada north of the Restigouche, and to assign it as something due to New Brunswick for confirming to Canada the Madawaska seigniory, which the British Government has, on all public occasions, declared to be a part of Canada, and has treated as such under its municipal laws. At the same time a vast tract of land beyond the boundary of the seigniory, and west of the legal limit of New Brunswick, is assigned to the province of New Brunswick.

As the accompanying papers would be imperfect without this statement, it has appeared to me to be proper to make it.

Though I have not assented to the decision that has been made, I desire to be understood as treating respectfully opinions opposed to my own.

I have, &c.,

To the Right Hon. Earl Grey, &c. &c. &c.

THOMAS FALCONER.

CANADA AND NEW BRUNSWICK BOUNDARY.

The OPINION of THOMAS FALCONER, Esq., the Arbitrator appointed by the Right Hon. the Earl of ELGIN AND KINCARDINE, Governor-General of the British North American Provinces, and by the Executive Council of the Province of Canada.

The questions to be decided in this case are—

I. Whether that portion of the territory which was claimed by the Government of the United States of North America in its negotiations with the Government of Great Britain, respecting the north-eastern boundary, and which lies between the northern highlands on the south bank of the River St. Lawrence and the upper course of the River St. John, which now forms a portion of the boundary of the United States, is or is not within the limits of Canada, as declared in a Proclamation issued in 1763, and in an Imperial Act passed in the year 1774?

II. What line of boundary forms, or was intended to form, the northern boundary of New Brunswick, under certain Acts of the Crown which professedly described its northern boundary?

III. What line of boundary it is advisable at the present time to establish between the provinces of Canada and New Brunswick.

I. The territory in dispute nominally comprises upwards of five million acres of land, but by the admissions of the authorities of both provinces it is, in fact, much more limited in extent. That which is really the subject of discussion includes the valuable and important district on the northern side of the upper basin of the River St. John, in which are situated the Madawaska (or Madoueska) settlements, and also a large portion of the northern side of the basin of the River Restigouche, which discharges its waters into the Bay of Chaleurs. The southern portion of the upper basin of the River St. John, bounded on the north by this river, forms, under the Treaty of Washington, part of the territory of the United States of North America.

So soon as the pretensions of the Government of the United States to the district north of the River St. John were abandoned, the province of New Brunswick, through its Lieut.-Governor Sir William M. G. Colebrooke, laid a distinct claim to the same district, founded on the alleged exercise of jurisdiction within it. This was done as early as the 30th of September, 1842. It was repeated again in a Despatch dated Fredericton, the 14th of November, 1843, when Sir W. M. G. Colebrooke informed the Right Hon. Lord Stanley that "a decided opinion is here entertained that Canada possesses no claim "whatever to any territory south of her southern boundary, as defined in the "Quebec Act by the range of hills extending westward from the head of the "Baie des Chaleurs, and there being, in fact, no other line of hills northward "of the St. John river which could by any possibility constitute her southern "boundary. The intermediate territory in question, which was claimed by "the Americans, necessarily reverted to this province when that claim was "relinquished by the Treaty of Washington."

This claim on the part of the province of New Brunswick was opposed by the Government of Canada. In the expectation of an early termination of the discussions which arose, the Hon. A. Wells, Commissioner of Crown Lands in Canada, was appointed, with the Hon. Thomas Baillie, of New Brunswick, to act as Provincial Commissioners, to trace a boundary line between the two provinces. No joint action between these officers was agreed on, and they made separate reports. The very able report of Mr. Wells is dated in August, 1844.

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While discussions respecting the conflicting claims of each province to the upper basin of the River St. John were pending between the Governors of the two provinces, active steps were taken by the authorities of New Brunswick to assert jurisdiction over the district. A considerable amount of timber cut near the Upper St. John, by Messrs. Tibbets and others, under licenses granted by the Government of Canada, was seized in the province of New Brunswick for the non-payment of stumpage dues, a due payable for timber cut in certain assigned berths or localities. A correspondence between the Governors of the provinces ensued, in the course of which Lord Metcalfe (May 3, 1844) expressed his trust that "it would not be deemed necessary in one British "colony to regard as trespassers merchants who had acted honestly under the "authority of another British colony, especially as the right to the territory "on which the timber was cut was still disputed and undecided." The Executive Council of New Brunswick, however, expressed its approval of the seizures.

In 1844 opinions were very strongly declared in the debates, both of the Legislative Council and of the House of Assembly of New Brunswick, against the title of the province of Canada to any part of the territory. A Bill was also brought in and passed, to divide the county of Carleton, apparently with the purpose of advancing the claims of the province, though its operation was, on this account, and, at the request of the Government of Canada, suspended by the Imperial Government.

In the same year (1844) an Act was passed by the Legislature of New Brunswick to carry into effect the fourth Article of the Treaty of Washington. That Treaty declares, "That all grants of land heretofore made by either party "shall be held valid, ratified and confirmed to the persons in possession under "such grants, to the same extent as if such territory had by this Treaty fallen "within the dominions of the party by whom such grants were made." The provincial Act, it was said, was passed to give effect to this guarantee. Under it two Commissioners, Messrs. McLauchlan and Allen, were engaged to lay out settlers' lots, but the actual instructions given to them do not appear. They commenced operations in the season of 1845, and passing by the older settlements, between the Great Falls of the St. John and the Green River, worked from about the mouth of the Green River along the north bank of the River St. John to the River St. Francis, and along both banks of the Madawaska River, setting out in the course of their proceedings about 450 allotments. This transaction it will be hereafter necessary to notice. It excited attention in Canada, and the Earl of Cathcart, who had succeeded Lord Metcalfe as Governor-General, was informed by Sir W. Colebrooke (February 13, 1846), in reply to inquiries addressed to him, "that the provisions of the Treaty of "Washington were ordered by the Secretary of State for the Colonies to be "carried into effect, and that the Commissioners appointed, and who were re-"sponsible for their proceedings, had, from time to time, made reports which "had been duly transmitted to the Secretary of State, accompanied by a plan "of the surveys executed by them."

It is very important, however, to remark, that no grants or concessions of land were made under these surveys [Sir W. Colebrooke, 24 April, 1846].

Sometime in April, 1846, and, consequently, after the surveys of Messrs. McLauchlan and Allen were known in Canada, two surveyors were reported to have been sent by the Government of Canada to survey the same ground, but there is no report of their proceedings before me. They were said to have been withdrawn by the order of Her Majesty's Government (Mr. Allen, 11th September, 1846).

In order to effect an agreement between the two provinces, the Hon. W. H. Draper and the Hon. D. B. Papineau, two members of the Executive Council of Canada, were deputed by Lord Metcalfe in July, 1845, to proceed to Fredericton. There were there met, under the order of Sir. W. Colebrooke, by Mr. Street and Mr. Saunders, and after holding two interviews, failed in coming to any agreement. It was then (19th August, 1845) that Lord Metcalfe solicited the decision of Her Majesty's Government, and proposed a line of boundary between the provinces which I shall hereafter state.

In the following year (1846) the right of Canada to the territory north of the River Ristigouche, and to the territory west of a due north line, drawn from the source of the River St. Croix, including the Madawaska settlements, was

Asserted in a joint Address of the Legislative Council and House of Assembly of Canada to Her Majesty. It prayed Her Majesty to maintain the Canadian Government in the possession of territory over which it had formerly exercised jurisdiction and authority. This Address received the entire concurrence of the Governor-General the Earl Cathcart.

In the month of February of the same year the Legislative Council and House of Assembly of New Brunswick also passed a joint Address to Her Majesty, representing the subject to be one of vital importance to the present and future interests of the province, and that when the Civil List of the province was granted in perpetuity, there was no reason to apprehend that the line of boundary claimed by the British Government, and disputed by the Government of the United States, would have been abandoned, "whereby a "large extent of territorial resources for defraying the Civil List would be lost "to the province;" representing, also, that the province of Canada was seeking to deprive the province of New Brunswick of the residue of the said territory, and of a large additional tract of land, "the proceeds whereof had been trans- "ferred to the province by a solemn compact with the Imperial Government," it prayed that the boundary between the provinces might be marked out along "the highlands," according to the terms of the Imperial Act of 1774.

In July, 1846, the Secretary of State for the Colonies, the Right Hon. W. G. Gladstone, appointed Capt. Pipon, R.E., Capt. Henderson, R.E., and Mr. Johnstone, the Attorney-General of Nova Scotia, Commissioners to report:—

I. If any line could be drawn for the demarcation of the two provinces which would satisfy the strict legal claims of each?

II. If they should find it to be impossible to discover such a line, to consider and report how a line could be drawn which would combine the greatest amount of practical convenience to both provinces with the least amount of practical inconvenience to either, adverting, at the same time, to such interests (if there be any such) which the empire at large might have in the adjustment of the question.

Capt. Pipon was unfortunately drowned in the performance of his duties: when descending the Restigouche River, October 28, 1846, his canoe was upset; and though he reached the shore in safety, he shortly after lost his life in an effort to save one of his companions. He was succeeded by Major Robinson, R.E.

These Commissioners, Major Robinson, Capt. Henderson, and Mr. Johnstone, made their Report, July 20, 1848, and I have given to it very careful attention. Appointed as impartial persons, at a distance from local influences—expected and required to express a judgment that should contribute to the removal of existing difficulties, and having been named in this country, their statements and conclusions are entitled to especial notice.

While these Commissioners were engaged in the exploration of the territory in dispute, a further complexity in the relationship of the two provinces arose, on account of a writ of attachment being issued by the Court of Queen's Bench at Quebec against the property of one Walsh, in some place about five miles above the mouth of the Madawaska River, and which was executed by the deputy-sheriff of Quebec. It was regarded to be an encroachment on the province of New Brunswick, one of the Supreme Courts of New Brunswick having held, in a case of Tibbits and Pickard *v.* Allen, that the provincial jurisdiction extended over the district where the writ was executed.

Such are the circumstances which have given importance to this case, and which have caused a temporary dispute between provinces having common interests, and whose rivalry should be directed to the promotion of their common union and advancement.

II. The questions for consideration are peculiarly and especially such as are within the functions of the Imperial Government to determine.

Soon after the British Government had acquired possession of Canada, the limits of the Provincial Government were declared by a Royal Proclamation to be as follows:—

"The Government of Quebec, bounded on the Labrador Coast by the River "St. John, and, from thence, by a line drawn from the head of that River, "through the Lake St. John to the south end of Lake Nipissim, from whence "the said line crossing the River St. Lawrence and the Lake Champlain in 45

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" degrees of north latitude, passes along the highlands which divide the rivers " that empty themselves into the said River St. Lawrence from those which fall " into the sea, and also along the north coast of the Baie des Chaleurs and the " coast of the Gulf of St. Lawrence to Cape Rosieres—and, from thence, cross- " ing the mouth of the River St. Lawrence by the west end of the Island of " Anticosti, terminates at the aforesaid River St. John."

This Proclamation was dated October 7, 1763. In the same year, namely, on the 21st of November, 1763, a Royal Commission was issued to Sir Montague Wilmot, as Captain-General and Governor-in-Chief of the Province of Nova Scotia, in which the limits of the Provincial Government of Nova Scotia were thus described :—

"To the northward, our said Province shall be bounded by the southern "boundary of our Province of Quebec, as far as the western extremity of the " Baie des Chaleurs—to the eastward by the said Bay and the Gulf of St. Law- " rence—and to the westward, although our said Province hath anciently " extended, and doth, of right, extend as far as the River Pentagoet or Penobs- " cot, it shall be bounded by a line drawn from Cape Sable across the entrance " of the Bay of Fundy to the mouth of the River St. Croix, by the said River " to its source, and by a line drawn due north from thence to the southern boun- " dary of our Province of Quebec."

The terms of the Proclamation of 1763, and of Sir M. Wilmot's Commission of contemporaneous date, apply to coincident portions of the boundary of adjacent provinces. The western boundary of Nova Scotia was to be formed by a line drawn from "the source of the River St. Croix due north from thence to "the southern boundary of our Province of Quebec." To the "northward" Nova Scotia was to be bounded "by the southern boundary of our Province of " Quebec as far as the western extremity of the Baie des Chaleurs." There was no intermediate territory contemplated under these terms to exist between Nova Scotia and the Province of Quebec. So much of "the southern boundary" as lay between the termination of a line drawn due north from the source of the River St. Croix to that southern boundary, and from thence "by the southern "boundary" to the western extremity of the Baie des Chaleurs, was to be the "northward" boundary of Nova Scotia.

The southern boundary of Canada, which was to be the "northward" boundary of Nova Scotia, was an undefined line "crossing the River St. Law- " rence and the Lake Champlain in 45 degrees of north latitude, passing along " the highlands which divide the rivers that empty themselves into the river " St. Lawrence from those which fall into the sea, and also along the north " coast of the Baie des Chaleurs."

The boundaries thus set out in the Proclamation and Royal Commission were declared to be the legal limits of the provinces in virtue of that authority possessed by the Crown which, when unrestrained by any Act of the Imperial Parliament, may fix and limit the extent of subordinate or colonial provinces having no local legislatures. It is an example of one of those not very numerous cases, but of which the existing Crown colonies supply others, in which the Crown is not simply supreme but *sovereign*—in which, without the intervention of Parliament, the Crown alone can originate and make the law. The Proclamation of 1763, and the Royal Commission of the same year, relating to Nova Scotia, are distinct laws, in the proper, technical, and strict meaning of the term law. As laws they are binding, operative and imperative. Their observance affects both public and private rights; their interpretation does not belong to nor is it within the jurisdiction of the provincial legislatures, and they are so fundamental in their character as provincial laws, that the legislature of neither province has the power to enlarge or to limit their operation.

It is not immaterial to remark this significant distinction of the Proclamation of 1763 as the proclamation of a law, for it is connected with a question of interpretation to be hereafter noticed.

By the Imperial Act of the 14th Geo. IV., c. 83 (Anno 1774), entitled " An " Act for making more effectual provision for the Government of the Province " of Quebec in North America," it was recited : " Whereas His Majesty, by His " Royal Proclamation, bearing date the 7th day of October, in the third year " of his reign (Anno 1763), thought fit to declare the provisions which had " been made in respect to certain counties, territories, and islands in America

" ceded to His Majesty by the definitive Treaty of Peace concluded at Paris on " the 10th day of February, 1763; and whereas by the arrangements made by " the said Royal Proclamation a very large extent of country, within which " there were several colonies and settlements of the subjects of France who " claimed to remain therein under the faith of the said Treaty, was left without " any provision being made for the administration of the civil government " therein; and certain parts of the territory of Canada where sedentary " fisheries had been established and carried on by the subjects of France, " inhabitants of the said province of Canada, under grants and concessions " from the government thereof, were annexed to the Government of New- " foundland, and thereby subjected to regulations inconsistent with the nature " of such fisheries."

According to this Preamble the object of the Act was not to limit or abridge, but to enlarge the extent of the province of Canada.

With the view, therefore, to include within a new boundary several colonies and settlements of the subjects of France who claimed to remain therein, it was by the same Act declared:—" That all the territories, islands, and coun- " tries in North America belonging to the Crown of Great Britain, bounded " on the south by a line from the Bay of Chaleurs, along the high lands which " divide the rivers that empty themselves in the river St. Lawrence from those " which fall into the sea, to a point in 45 degrees of northern latitude on the " eastern bank of the River Connecticut, keeping the same latitude directly " west, through the Lake Champlain, until, in the same latitude, it meets the " River St. Lawrence," &c.; . . . " and, also, all such territories, islands, and " countries which have, since the 10th of February, 1763, been made part of the " government of Newfoundland, should be and were thereby, during His " Majesty's pleasure, annexed to and made part and parcel of the Province of " Quebec, as created and established by the said Royal Proclamation of the 7th " of October, 1763. Provided always, that nothing herein contained relative to " the boundary of the Province of Quebec should in anywise affect the boundary " of any other colony."

The differences in the description of the boundary of Canada given in the Proclamation of 1763 and in this Act of 1774 are—

1. The course of the description, or the commencement of the line described in 1763, is reversed in the Act of 1774. The observance of this fact is of peculiar importance, and I shall hereafter explain it. The Proclamation gives a western commencement to the southern boundary of Canada, and the Act gives an eastern commencement to it.
2. The Proclamation directs that the line of boundary shall pass " along the highlands which divide the rivers, &c., and also " along the north coast of the Baie des Chaleurs." The Act simply declares that Canada shall be " bounded on the south " by a line from the Bay of Chaleurs along the highlands " which divide the rivers, &c., to a point in 45 degrees of " northern latitude," &c.
3. The Act fixes " a point in 45 degrees of northern latitude on the " eastern bank of the River Connecticut, keeping the same lati- " tude directly west through Lake Champlain, &c." The Proclamation indefinitely directs that the line shall cross " the River " St. Lawrence and the Lake Champlain in 45 degrees of north " latitude, passing along the highlands."

In 1774 the province of Massachusetts lay to the west, and Canada to the north and north-west of Nova Scotia.

By the Treaty of Peace made between Great Britain and the United States of North America, and signed 3rd September, 1783, the boundary on the north-eastern part of the United States was thus described:—

" From the north-west angle of Nova Scotia, viz., the 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 along the middle of that river to the 45th degree north latitude."

And then continuing the boundary elsewhere, the eastern boundary is resumed thus:—" East by a line drawn along the middle of the River St. Croix from " its mouth, in the Bay of Fundy, to its source, and, from its source, directly " north to the aforesaid highlands which divide the rivers which fall into the " Atlantic Ocean from those which fall into the River St. Lawrence."

The differences in the expressions used in this Treaty and in the Act of 1774, are:—

1. That the rivers divided by the highlands are, in the Act, described to flow into " the sea," and, in the Treaty, into the " Atlantic Ocean."
2. In the Act, the termini of the highlands are,—on the east the Bay of Chaleurs, and, on the west, a point, in 45° of north latitude, on the eastern bank of the River Connecticut. In the Treaty, the termini are,—on the east, the north-west angle of Nova Scotia, or where a due north line from the River St. Croix would strike the highlands, and, on the west, the north-western-most head of the Connecticut River.

The change in expression, as respects the Connecticut River, was probably made in order to exclude any pretensions of the British Government to its navigation by bringing it entirely within the American boundary.

We have also:—

1. The same due north line from the River St. Croix, described in 1763 in the Royal Commission of Nova Scotia, described also in this Treaty.
2. The due north line of the Royal Commission of 1763 is described to strike " the southern boundary " of the province of Quebec. In the Treaty such due north line is described to strike " the highland " at the north-west angle of Nova Scotia. In the Proclamation of 1763, and in the Imperial Act of 1774, " highlands," described in the same terms as in the Treaty, are declared to form part of the southern boundary of Canada.

The inferences appear to be obvious:—

1. That the highlands, described in 1774 and in 1783, were intended to be one and the same.
2. Where, also, the north-west angle of Nova Scotia was to be found, from thence " northward by the southern boundary of our " province of Quebec, as far as the western extremity of the " Baie des Chaleurs," was to be traced the northward boundary of Nova Scotia.

It is perfectly correct to state, that the Treaty of 1783 does not describe " the highlands " to be " the southern boundary " of the province of Quebec, nor allude to them as the boundary of the province. It simply describes, in identical expressions, the same description of highlands pointed out in 1763 and 1774 as part of the southern boundary of Canada.

In the year 1784 a change was made in the government of Nova Scotia. The new and separate government of New Brunswick was erected out of it; and the limits of the jurisdiction of the new government were declared in the Royal Commission to be:—

" Bounded on the westward by the mouth of the River St. Croix, by the " said river to its source; and by a line drawn due north from thence to the " southern boundary of our province of Quebec; to the northward, by the said " boundary as far as the western extremity of the Bay of Chaleurs; to the " eastward, by the said Bay and the Gulf of St. Lawrence to the bay called " Bay Verte; to the south, by a line in the centre of the Bay of Fundy, from " the River St. Croix aforesaid, to the mouth of the Musquat River, by the said " river to its source; and, from thence, by a due east line across the isthmus " into the Bay Verte, to join the eastern line above described."

This Royal Commission of 1784, as well as that of Nova Scotia of 1763, determined:—

1. That the due north line, from the River St. Croix, was to extend to the southern boundary of Canada.

2. That the southern boundary of Canada from the point where it was to be struck by the due north line, was to be the boundary of New Brunswick, northward to the Bay of Chaleurs.
3. That the province of New Brunswick was limited, to the west, by the due north line running north from the source of the River St. Croix.

Whatever exaggerated expectations may have prevailed in New Brunswick of an extension of provincial territory to the west of the due north line are not to be ascribed to any ambiguity in the legal description of the western limits of the province. What line was intended to be described as "the "southern boundary" of Canada depends on the solution of the long-disputed question relating to the highlands, namely, what were the highlands referred to dividing the rivers emptying themselves into the River St. Lawrence from the rivers which fall into the sea? That the same "highlands" alluded to in the Treaty of 1783 were the highlands of the Proclamation of 1763, and of the Imperial Act of 1774, I entertain no doubt; but it is necessary briefly to refer to proceedings which were pending for very many years in relation to these same highlands between the Governments of Great Britain and of the United States.

III. A range of highlands were, at an early period of the last century, known to exist about the head waters of the Connecticut River, and to trend eastward. The information the British Government possessed of them is ascribed to Governor Pownall, who, when he held the Governorship of Massachusetts, laudably exerted himself to obtain a knowledge of a then unknown and wild district. In his "Topographical Description" of his map of the country, he says, "All the heads of the Kennebaig and Penobscaig and "Passamaquada rivers are in that height of land running east-north-east." He placed these heights of land at the heads of certain important rivers running into the sea to the south, and, in this particular instance, ascribed to them a course or direction that would lead to the Bay of Chaleurs; but he did not say that any height of land he referred to divided the rivers flowing into the St. Lawrence from rivers flowing into the sea. If the height of land trending east-north-east beyond the rivers named by Governor Pownall were intended to be the highlands of the Treaty of 1783, as the British Government for nearly 60 years affirmed, a misdescription was added to them which is not to be ascribed to General Pownall; for the height of land trending to the east-north-east does not divide the rivers flowing into the St. Lawrence from the rivers flowing into the sea, nor did he so describe the highland. From the head waters of the River Connecticut, along the head waters of the River Chaudière, and along the head waters of the Kennebec and western streams of the Penobscot, such a range of highlands dividing the rivers indicated as flowing to the sea and to the St. Lawrence is, for a distance of upwards of 100 miles, to be found; but beyond, to the east and to the north-east as respects such rivers, the description fails. A mountain range of highlands does distinctly appear along a north-east course from the head of the River Connecticut to the River St. John, and from thence to the Bay of Chaleurs (see the Official Map of Col. Mudge), but it does not in its entire course divide the specified class of rivers. Distinctions were taken in the interpretation of the Treaty of 1783 between the words "sea," "Atlantic Ocean," and "Bay of Fundy," in order to keep the boundary on this southern mountain range, and the British Government proposed that the Rivers Restigouche and the St. John should not be regarded as rivers flowing into the Atlantic. These distinctions were resorted to in order to give a strict interpretation to the words used, and they were perfectly proper, for they were not suggested to evade the fulfilment of a known intention, but means to avoid the effect of a misdescription, which at the earliest moment was declared by the British Government to be opposed to its intention.

On the one side, the British Government represented "the highlands" of the Treaty to be this southern mountain range passing from the head of the River Connecticut to the Bay of Chaleurs. On the other side, the Government of the United States contended, that "the highlands" were a northern range of land on the northern side of the upper basin of the St. John, and not very distant from the south bank of the River St. Lawrence.

Not to evade an obligation, but to effect the intention of the Treaty, the

British Government strictly interpreted certain words. To justify its doing so, it alleged, among other facts, that, in the negociations prior to the Treaty, it was proposed, on the part of the United States, that the River St. John should form part of the north-eastern boundary from its mouth. This proposal was not insisted on, for the River St. Croix and the due north line were then known to form the western boundary of Nova Scotia. The claim of the people of the United States was, that they themselves should govern the territory they had occupied as British colonists and British subjects, and not to advance pretensions of conquest or to extend the boundary of their own provinces. In abandoning the River St. John, a compliance might reasonably have been inferred with the intention of the British Government to retain the tributaries of that river and its upper basin. To abandon, by name, the River St. John as a boundary was to abandon the whole river. To accept the boundary from the St. Croix without alluding to the River St. John, certainly did not imply that the substituted boundary was to include a great part of the River St. John and its important and valuable upper basin.

Confiding in the sincerity and veracity of its representations, the British Government protracted the negotiations for nearly sixty years, and no stronger testimony can be offered of the rectitude of our Government throughout than that of the late Mr. Albert Gallatin, who after that long interval of time might, if a proper sense of morality had not governed that eminent man, have cited delay and lengthened discussions to excite against us the reproaches of ill-informed persons, but who, neverthelees, while arguing in favour of the strict fulfilment of the words of the Treaty, spoke thus of the honour of our public acts:—" In the various negotiations with Great Britain in which I have " been employed, there was always an earnest desire to remove subjects of " contention, and to promote friendly relations; on almost all questions a con- " ciliatory disposition; nothing, at any time, that could shake my confidence " in the sincerity and good faith of that Government. And I do believe it " would do justice, if it were once satisfied that justice were due."

The gentle tones of moderation and of justice are not, however, often heard by all men. Whatever was the strength of our claims, imperfectly formed opinions and border disputes rendered it proper and right that the British Government should consult the peace of its own provinces, and accept an opportunity to bring the negotiations to as satisfactory a termination as their long continuance—the partizanship they had created—and the interests and passions of persons living under both Governments would permit.

By the Treaty of Washington, signed 9th of August, 1842, the northern and southern highlands, on both the northern and southern sides of the basin of the Upper St. John, were rejected, and a boundary line agreed on, running from the outlet of Lake Pohenaganook along the River St. Francis, and thence along the River St. John to the point where a due north line drawn from the River St. Croix strikes the River St. John. In justification of entering on such a compromise, the Honourable Daniel Webster, in a Despatch addressed to the late Lord Ashburton, dated 11th July, 1842, wrote:—" It is not without " reason that it has been decided by so many persons, after careful examination, " that this boundary (of the Treaty of 1783) is not susceptible of settlement " according to the precise words of the Treaty. This decision has been come " to by Mr. Madison in 1802, by Mr. Jefferson in 1803, by Judge Sullivan " about the some time, by the Arbiter (the King of the Netherlands) in 1831, " and it has been acted on by nearly every Secretary of State during the con- " troversy from that time to this; for, although in a case of dispute, each " party endeavours to hold his own, I am not aware that any Secretary of State " or any President of the United States has ever treated this subject otherwise " than one attended by that degree of uncertainty that it could only be solved " by an Arbiter or a compromise."

The territory lying between the boundary thus agreed on by the two Governments, and the northern highlands of the St. Lawrence, is that which Sir William Colebrooke stated to have, in the opinion of the people of New Brunswick, " reverted" to their province.

But if the southern boundary of Canada, west of a line running due north from the River St. Croix, were intended, under the Treaty of 1783, to be coincident with the boundary described in the Imperial Act of 1774, and the terms of the description of both are identical, we are bound to accept the

decision of the British Government in its negotiations with the Government of the United States, and to declare the southern boundary of Canada to be, at this time, coincident with the boundary substituted for the line connected with the highlands, which line included both sides of the upper basin of the River St. John, and was declared by the British Government to be the line of boundary designated in the Treaty of 1783.

IV. But it appears to me that those who have argued in favour of the claims of Canada to the northern basin of the Upper St. John have too much trammelled themselves with discussions relating to the Treaty of 1783. I think the case may be decided on the Proclamation of 1763, the Royal Commissions of 1763 and 1784, and the Imperial Act alone.

The Proclamation of 1763, the Royal Commissions and the Imperial Act of 1774 are equally imperative laws. The Act of 1774 does not repeal the Proclamation of 1763. It is in affirmance of it, and, though based subsequently, we are entitled to use the one in explanation of the other, and to give a consistent interpretation to both—to use the Proclamation and the Royal Commissions to remove any doubt that may arise from the language of the Imperial Act.

The Proclamation declares that the Government of Quebec shall be "bounded " on the Labrador coast by the River St. John, and from thence by a line drawn " from the head of that river through the Lake St. John to the south end of " the Lake Nipissim; from whence the said line, crossing the River St. Law- " rence and the Lake Champlain in 45 degrees of north latitude, passes along " the highlands which divide the rivers that empty themselves into the River " St. Lawrence from those which fall into the sea, and also along the north " coast of the Baie des Chaleurs."

The line was to pass along the highlands, and also along the north coast of the Baie des Chaleurs.

The Royal Commission of 1763 declares that the province of Nova Scotia shall be bounded "northward by the southern boundary of our province of " Quebec as far as the western extremity of the Bay of Chaleurs." The same expressions are contained in the Royal Commission of 1784 relating to New Brunswick.

Let us interpolate, in the words of the Proclamation of 1763, the words of the Royal Commission of 1763.

The whole passage would then read thus:—" Along the highlands, north- " ward by the southern boundary of our province of Quebec, as far as the " western extremity of the Baie des Chaleurs, and also along the north coast of " the Baie des Chaleurs."

The term "southern boundary" must be converted into an equivalent and more descriptive expression to give sense to the passage, and the simple extent of this conversion I will explain presently.

It is remarkable that the due north line, described in the Royal Commissions of Nova Scotia and New Brunswick, is not represented to strike any " high- " lands." Their western boundary is to pass by the River St. Croix to its source, " and by a line drawn due north from thence to the southern boundary " of our colony of Quebec." So also from this point to the Baie des Chaleurs, no highlands are referred to in the Royal Commissions; the line was to pass northward " by the southern boundary of our province of Quebec as far as the " western extremity of the Baie des Chaleurs."

If we read the Proclamation and the Royal Commission of 1763 together, it is obvious the line at the Bay of Chaleurs was to come from the southward, or proceeded from the south "northward;" that the line " by the southern " boundary of our province of Quebec, as far as the western extremity of the " Baie des Chaleurs," was, when it reached the Bay, to be on the southward of the extension of the same line " along the north coast of the Bay of Chaleurs," and that, as a continuous line, it was connected at the western extremity of the Bay.

Are we compelled to affirm that the Proclamation of 1763, though it describes a continuous line of boundary to the Bay of Chaleurs, describes also a continuous line of highlands? The distance from the River Connecticut to the Bay of Chaleurs is five degrees of longitude. The Proclamation of 1763 simply directs that the boundary line shall, after crossing the Lake Champlain, pass "along the highlands which divide the rivers that empty themselves into

" the River St. Lawrence from those which fall into the sea, and also along the " north coast of the Bay of Chaleurs." Looking at the immense interval in distance between the Lake and the Bay, were such highlands dividing a certain class of rivers described to be continuous? Have we more than two points of a given line? The due north line described in the Royal Commission is not described to reach any highlands. It is simply directed to touch the " southern boundary" of the province of Quebec.

If the Proclamation merely described the ends of a given line, there is no error in the description of the boundary it contains as applied to the southern highlands; and, so limited, its description would be in perfect accordance with the representations of the British Government respecting the Treaty line of 1783. At the west end of the line described, there is, after leaving Lake Champlain, for the distance of upwards of 100 miles, a range of highlands which do divide rivers flowing into the St. Lawrence from rivers flowing into the sea. This end of the line is clearly marked out. There are no words requiring continuity in this range of highlands to the Bay of Chaleurs, and there are no words in the Royal Commission of 1763 implying the existence of such highlands where the due north line is to strike the southern boundary of Canada. Thus explaining the terms used, there are no physical difficulties to disturb the correctness of the given description of a line from Lake Champlain running E.N.E., or in about that direction, to the Bay of Chaleurs.

Assume, however, that as applied to a line from the River Connecticut to the Bay of Chaleurs, the highlands were described to be continuous. Then the reversed course of the description ought to be correct when applied to the physical character of the country on the east end of the line. But such reversed description would be erroneous and inapplicable on the east end, though correct on the west end, for southern highlands do divide the given class of rivers on the west, but not on the east. May not the inference, therefore, be, that the physical description applied alone to the west end of the boundary, and not to the whole line; that the boundary was defined by highlands on the west, and by the Bay of Chaleurs on the east.

Admitting this, and converting the words " southern boundary " in the Royal Commission of 1763 into "the southern *line* of boundary," and the Commission and the Proclamation together describe a line running from Lake Champlain to the Bay of Chaleurs in a north-easterly direction.

Is not this, also, the solution of all the difficulties in which the British Government were involved? The description of 1763 was reversed in 1774. The Act of 1774 directs that the line shall pass " from the Bay of Chaleurs along "the highlands (which, &c.) to a point in 45 degrees north latitude on the east " bank of the River Connecticut." By thus reversing the course describedthe misdescription I have explained is produced.

The Treaty of 1783 adopted the reversed course of the description, first so reversed in 1774, and still further complicated the description by describing the due north line from the St. Croix to strike the highlands, while the Commission of 1763 merely describes it as striking " the southern boundary " of Canada. It was this addition in the Treaty of 1783 to the terms used in the Proclamation of 1763 that enabled Mr. Webster (Parl. Paper, 1843, p. 11) to make use of this argument:—" What may be doubtful in itself may be made certain by " other things which are certain, and, inasmuch as the Treaty does certainly " demand a due north line, and does certainly demand the extension of that line " to the highlands"—thence he inferred particular rivers and highlands to be designated. But the Royal Commission directs the due north line to be drawn to the "southern boundary" of Canada, thus omitting the most material of those things which Mr. Webster described "as certain," but the insertion of which in the Treaty produced the consequences which the British Government opposed.

Different hands prepared the Proclamation of 1763, and the Imperial Act of 1774. They agree, however, in terms, and, as they are affirmative laws, relating to the same subject, they may be made to read consistently and to agree with that to which they relate.

In confirmation of the view taken in this explanation, the authority of Governor Pownall may now be appealed to.

He published his Topographical Description of a Map of North America in the year 1776.

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At page 24, he says—"All the heads of the Kennebaig, Penobscaig, and "Passamagnâda rivers are on the height of land running east-north-east."

At page 17, he says—"A range running hence crosses the east boundary line "of New Hampshire, in latitude 44½ degrees, and, trending north-east, forms "the height of land between Kennebaig and Chaudière rivers. Of the nature "and course of this highland in these parts I am totally uninformed, and the "map in these parts is so engraved as not to assume any great authority."

In 1761 Governor Pownall returned to England from America. The Government could have had no knowledge of the country in 1763 but that which they had obtained through him. If he did not know the nature or course of these highlands even when his work was published in 1776, is it at all probable, as is now affirmed, that they were accurately described throughout their whole course in the Proclamation of 1763, or that any description at all of them was contemplated throughout that part of the country, which was then unknown, whether northern or southern highlands as a continuous line, are relied on?

The passages cited from the work of Governor Pownall as applied to the western extremity of the line, agree with the terms of the Proclamation of 1763; but that part of the line running through a country of which he was totally uninformed, the Royal Commission of 1763 describes simply as "the "southern boundary" of Canada, and not as "highlands."

The words of the Proclamation and of the Royal Commission do not require us to assume that they do more than describe the western and eastern parts of a line of immense length. Thus receiving them, they agree with the knowledge of the country which at that time obtained, and are still correct, when applied to the southern highlands.

[If the words are held to have a more extensive application, and to relate to a continuous line, then the eastern termination of the boundary on the Bay of Chaleurs becomes mis-described, both as relates to northern and southern highlands; for if the northern line of boundary of New Brunswick was to proceed northward from the southern boundary of Canada to the western extremity of the Bay of Chaleurs (according to the Royal Commission), and also along the north coast of the Bay of Chaleurs (according to the Proclamation), then the southern range of highlands (as a continuous range from Lake Champlain) do not divide the north and south flowing rivers at this east end; and again, the northern range of highlands, partly formed by a connexion with the Tracadagash range, are excluded, by the terms of the description, from being joined from the northward to the boundary along the north coast of the bay, for the described line is to be continuous from the western extremity on the south side of the bay, with the line along the north side of the bay.

This last statement requires the demonstration of a map. The Tracadagash Mountains are said to be the termination of the northern highlands on the north side of the Bay of Chaleurs. They are represented to come, as a mountain range, from the north, near Cape Chat, to the bay. Their termination is best exhibited in the large official map in the Colonial Office.

As, however, there is a dispute respecting the point that forms the western extremity of the Baie des Chaleurs, I place this and the last two paragraphs in brackets, in order that it may be understood that the conclusions I have previously drawn I regard to be complete without this further illustration of them. If a strict meaning is to be given to the words, "western extremity of the Baie des Chaleurs," I agree with Mr. Wells of Canada in thinking it must be that point in a curve formed by the western coast of the bay which would be touched by a tangent drawn in the direction of the true meridian, and that such point is to be found on the south side of the bay. But what is the Bay of Chaleurs? I consider it to be explained by the usage of the words, and by the physical characteristics of the bay. The points of land called Indian Point and Miquasha Point appear, at a short distance, to close in the western side of the bay, and here I consider the bay to terminate. There is an inner basin, but in the deed of concession of the Shoolbred Seigniory, it is called the River of Restigouche. It is right, however, to observe that in the concession of the Seigniory of Shoolbred in 1788, the eastern limit of the Shoolbred Seigniory is placed "at the westernmost extremity of the Bay of Chaleurs," and this was on the north side; but in this instance, it is distinctly connected with the north side. It is

not the western extremity of the bay simply that is mentioned, but the western extremity connected with the north side of the bay.]

The great value of these explanations, even omitting the last four paragraphs is, that while the source of the errors that have prevailed is explained, the veracity of the representations made by the British Government that it intended, in the Treaty of 1783, to designate a boundary line on the southern side of the upper basin of the River St. John, is apparent.

V. I now proceed to notice the Report of Major Henderson, Captain Robinson, and Mr. Johnstone, the Attorney-General of Nova Scotia, to whom the consideration of this question was referred, under the authority of the Right Hon. W. G. Gladstone.

a. In their statement of the facts of the case, the Commissioners say—"That " the Act of 1774 does not profess to substitute any boundaries for the province " of Quebec in place of those defined in the Proclamation [of 1763], nor does " it declare the limits by which that province had been or was to be bounded. " It enacts, that certain territories, islands, and countries should be, during His " Majesty's pleasure, annexed to and made part and parcel of the province of " Quebec, as created and established by the Royal Proclamation of the 7th of " October, 1763."

If the Imperial Act of 1774 could be thus easily disposed of, and the description of the boundary merely depended on the Proclamation of 1763, the difficulty I have shown arising from the reversed course of the description of the boundary contained in this Act would be avoided. The fact, however, is, that the Act does most distinctly declare the limits of the province of Quebec. It enacts—not that *certain*, but—"that *all* the territories. islands, and countries " in North America belonging to the Crown of Great Britain, bounded on the " south by a line from the Bay of Chaleurs, along the highlands which divide " the rivers that empty themselves into the River St. Lawrence from those " which fall into the sea to a point in 45° north latitude on the eastern bank " of the River Connecticut;" and then, pursuing the line of boundary west, and finally along the territory granted to the merchants adventurers trading to Hudson's Bay, adds—"and also all such territories, islands, and countries " which have, since the 10th of February, 1763, been made part of the govern- " ment of Newfoundland, be, and they are hereby annexed to and made part " and parcel of the province of Quebec, as corrected and established by the said " Royal Proclamation of the 7th October, 1763."

The Act, therefore, does most distinctly determine the limits of the province of Quebec; and it describes those limits to the south in the reversed direction in which they were described in 1763, producing that ambiguity, in consequence, which I have explained. The southern boundary existing before the Act passed is not disturbed; but where the Act does alter the older boundary, it was for the purpose expressed in the Preamble, namely, to include within the limits of Canada several colonies and settlements of the subjects of France who claimed to remain in the country and were without any provision for the administration of the civil government. The boundary, enlarged with this object, was no doubt contemplated to be sufficient to include all the French settlements and colonies of Canada.

VI. The Commissioners say—"Nothing that has been advanced by the Canadian Commissioners, however correct it otherwise might be, can warrant the conclusion, "that the opinion of the British Government, as supposed to be " expressed in the Treaty, and as afterwards advanced in discussion with the " United States, was authoritative between the colonies; for, as the Treaty was " not designed to alter the colonial boundaries [which remained to be ascer- " tained *after* the Treaty, by the same distinctive features as *before*], if, in fact, " the line of highlands claimed by Great Britain as the boundary with the " United States was not the ancient provincial boundary, a mistaken assump- " tion on that point could not affect the latter boundary. Nor if the true " position of the north-west angle, as capable of being ascertained, should prove " inconsistent with the *indicia* of the highlands between Great Britain and the " United States, as described in the Treaty, could it be proper for the mere " purpose of removing a discrepancy arising from the introduction (very " needless it would seem to have been) of the north-west angle into the " Treaty, either on the one part to change the true position of that angle, or

" on the other to substitute other highlands for those marked out in the " Treaty."

The meaning I give to these obscure and incomplete sentences is, that the range of highlands insisted on by the British Government as the proper highlands of the Treaty is not the same range of highlands mentioned in the Act of 1774. The termini of the Treaty line were, on the east, that spot, not needlessly marked, the north-west angle of Nova Scotia; and, on the west, the River Connecticut. Where the due north line, under the Royal Commissions of 1763 and 1784 would strike the boundary of Canada, there, also, would have been the north-west angle of Nova Scotia. The western termination of the line of 1774 agrees with the western termination of the Treaty line. A coincident line was, on all occasions, referred to.

So greatly, however, do I consider the Commissioners to be mistaken in saying, that the opinions of the British Government, whether expressed in the Treaty of 1783 or in the discussions with the Government of the United States, are not authoritative in this matter between the provinces, that I at once declare that I accept them, as I accept all such opinions of our Government delivered in solemn negotiations with foreign powers, to have been made with deliberation and in good faith. They are entitled to the highest authority, and I receive such opinions as authoritative without hesitation. That the British Government acted with truth and honour is admitted in the passages I have cited from the writings of Mr. Webster and the late Mr. Gallatin, and is confirmed by the authority of the illustrious persons named by Mr. Webster, and who, from their official position, could not have been misled. What, therefore, was said and done, not by inferior agents but by the distinct sanction of or by the British Government itself, in the settlement of the north-east boundary, I am so satisfied was blameless and right, that I attend to it as having the weight of an imperative command upon such points, as a reference to it is needed either for the purpose of information or the guidance of my own judgment.

c. " The Treaty of 1842, say the Commissioners, and the supposed inten-
" tions of the British Government, as evinced by the Treaty, and, as subse-
" quently manifested in negotiating its execution, have been appealed to in this
" connexion [*sic.* MS.—quære, controversy]. But as the Proclamation and
" Governor Wilmot's commission passed nearly 20 years previously, neither
" the Treaty, nor what occurred under it, could affect the condition of the
" description throughout that long interval of time, and the title existing then
" must have continued the same in its inherent nature afterwards. The Treaty,
" too, was made when the circumstances were greatly altered—a foreign and
" independent party was introduced, and the subject was less extended than
" that over which the Proclamation had operation, and it was contracted
" just to that extent which made the term 'Atlantic Ocean' appropriate;
" for the territory to be defined, under the Treaty, extended no further east
" than did that ocean."

The Act of the Imperial Parliament of 1774 was passed nine years before the Treaty. They both contain the same description of highlands mentioned in the Proclamation of 1763, whatever error may have been caused by the reversal, in 1774, of the course whence the line was previously described to pass. The interval of time between the repetition of the description, from 1763 to 1774, and from 1774 to 1783, may, if the words are not obscure, permit us to infer that " the condition of the description " was unchanged, and that " the inherent nature of the title " was undisturbed; but I am quite unable to perceive what conclusion opposed to the fact that the same highlands were on each occasion referred to I can be permitted to make.

The circumstances under which the Imperial Act of 1774 and the Treaty of 1783 were made were, no doubt, different; but it is impossible, on this account, correctly to represent that the terms used in 1763 and 1774 to describe the whole of the boundary line from the River Connecticut to the Bay of Chaleurs should not relate to a line described in 1783, because the latter is less extended than the former; identical expressions being used in the descriptions of 1774 and 1783.

The words " sea " in the Act of 1774, and " Atlantic Ocean " in the Treaty of 1783, have an equally extensive signification; though, in order to limit their application, they were opposed to the words " Bay of Fundy " and " Bay of Chaleurs." As the Commissioners, however, have only parenthetically alluded

to arguments used on another occasion in connexion with these words, it is needless to explain them.

d. " Had no inherent characteristics, say the Commissioners, been selected " to mark the highlands that were designed to form the demarcation between " Canada and the adjoining possessions of the Crown, the descriptions contain " nothing else which could ensure a boundary capable of being ascertained " through an unexplored and wilderness country, the interior of which was " almost unknown, extending over the great distance that separates the Bay of " Chaleurs from the Connecticut River, and, an object deemed by the Government " of no small importance would have been placed at the hazard of conjecture or " accidental coincidences and made subject to very great risk, if not the almost " certainty of failure. The physical attribute of the highlands was, therefore, " the only security employed for attaining the needful certainty. It may " reasonably be presumed, in addition to this advantage, another benefit was " contemplated from the peculiar nature of the boundary, namely, the giving " to each province jurisdiction over the whole course of such rivers as emptied " themselves within it—a convenience likely to be much regarded at a time " when, in the absence of roads, the facilities of water-carriage directed the " course of settlements. This presumption is the more probable as the object " of securing a certain definable boundary might have been effected by the " ordinary means of lines running by magnetic courses, or between given points ; " the latter object could only be attained in the mode that was adopted."

The reasons assumed in this paragraph to have governed the policy of the Government do not bear examination. That the Government intended to designate a line which it believed could be verified in accordance with limited information it possessed may be quite true, but no such presumptions afford assistance on points on which it had no information. It most certainly was not "contemplated from the peculiar nature of the boundary to give to each "province jurisdiction over the whole course of such rivers as emptied themselves within it." The very contrary of the affirmative statement of the Commissioners can be demonstrated. The line running due north from the River St. Croix, forming the western boundary of New Brunswick, whether it terminated north or south of the Upper St. John, must have been intended to cut off the upper stream of the St. John and its many tributaries from the main stream of the St. John, and, consequently, from the jurisdiction of New Brunswick, notwithstanding that it was known that the mouth of that noble river was within the limits of this province. The slightest attempt to verify the proposition so distinctly advanced would have exhibited the great error it propounds.

It is with regret I notice such inaccuracies.

My desire, in the examination of the papers before me, has been to discover any even plausible reason to distinguish the southern boundary of Canada, west of the due north line, from the boundary of the United States. The reasons apparently given by the Commissioners to distinguish them, are:—

1. That agents of the British Government, employed in negotiating a boundary line with the Government of the United States, refused to admit the identity of the provincial and the Treaty line.
2. That such agents required the north-west angle of Nova Scotia to be ascertained by first determining the highlands described in the Treaty, and the rivers between which they were said to intervene.
3. That Colonel Mudge and Mr. Featherstonhaugh exposed the fallacy of attempting to determine the true range of highlands from a previous assumption of the north-west angle of Nova Scotia.
4. That in the statement made on the part of the Government of Great Britain under the Convention of 1827, it was said, referring to the evidence of Simon Hebert, that " this last-cited evidence proves " an actual jurisdiction over this territory since the Treaty of 1783 " by the British province of New Brunswick. The claims of this " province and Canada with respect to this and other parts of the " territory, in this quarter, are conflicting *inter se*, and show the " uncertainty of their respective boundaries, which, in fact, have " never been settled, and may require the interference of the " mother-country to adjust; but these conflicting inter-colonial " claims which have arisen since the Treaty of 1783 are altogether

" irrelevant to the present controversy between Great Britain and " a foreign power under that Treaty: whether under one province " or the other, the possession is British."

5. That the Canadian Commissioners, the Hon. Mr. Draper and the Hon. D. B. Papineau, in 1845, conceded, that a boundary was required by them, between the due north line and the Bay of Chaleurs, which was not in conformity with the terms of the Proclamation of 1763 and the Imperial Act of 1774.
6. That the British Commissioners, Colonel Mudge and Mr. Featherstonhaugh, were of opinion, "that the Acts of the British Government, " touching the portionment of lands between the provinces of New " Brunswick and Canada, were not appropriate matters for dis- " cussion in the dispute with the United States."
7. That the Commission under which the Commissioners themselves were acting, was decisive in showing that Her Majesty's Government did not consider the legal claims of the provinces to be concluded by the Treaty of 1783 or by anything that had taken place under it.

The 1st, 2nd, and 3rd of these reasons merely relate to the proper course to be pursued in a certain inquiry. They are of no importance in the present case.

The 4th reason notices the existence of conflicting claims between the provinces, which were correctly disregarded in the negotiations with the United States.

The 5th reason is connected with the impracticability of drawing a line of boundary according to the description of the Act of 1774, if alone relied on, an admission that may be made without hesitation, and without, in the least, favouring the claims of New Brunswick.

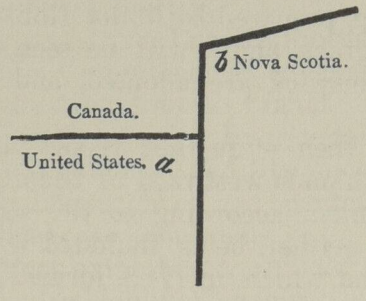
The 6th reason is, that Colonel Mudge and Mr. Featherstonhaugh were of opinion, that the certain Acts of the British Government could not be appealed to in the construction of the Treaty. But let it not be supposed that these gentlemen, if to be cited as authority, have not formed an opinion on the present question.

" We have," say they (Report, p. 53), " in the first place endeavoured to " show that we should have been acting inconsistently with the information we " possess, and with the facts which we have to report, if we had adopted the " ground which the official British agents, who have preceded us in the inves- " tigation of this boundary, relied on as essential to the maintenance of the " British view of the question, namely, that the boundary intended to be es- " tablished by the 2nd Article of the Treaty of 1783, was to be a line distinct " from the southern boundary of the province of Quebec, as established by the

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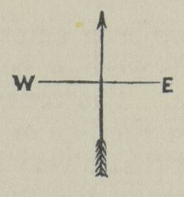
If the angles do not adjoin.

1. Hypothesis.

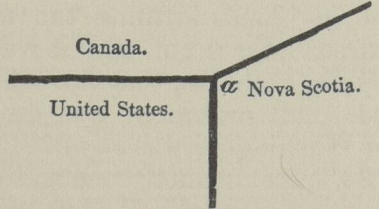


a North-east angle of Maine, and not an angle of Nova Scotia.

b North-west angle of Nova Scotia.



2. Treaty line.



a North-west angle of Nova Scotia, and north-east angle of Maine, coincident in their north line, and are adjoining angles.

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" Royal Proclamation of 1763. In opposition to that erroneous impression, " we have felt it our duty to show that those lines were one and the same " thing. Indeed, the very definition of the point in the Treaty, namely, the " coincidence of the due north line with the highlands, proves that the Com- " missioners for negotiating the Treaty of 1783 considered the ' highlands ' of " the Treaty to be one and the same thing with the southern boundary of the " province of Quebec; for if Nova Scotia had extended further to the north, " or to the west, than where the due north line was to intersect the highlands, " that point would have been the north-east angle of the State of Maine, but " could not have been the north-west angle of Nova Scotia; for the true " north-west angle would have been still further to the north or to the west at " whatever point the western boundary of Nova Scotia touched the southern " boundary of the province of Quebec." (See also Parliamentary Papers, p. 9, printed 1840.)

The Commissioners having cited Colonel Mudge and Mr. Featherstonhaugh, ought not to have relied on any statement of these gentlemen without setting out this opinion. The parenthesis in a former page, " that the introduction of " the north angle of Nova Scotia in the Treaty seemed to have been very need- " less," does not avoid the significance of the reference to that angle.

The 7th reason might be left unnoticed. If the Government were of opinion the appointment of the Commissioners would effect the determination of the dispute, it is not for judges to cite their own nomination as evidence of the merits of the case.

The conclusion at which the Commissioners arrive is remarkable.

They say, " whatever line shall be found substantially to answer the descrip- " tion these documents [the Proclamation of 1763 and the Imperial Act of " 1774] give of the boundaries of the provinces, must control the legal claims " of Canada and New Brunswick. Whether a boundary of that character actually " existed was a question demanding, for its solution, exploration and scientific " research. At this point it is, that appeal must be made to the topographical " result of the labours of those Commissioners to whom the exploration and " research directed under Mr. Gladstone's Despatch were committed; and " from observations made and knowledge acquired in the fulfilment of this " duty, they have felt no hesitation in pronouncing as their clear and decided " opinion, that highlands do exist which separate the rivers that empty them- " selves into the River St. Lawrence from those that fall into the sea; and that " these highlands connect themselves continuously by highlands with the north " coast of the Bay of Chaleurs at its western extremity, and reach 45° of north " latitude at the western branch of the Connecticut River, thus essentially " fulfilling the several requirements of the Proclamation, Act of Parliament, " and Commissions, for the southern boundary of Canada, and laying the " foundation for establishing the strict legal claims of the two provinces. On " the accompanying map, prepared by Major Robinson and Captain Henderson, " this line is coloured green, and it will be seen, that the northern highlands " claimed by New Brunswick are adopted, and the line contended for by " Canada is rejected."

The Commissioners then—" further report, that a tract of country lies " between the north highlands westward of the due north line and the line of " the United States, which, according to the strict legal rights of the two " provinces, belongs to neither, being included within the lines marked B, C, " and D, on the map, and which, in 1763, formed part of the ancient territory " of Sagadahock."

No doubt could possibly have been entertained, without the aid of explora- tion or research, that highlands were to be found at the head of all the rivers flowing into the St. Lawrence. The converse could not have been solved by exploration. The chief part of the line of such highlands was marked out by the Government of the United States very many years since. No rediscovery of it was needed. The existence of the northern highlands does not establish the fact that they are the highlands forming the legal southern boundary of Canada. That fact required other proof, and it was given again and again by the British Government in its assertion, that the southern highlands were alone intended to be described. All argument was essentially concluded on this point when the Treaty of Washington was signed; for the highlands described in 1763, in 1774, and 1783, were distinctly one and the same, and to them was affixed the mark of the north-west angle of Nova Scotia.

It has been with the greatest care that I have sought for arguments to separate the highlands mentioned in 1783 from those mentioned in 1774. I cannot discover any evidence to distinguish them. And what is the extraordinary conclusion which their separation leads to? The Commissioners profess to have discovered an immense tract of country, without the bounds of either province, and which, according to their distinctly expressed opinions, have never been within the limits of either province, in the midst of which, in the years 1763 and 1774, there existed four seigniories, and in which the British Government in the year 1788 erected a fifth seigniory. The entire boundary which they describe to be the strict legal boundary of Canada in 1763, 1774, and at this time, separates from Canada these seigniories.

1. The Madawaska seigniory, consisting of 279,000 acres, erected 25th November 1683.
2. The now extinct seigniory of Cloridon, of eight leagues frontage and eight leagues in depth on the River Restigouche.
3. Part of the Mitis seigniory, erected 6th May 1675.
4. The greater part of the Madapediac seigniory, erected 26th May 1694.
5. The Shoolbred seigniory, erected by the British Government 24th July 1788.

The boundary which is said to exclude these seigniories is described in that Imperial Act of 1774, the chief object of which was, to include within the limits of Canada all the French settlements.

I agree with Mr. Price in his opinion (27th January 1849), that "all the "possessions of the inhabitants of Canada at the conquest of 1759, that is, the "various concessions of fiefs or seigniories made by the Intendants and Governors "of Canada; the settlements and fishing establishments within the territory "called Canada, were then (Anno 1774) intended to be comprised within the "limits of the province of Quebec, and subject, in matters of controversy, to "be decided according to the laws and usages of Canada." I am, moreover, convinced that the limits described were sufficient to comprise and did comprise them.

The Commissioners add, "that they deem it their duty further to report, "that the line of division which the strict legal rights of the provinces, agree-"ably to the Proclamation and the Act of Parliament and Commissions, thus "demand, is at variance with the actual possessions of both provinces, and is "incompatible with their mutual advantage and convenience."

The proposal of the Commissioners, of a new boundary, I shall mention hereafter.

VI. Mr. Price, of Canada, delivered a counter-statement to the Report of the Commissioners. It is carefully written, and without exaggeration, and it is necessary for me to notice it but shortly.

He informs us that in the year 1828, Lord Dalhousie, then Governor-General of Canada, instructed certain Commissioners to examine the whole tract of country, from the head of the Metgermette branch of the River du Loup, to the sources of the River Ouelle, in order to ascertain if the dividing ridges could "be fairly designated highlands," and that they reported there were no continuous highlands on the line, such as are insisted on by New Brunswick, and that the southern highlands are continuous.

To these facts I do not attach importance. There are highlands consisting of mountain ranges and hills, "which may be fairly called highlands," meaning thereby, obvious to the sight; but there are highlands, properly so called, though to the sight they present no object of visible elevation, without artificial assistance, being mere elevations of land.

The southern range of highlands is distinct and visible as a mountain range, and may, on this account, have been chosen as a boundary, if, though not probable, it were known to be continuous (admitting, nevertheless, its misdescription, in connexion with certain rivers); but even had it not been lofty, hilly, or mountainous, the range might have been called highlands, for there may be no continuity of mountains or hills where there must be a continuity of highlands.

When, therefore, a mistake is attributed to Major Robinson and Captain Henderson, in describing the northern highlands to unite, on the west, with the southern highlands, an error is needlessly ascribed to those officers. They did

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not seek for what could "fairly be called highlands," but highlands only which might be mere elevations of land above a certain level.

Mr. Price objects to the northern range of highlands, as failing to answer the description they should fulfil. The Royal Commission of 1763 declares that after the due north line is drawn to the southern boundary of Canada, it shall proceed "northward by the said boundary, as far as the western extremity " of the Bay of Chaleurs." The line of northern highlands, as explored and laid down by the late Commissioners, instead of going "northward" from the termination of the due north line, along a southern boundary to the bay, as a simple diverging line would do, goes far to the north, above the latitude of the bay. Instead of proceeding to the western extremity of the bay, by the boundary of Canada, it is carried up by the Commissioners to within a few miles of Cape Chat, on the River St. Lawrence, to the district between the Rivers Metane and Chat, and then descends south by the Tracagadash mountains to the bay,—thus, in fact, by this line, from the north to the south, giving to New Brunswick a prolonged eastern boundary.

Again, another objection is, that a line coming from the north by the Tracagadash mountains, as shown in the map of the Commissioners, breaks into the line running " along the north coast of the Bay of Chaleurs," and thus more especially disturbs the given description, if such line along the coast were intended to have been continuous, with a line touching the western extremity of the bay on the south. Such proposed line, also, as I have already mentioned, would, on this eastern side of the due north line, exclude from Canada the former seigniory of Cloridon, the existing seigniory of Shoolbred, and parts of the seigniories of Mitis and Madapediac.

VII. After considering the above facts, I am of opinion,—

1. That the line of boundary intended to be described in the Proclamation of 1763, in the Imperial Act of 1774, and in the Treaty of 1783, was one and the same line of boundary, so far as the line of 1783 touches the territory in dispute.
2. That the southern highlands which are described as highlands dividing rivers flowing into the St. Lawrence from rivers flowing into the sea, were misdescribed, as a continuous line in respect of the rivers they were supposed to divide; but were not misdescribed, even in respect of the rivers they are declared to divide, if the description of them is confined to the western termination of this southern boundary of Canada.
3. That the British Government having insisted in its negotiations with the Government of the United States, that the range of elevated and mountain land, (formed on the west by highlands dividing a given class of rivers,) which extends after it passes the heads of such rivers to between the Great Falls of the St. John and the River Aroostook (on the west bank of the St. John), and from thence to the Bay of Chaleurs, to have been the boundary line of 1783, as far as the due north line from the St. Croix; and as such representation appears to have been perfectly accurate, such boundary line was also, under the Proclamation of 1763, and the Imperial Act of 1774, the southern boundary of Canada.
4. That such elevated mountain range of land, on the eastern side of the River St. John, extends from near the mouth of the Tobique River to the south side of the Bay of Chaleurs, forming the southern side of the basin of the Ristigouche River, and bounding the head waters of the Upsalquitch River.
5. That by the Treaty of Washington, signed 9th August, 1842, the entire southern portion of the basin of the Upper St. John, bounded on the north by the right bank of the River St. John, including the southern highlands, along which highlands the southern boundary of Canada (whether in the simple direction of a line or of a range of hills), would have passed under the terms used in 1763 and 1774, is transferred to the United States, and consequently the line of boundary of the United States, along the River St. Francis and the Upper St. John, becomes the present southern boundary of Canada, in place of the boundary formerly described.

6. That a due north line now drawn from the River St. Croix, to strike the present southern boundary of Canada on the River St. John, and thence north to the western extremity of the River Restigouche, and along that river to the Bay of Chaleurs, would include a larger territory than was intended to have been comprised within the boundary of Nova Scotia and New Brunswick, marked out in the Royal Commissions of 1763 and 1784.

VIII. According to the instructions given to the Commissioners, 2nd July, 1846, by the Right Hon. W. G. Gladstone, they were directed, if it were impossible to find a boundary line which could satisfy the strict legal claims of each province, to consider how a line could be drawn, combining the greatest amount of practical convenience to both provinces, with the least amount of practical inconvenience to either, adverting at the same time to such interests, if any such there were, as the empire at large might have in the adjustment of the question.

Though this second inquiry was only to be undertaken if the first were impossible, and though the Commissioners found the first possible, they very properly took the second into consideration.

To their conclusions on the first head of the inquiry I have expressed my dissent.

As respects imperial interests, the Commissioners say, "that there do not "appear to them to be any interests which the empire at large has, in the set- "tlement of the question."

I think this opinion is erroneous. Are there not important imperial interests connected with this district and the St. Lawrence? Is the navigation of that great inland sea without influence on the country which it borders, or on provincial interest, which the commerce of that river must control? Can the Imperial Government be unconcerned in the communication between that river and the American States to the south?

The chief subject for examination that remains is, what line of boundary it is at this time advisable to establish between the two provinces? It must be determined by the state of existing interests. In the letter attached to the Minutes of the Council of Canada, relating to the terms of this arbitration remitted to me, his Excellency the Right Hon. the Earl of Elgin and Kincardine expresses the expectation of the Executive Council of Canada, that we may arrive at a decision "which shall be equitable and satisfactory to the "people of both provinces."

In order to fulfil this honourable instruction, it becomes necessary to ascertain the concessions and settlements which have been made, and the extent of the jurisdiction that has been exercised.

The Restigouche.—It is admitted, in the official correspondence of the two provinces, that the received boundary on the east has hitherto been the River Restigouche; that the settlements on its northern bank have been French or Canadian, and that the settlements on the southern bank were made by the authority of the Government of Nova Scotia formerly, and of New Brunswick latterly.

As respects this river, how is it possible to deviate from the suggestion of the late Lord Metcalfe, made 2nd of January, 1845? Whatever opinion may be entertained in Canada of the part he took in the politics of that country, neither there nor elsewhere could any person impeach the nobleness of his private character, the manliness of his public actions, or that active sense of justice through which he reproachlessly lifted himself above the contests of party.

"I presume," said Lord Metcalfe, "that it may be considered as settled, "that what has hitherto been acknowledged to belong to Canada or New "Brunswick shall respectively remain so, and that the only difficulty will be "as to such portions of the territory as are claimed by both, without having "been understood as definitely annexed to either. Thus, the Restigouche "River, one side of which has been long occupied by Canada, and the other "by New Brunswick, may, I conclude, be regarded as the boundary from the "Bay of Chaleurs upwards towards its source until it divides disputed territory, "when the difficulty of adopting a conventional line will commence, and can "only be solved by mutual moderation in both provinces, or, failing of that,

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" by the decision of the Crown. In communicating these sentiments, I beg " that they may be considered as conveying only my individual opinions, " and not as the result of deliberation with the Executive Council of this " province."

As evidence of the jurisdiction exercised on the north and south banks of the River Restigouche, it appears that, in the year 1785, Letters Patent, under the Great Seal of the province of New Brunswick, were issued, describing the limits of a new county of Northumberland, thus: " Northumberland— " bounded southerly by the county of Westmorland; easterly, by the Gulf " of St. Lawrence and the Baie des Chaleurs; northerly, by the said bay and " the southern boundary of the province of Quebec; and westerly, by a con- " tinuation of the western boundary line of the said county of Westmorland." The county of York was at the same time declared to be bounded " on the " northward by the county of Westmorland, and on the north-west by the " province of Quebec."

There is no evidence of any jurisdiction having been exercised by the province of New Brunswick on the north side of the river.

The Canadian evidence relating to the Restigouche is confined to the north side of the river. In 1763, 1774, and also in 1784, the seigniory of Cloridon existed. It ran eight leagues fronting the river, commencing, on its eastern side, at the mouth of the River Porcépic, a tributary of the Restigouche, and extended eight leagues in depth. It was traversed by the important stream of the River Madapediac. In 1784, this seigniory was purchased by private parties from the heirs of one d'Eneau. In 1787, it was considered to be advisable, for certain public objects, that the Crown should exercise the "*droit de retrait*," and that it should be resumed as part of the public domains of the province. The instructions given at the time by Lieut.-Governor Hope (31st May, 1786) prove that there was no intention to extinguish the jurisdiction of the province of Canada over the district. Mr. Collins was informed by General Hope that, in order " to prevent difficulties arising by the jarring of the interests of indi- " viduals, it had lately been found expedient to assume for the King the " seigniories of Port Daniel and Restigouche, by the *droit de retrait*, from persons " who had offered the same for sale. As in using the right of *retrait* in this " instance there was no intention to deprive the proposed purchasers of any " advantages that might be derived therefrom, if not inconsistent with the " rights and privileges of the Indians or settlers in that quarter, I request you " will particularly examine into the consequences which might result from " privileges annexed to the said seigniories remaining possessed by individuals, " in order that, after the reservation of such thereof as might prove prejudicial " to the interests of the Indians and new settlers, or beneficial in any other " respect to the Government, the proposed purchasers may have an optional " preference in the acquisition of these seigniories if again to be disposed of."

Without criticising the legal proposition involved in the last sentence, it is clear that the jurisdiction of Canada over the district was to continue. The *droit de retrait* could only have been exercised on account of the seigniory being within the limits of the Government of Canada.

Again: in 1788, an Order of Council was made in Canada for a concession of land fronting the River Restigouche, for three miles to the west from the mouth of the River du Loup. In the same year letters patent were issued, erecting the seigniory of Shoolbred, situated on " the westernmost extremity " of Chaleurs Bay, and running up the River Restigouche about 15 miles to " the first point of land below Battery Point."

The River Restigouche, therefore, as part of the boundary between the two provinces, would not disturb existing settlements; and Mr. Wells reported, in 1844, that, on the northern side of the Restigouche, all the granted lands have been, and still are, held under the sole authority of the Government of Canada.

Madapediac Seigniory.—North of the River Restigouche is the seigniory of Madapediac. It is situated on the lake of that name, the waters of which flow by the course of the Madapediac River into the River Restigouche, by which it is connected with the Bay of Chaleurs. This seigniory connects the jurisdiction of Canada on the north-east with its jurisdiction on the Restigouche.

Lake Mitis.—Westward of the seigniory of Madapediac is the seigniory of

Lake Mitis, on the south-west of which is the great seigniory of Madawaska, or, as it was formerly written, Madoneska.

The Madawaska Settlements.—It is upon account of settlements made under the authority of the Government of New Brunswick, south of the Madawaska River, and from thence along the River St. John to the Great Falls, or rather to where the due north line strikes the American boundary, that the difficulties of this case arise.

I shall first mention the New Brunswick evidence in relation to them, and then the evidence on the part of Canada.

New Brunswick Evidence.—The chief settlements made under the authority of the Government of New Brunswick have been:—

1. East of the Grand River, on the north bank of the St. John, a grant was made to one Souci in the year 1794.
2. West of the same river a grant of 200 acres was made in 1794, and of 300 acres in 1826.
3. At Green River also, on the north bank of the St. John, concessions of 1,065 acres were made in 1794, and a little further west concessions of 4,261 acres were made in the year 1790.
4. At the Little Falls, near the mouth of the Madawaska River, a concession of 200 acres was made to Simon Hebert in the year 1825.
5. There were other lots conceded: July 17, 1789, of 200 acres, below the Madawaska; another, July 1, 1791; and other concessions made in the district in the years 1792, 1820, 1824, 1825, and 1826. I am not satisfied with the maps relative to these concessions, but whether there is any error in them is not now material.

I have no means of ascertaining under what law or what provincial regulations any of these concessions were made. There is a Minute of the Council of the province of New Brunswick cited, dated December 28, 1787, by which it was ordered that the inhabitants near Madawaska should be registered for their lots, conformably to a plan of that settlement this day exhibited by the surveyor.

I think the earliest settlements may be traced to Capt. Spronk, the surveyor of the province of New Brunswick, who appears to have interpreted highlands dividing the north and south-flowing rivers to the same effect as the Government of the United States, and to have applied the expressions to restrict the limits of Canada, though without any correct investigation of the facts. The only value to be given to a letter produced of this officer is to show the error he entertained, and also part of the facts connected with the origin of the present difficulty.

In 1828, on the trial of John Baker in New Brunswick, the Court held that it had actual jurisdiction within the district of Madawaska. The same opinion was asserted and upheld in the late case of Tibbets and others *versus* Allen.

Evidence on the part of Canada.—In 1784 an Indian was tried and convicted at Quebec, and afterwards suffered death for a murder committed at Madawaska. What are considered the limits of Madawaska beyond the seigniory and banks of the river, I am unable to explain, except according to a letter of the Right Hon. Sir G. Murray, hereafter quoted.

In 1790, in a cause tried before the Court of Common Pleas at Quebec, the defendants pleaded they were not within the jurisdiction. The question was raised if Madawaska and the Great Falls were within the province of Quebec. The defendants were ordered to plead to the merits of the action.

At the Little Falls the River Madawaska joins the River St. John, and at the head of the River Madawaska is the great fief or seigniory of Madawaska. It was constituted a seigniory in 1683; it extends over 279,400 acres, and the present title to it is traced to the original grant. In the statement made on the part of Great Britain in its negotiations with the United States, it was described "to have preserved its individuality under the original grant, and "constantly to have been and to be subject to the jurisdiction of Canada."

The claims of New Brunswick, however, would, if allowed, include this seigniory.

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In October, 1787, that is, the month before the date of the Minutes of the Council of New Brunswick, referred to above, were entered, the Committee of the Council of Quebec reported to the Governor-General, Lord Dorchester, "That if the province of New Brunswick may, of right, claim the sources of "rivers that take their rise in the height of land which divides the rivers that "empty themselves into the St. Lawrence from those which fall into the "Atlantic Ocean, the ancient limits of this Government will be curtailed "towards New Brunswick, and seigniories under Canadian grants, as far back "as the years 1623 and 1683, be taken into that province; besides the Acadians "already settled there above the Great Falls of St. John River, and such "people as may choose hereafter to settle there would be greatly incommoded, "if those parts shall be included in the province of New Brunswick." And the Committee added, "that they submitted to his Lordship whether it would "not be for the advantage of both Governments that the province of Quebec "be separated from that of New Brunswick by a line running along the high-"lands that extend from the head of Chaleurs Bay to the foot of the Great "Falls of St. John's River, and from thence, crossing the river (so as to include "the whole portage or carrying place), and continuing in a straight line towards "the sources of the River Chaudiere, which rise in the highlands that com-"mence at the said head of the Bay of Chaleurs, and extend all the way to the "westernmost head of the Connecticut River."

How easily the words of the Proclamation of 1763 were capable of being interpreted when unconnected with the confusion in which they were involved by the simple change made in the Act of 1774!

This proposal, which nearly repeated what appears, if my previous opinion is correct, to have been the original intention of the Government in its description of the boundary, probably was not acted on, lest it might have been inferred to extend unduly the northern boundary of Massachusetts.

In 1792 a petition was addressed to Sir Alured Clarke, the Lieutenant-Governor of Canada, setting forth that one Thomas Costin, calling himself a justice of the peace for the province of New Brunswick, had caused new officers of militia to be elected at Madawaska, by a majority of voices, at an assembly of the inhabitants; that one Robichand had been fined by Costin for seizing goods under a writ issued in the district of Quebec; and that Lieutenant Sir, of the militia, had been made a prisoner, and compelled to redeem his liberty by the payment of money. It was ordered (4 August, 1792) that the papers should be entered on the minutes, and copies transmitted to the Lieutenant-Governor of New Brunswick, for his co-operation in calling the attention of His Majesty's Ministers to the adjustment of the limits necessary to preserve public tranquillity on the borders of the province.

There then appears to be a long interval of time during which silence on this subject was observed in Canada, though from the dates of some of the New Brunswick concessions the ground of former complaints are shown to have continued to exist. There may be an explanation of this, and, perhaps, it may be that given in a letter of the Hon. D. B. Papineau. It is proper not to suggest matter which cannot affect our opinions, and, therefore, I do not state it.

There is one paper of a rather late date which has been commented on. It is a Despatch (8 April 1830) of the Right Hon. Sir G. Murray to General Sir James Kempt, and is as follows:—

"(Confidential.)

"SIR, "Downing-street, April 8, 1830.

"WITH reference to my Despatch of the 7th instant, 'confidential,' "transmitting the first statement on the part of Great Britain of the disputed "points under the fifth Article of the Treaty of Ghent, I have now the honour "to acquaint you, that in order that our conduct may be consistent with our "arguments, it is necessary that the province of Lower Canada should con-"tinue, without interruption, to exercise actual jurisdiction over the fief of "Madawaska. This fief covers the whole of the Temiscouta Lake, and nine "miles in length down the River Madawaska, which issues from that lake. The "province of New Brunswick, as proved on the trial of John Baker, exercises "actual jurisdiction over the Madawaska settlement; but this settlement

" extends along the main river St. John, both above and below the confluence " of the Madawaska River, and no jurisdiction appears to have been exercised " by New Brunswick on the Madawaska River above its mouth, where a grant " of land was made by the Government of that province to Simon Hebert, in " 1825. Under these circumstances, therefore, it is advisable for the Government " of Lower Canada to maintain and exercise its jurisdiction over the Lake " Temiscouta and the River Madawaska, quite down to the aforesaid grant to " Simon Hebert, at its mouth, which will include the whole fief of Madawaska; " and the Government of New Brunswick to maintain and exercise its juris- " diction, as heretofore, in other parts of the disputed territory, including the " Madawaska settlement on the main river, St. John, but not to extend it up " the River Madawaska. I have communicated corresponding instructions to " Mr. President Black, administering the Government of New Brunswick.

" I have, &c.,

" G. MURRAY."

The occasion of this interference is described in a laxity of tone which may be accounted for from the letter having been originally confidential. It was not written to settle or to appease the troubles of the two provinces. It is a very accurate statement of the actual condition of the settlements, and though written 20 years ago, we have this day to decide with information before us of the Madawaska settlements which does not add one material fact to those mentioned by Sir G. Murray. Simon Hebert's location, at the mouth of the Madawaska, is still so called, and from thence to the Great Falls are New Brunswick settlements, but from whence the settlers came, or by whom the concessions were made, or when the locations were assigned, it is only in a few instances (comparatively to what is represented to be the total number of settlers) we are informed. Nor is more precise information than that given by Sir G. Murray needed with respect to the fact of the actual settlements, though their history, and the authority under which they were made, might have been accurately investigated in New Brunswick, for the purpose of facilitating a decision respecting them.

I confine these remarks to the mere fact of existing settlements, and to what was known of them long since. The general question of the boundary of Canada is not in the same position as formerly, for in 1830 it was unknown what agreement might be made respecting it.

These are the only particulars relating to the origin of these settlements which it is necessary to notice.

The present state of the Settlements.—The Canadian authorities say, first, that the settlements on both banks of the River St. John, situate between the Grand Falls and the Little Falls, at the mouth of the Madawaska, commonly called " the Madawaska settlements," appear to be composed partly of Acadians and their descendants, and partly of Canadians, and formed, as early as the year 1781, the parish of Madawaska, served by Adrien Le Clerc, curé of Isle Verte. Secondly, that the settlements on both banks of the St. John, between the Little Falls at the mouth of the Madawaska and the River St. Francis, are chiefly Canadian, and form the Catholic parish of St. Basil. Thirdly, that the settlements on both banks of the River Madawaska, between the River St. John and the seigniory of Madawaska and Lake Temiscouata, are chiefly Canadian, with some Irish and Scotch emigrants. Military locations, also, were made here by the Canadian Government, in 1813, to disbanded non-commissioned officers and privates, some of whom are now residing on the land surveyed for them.

Lieutenant Simmons, R.E., writing in July, 1845, reports, " that the popu- " lation is settled in a narrow belt from one to three miles wide, on the left " bank of the St. John, and is tolerably dense from the Grand to the Little " Falls, comprising about 1,800 souls; thence up the Madawaska River to the " southern boundary of the seigniory of Lake Temiscouta, 14 miles, about 250 " souls, whence, northerly and westerly to Canada, the settlements are so " scattered and few that they are not worth considering; not exceeding, alto- " gether, 20 families."

Of a list of the names of 135 persons to whom Messrs. McLauchlan and Allen assigned locations when they surveyed the St. John and Madawaska

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Rivers, 85 are set down to be Canadian, or of Canadian origin, and 27 Acadians; or a total of 111, out of 135 persons, of French origin.

Of persons settled in the district, 593 have signed, or put their marks to an address, praying to be included within the limits of Canada. If Lieutenant Simmons is correct in stating the number of souls, the names of 593 men must comprise nearly the whole male population of all the settlements. On the other hand, it is asserted that many were ignorant of the contents of the paper to which their names were attached. Admitting, however, that the names alone are correctly given, it is certainly evident that the population has a nearer affinity to Canada than to New Brunswick. I could have desired some information of those persons whose names are appended to the address, and whose names indicate their British origin. I did intend to compare the names affixed to the address with the names given by Messrs. McLauchlan and Allen, but I put them aside, as the identity of persons could not be established by identity of names, and if any error were made, my opinions might be supposed to be connected with it.

It is remarkable that there is no evidence of any Canadian grants to Acadians settled above the Great Falls who were mentioned in the Report of the Committee of Council made to Lord Dorchester.

The Madawaska district must always have been known to be west of the due north line forming the western boundary of New Brunswick, and without the limits of that province; and the evidence given, so far as it extends, shows the far greater portion of the population to be of Canadian, Acadian, or French origin.

The St. Francis River.—On the St. Francis River, two concessions appear to have been made, in 1814, by the Government of Canada, with the sanction of that very eminent and most honourable Governor, Sir George Prevost.

The Survey of 1845.—It is now necessary to advert to a transaction of much singularity in every particular connected with it. Up to the year 1844, the Government of New Brunswick does not appear to have interfered in the Madawaska district farther to the west than the mouth of the Madawaska River, nor farther up that river than the concession of 1825 made to Simon Hebert.

In the year 1845, Messrs. McLauchlan and Allen were deputed to carry on surveys on the River St. John, and to set out allotments under the provincial Act of the Legislature of New Brunswick, passed in 1844 professedly to carry into effect the fourth Article of the Treaty of Washington. Under this provincial Act, these surveyors had no authority whatever on the Upper St. John. At the due north line from the St. Croix, the western jurisdiction of the Legislature of New Brunswick ceases. Beyond that point, these surveyors were without authority to make surveys, to examine into titles, or to set out a single allotment. The execution of any treaty, even if a provincial Legislature were authorized by the supreme Government to undertake it, could not be accomplished on the Upper St. John by the Government of New Brunswick under a provincial Act. But it is impossible to affect blindness to the purposes of the whole transaction, and they are too manifest to be concealed. What interest had New Brunswick in the execution of the fourth Article of the Treaty? What confirmation could the Treaty give to the New Brunswick settlements on the Madawaska? Were the locations of New Brunswick grants doubtful or unknown, and, if so, what words in any treaty could possibly remove such doubts, or give certainty to their locality? The old settlements to which New Brunswick asserted a title are between the Great and the Little Falls, and they do not extend up the Madawaska River, nor beyond the Little Falls on the west. The labours, therefore, of the surveyors, if needed, should have been confined to the district between the Great and the Little Falls. Their operations were, however, carried on along both sides of the Madawaska River, and from thence along the River St. John to the River St. Francis. Out of about 450 allotments mentioned in their Report and map, about 80 are set down between the Madawaska and the St. Francis. The only survey reported is that of 1845, and I am not informed if it was continued in any subsequent year. It was at once completed where the province of New Brunswick never, even irregularly, exercised jurisdiction; and it was left, in 1845, incomplete where such jurisdiction had been asserted. If convenience

were consulted, or if accident coincided with convenience in directing the course, or the line of the survey, they both coincided with provincial pretensions, which required some evidence to countenance their assertion west of the mouth of the River Madawaska.

These surveys, as evidence of any jurisdiction exercised by the province of New Brunswick in the district in which they were made, I set aside without any hesitation. Sir William Colebrooke stated, 26th April, 1846, that no grants had been made in respect of them.

IX. With these facts relating to the existing settlements before me, I proceed to examine the different proposals that have been made for the future boundary between the two provinces.

The first proposal on the part of New Brunswick was communicated by Sir W. G. Colebrooke, 13th January 1845.

"Whatever," stated Sir W. Colebrooke, "may originally have been the "claims of the two provinces to the intermediate territory, and which were so "long held in abeyance by the disputes with America, the question at present "resolves itself into one of possession. Ascending the Restigouche from the "Bay of Chaleurs, in a westerly direction, the settlements of Canada have pro-"gressively extended along the left bank as high as the Metapediac, where a "parish or township appears to have been formed in 1841; and the parishes "of New Brunswick, in like manner, have extended to the same distance along "the right bank. As far as this point, therefore, no material difficulty presents "itself. But a short distance above the junction of the Metapediac the Resti-"gouche changes its direction, and ascends to its source in a more southerly "direction, and the country watered by it, above the settlements I have men-"tioned, has hitherto been unoccupied except by a few settlers and lumberers "from this province. The same observation applies to the tributaries at "the Upper St. John, and the settlements formed on them have pro-"gressively extended from the main river on which the claims of the settlers "are secured by the Treaty of Washington. Even if considerations arising "from occupation and settlement of the territory watered by these waters did "not intervene, I should still be disposed to doubt the convenience of a "line of boundary carried to the source of the Ristigouche and extending "from thence westward. Such a circuitous and prolonged line would be "attended with much inconvenience to both provinces, without any cor-"responding advantages to either; and, adverting to the views of Her Majesty's "Government in the conventional settlement of the American boundary, by "the Treaty of Washington, it appears to me that the most direct line which "can be drawn from the junction of the American line on the St. Francis (a "tributary of the St. John) to the angle above the highest Canadian settle-"ments on the Restigouche, where the river changes its direction, would, at "once, be the shortest and most equitable division of the territory. Such a "line would obviate, as far as practicable, the inconvenience of a prolonged "river boundary, and without encroaching on any settlement formed on either "side. Giving to Canada the Lake Temiscouta, would, with this exception, "confirm to New Brunswick the possession of the St. John and its tributaries, "so far as they are not included in the concessions to America by the Treaty "of Washington."

There is an opinion expressed in this Despatch which is very erroneous. Whatever territory is within the bounds of either province is bound by the laws of the province irrespective of the Treaty of Washington. The Treaty, without the aid of an Imperial Act or of a provincial Act, could not have changed the rights of property, the interests of private persons in the settlements they had made, nor have secured or conferred rights to land. It determined the limits of one province consequentially, but, directly, it determined the limits between the United States and British possessions. Within our own limits it could of itself have no force in establishing or securing the claims of settlers or others. When a treaty disturbs private rights, or engages to give municipal rights to aliens, a special law is requisite to give to it effect. The language used in the Despatch implies that territory had been acquired under the Treaty, and then, if this were correct, the Article of the Treaty guaranteeing or securing to the subjects of each nation the estates they had previously acquired, would have applied, and a legislative measure would have been needed to con-

tinue to aliens the possessions within our acquired limits held by them; but this language, implying acquisition, is contradicted by the expressions in the same Despatch, of "confirming" to New Brunswick what had not been "conceded" to the United States; thus denying any acquisition. If there were no settlements within our limits made by the authority of the American Government, the Article of the Treaty referred to could have had no effect, or, rather, no application under it would have been made. It bound the good faith of the Government, if such settlements existed, to preserve the acquisitions of certain aliens. It respected the existing interests of our own subjects within our territories; no engagement with a foreign power was required, and it would have been absurd if it had been entered into. Such interests are secured under the protection of our own laws at all times, and they can obtain no confirmation by a treaty, for they exist, and are, and must be, respected independently of any foreign power with whom a treaty may be made.

The Treaty did not confirm to New Brunswick any territory, for its title must have had a previous existence in order to be confirmed, even if such confirmation under a treaty were possible. That it had no such previous title I have shown, and its non-existence is admitted by the Commissioners in a passage of their Report before cited. Nevertheless, the Legislature of New Brunswick acted on the error mentioned when it passed an Act to give effect to the Fourth Article of the Treaty of Washington. A misconception, uncorrected by the Governor of the province, prevailed in both Chambers of the provincial Parliament of the effect of a most important international act of the Supreme Government.

The objections to the proposal of Sir W. Colebrooke are:—

1. That the River Restigouche forms a natural boundary, easy to be ascertained, and is the great outlet to the sea of the produce of both provinces. Rivers have usually been preferred as lines of demarcation, and the River St. John is the boundary between Canada and the United States; and to the west, for an enormous distance, rivers and lakes divide the same countries. It would most seriously retard the improvement of the upper country if it were excluded by a provincial line from the river; but with so extensive an American water boundary the objection to the Restigouche loses all its force, if it had any, when applied to a boundary separating two provinces subject to the British Government.

   The proposed line would also intersect or cut many important tributaries of the St. John and Restigouche Rivers, leaving the upper streams within the province of Canada, and transferring their outlets to New Brunswick, besides excluding Canada from the main stream of the St. John.

   This line would also give territory to New Brunswick, over which it had no right, and had never exercised jurisdiction; transferring to it part of the county of Bonaventure, and on the west separating the seigniory of Madawaska, and placing it under laws incompatible with its tenure, besides depriving Canada of the district between Madawaska and the St. Francis River.

   This proposal is, therefore, clearly inadmissible, and Major Robinson and Captain Henderson state that, practically, there would be difficulty in marking out such a boundary.

2. The second proposal on the part of New Brunswick was made in July 1845, at Frederickton, by Mr. Street and Mr. Saunders, and was communicated to the Canadian Government through Mr. Draper and Mr. Papineau.

   It repeated the proposal of Sir W. Colebrooke, with an alteration by which the whole of the Temiscouta Lake should be left on the Canada side.

3. The third proposal was made at the same time with the last. It was this:—"The Restigouche River to be the boundary to the "mouth of the branch of that River, called the Tomkisnac; "thence up that branch to the fifth fork thereof; thence to run "in a direct course from the fork of the river, towards the angle

" of the River St. Francis, of the United States boundary, as " settled by the Treaty of Washington, until it intersects the " north-eastern boundary line of the Madawaska seigniory, so " called; thence following the boundary line of the said seigniory " south-easterly, south-westerly, and north-westerly, until it will " intersect the prolongation of a line on the first-mentioned " course, running from the said fork of the Tomkisnac River, and " thence along that line to the said angle of the United States " boundary on the River St. Francis."

The same objections apply to the last two proposals as to that one made through Sir W. Colebrooke. They all transfer to new Brunswick nearly the whole of the upper basin of the north side of the River St. John—exclude Canada from the bank of the main stream of the St. John, and take from it the territory on both sides of the Madawaska River, as well as that above the Madawaska River west and between this river and the River St. Francis.

There have been four proposals made on the part of the province of Canada.

1. (April 28, 1845.)—To prolong the due north line from the river St. Croix until it should strike the River Restigouche, which would in fact, as nearly as practicable, be the strict legal boundary of New Brunswick.
2. The proposal made in July 1845, by Mr. Draper and Mr. Papineau, at Fredericton, namely,—A line to be drawn from the mouth of the River Restigouche, following its different windings south-westerly, until it reaches the due north line, from the source of the River St. Croix, and thence in a direct course to the nearest angle of the Madawaska seigniory; thence to the River Madawaska, along the boundary of the seigniory; thence down the river to the river St. John, and the boundary of the United States: reserving a right to Canada to construct a railroad from the River St. John to the River Restigouche, through the territory to be acquired by New Brunswick, such railway to be under the control of Canada, in order to facilitate the conveyance of her products to the Bay of Chaleurs, without being subject to the internal regulations of the Government and Legislature of New Brunswick.
3. The proposal of Lord Metcalfe, (August 19, 1845,) who after alluding to the prolongation of the due north line, added: " As a " strict adherence to that line would deprive New Brunswick " of territory over which, under peculiar circumstances, she has " hitherto been allowed to exercise jurisdiction, Canada has " been willing to make a considerable concession to the west- " ward of that line, in order to produce an amicable agreement. " It has, therefore, been proposed, on the part of Canada, that " the River Madawaska, on the west, and the hitherto acknow- " ledged main stream of the Restigouche, on the north, and a " line drawn from the one to the other, should form the boundary " between the two provinces; by which arrangement the " Madawaska settlement, eastward of the Madawaska River, will " be left in possession of New Brunswick, and a large territory " permanently annexed to that province, which is claimed as " belonging to Canada. This arrangement may, I conceive, be " adopted without creating any insuperable discontent in Canada, " but this province, I fear, could not be reconciled to any further " alienation of what is considered to be Canadian territory. In " expressing the opinion that Canada might be reconciled to the " arrangement described, I am far from supposing it would " satisfy New Brunswick, the pretensions of that province ap- " pearing to me to extend beyond reasonable bounds."
4. The fourth proposal is contained in the counter-statement of Mr. Price, in reply to the proposal, hereafter mentioned, of the Commissioners, Major Robinson, Captain Henderson, and Mr. Johnstone. It is as follows:—" Commencing on the north bank of

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" the River St. John, at the mouth of the river commonly called " 'Madawaska;' thence running north-east, on a course parallel " with the line traced by the Commissioners of boundary, under " the Treaty of Washington, from the outlet of Lake Pohena- " gamook, to the north-east branch of the River St. John, until " intersected by that branch of the River Restigouche called the " Grand Fourche or Redgwicke, then to the middle of the chan- " nel of the said river, and then south-easterly down the middle " of the channel of the said river Redgewicke, to the middle of " the channel of the Restigouche River, then down the middle of " the said channel easterly to the mouth of the said river Ris- " tigouche, in the Bay of Chaleurs, and thence through the " middle of the Bay to the Gulf of St. Lawrence, giving to the " provinces of Canada and New Brunswick the islands in the " Rivers Redgewicke and Restigouche, nearest to the shores in " front of the said provinces."

This line of boundary I propose to adhere to; and I am of opinion that no claim on the part of the province of New Brunswick to a larger concession is sustained by any facts presented to my notice.

There is a non-official proposal of Lieut. Simmons, R.E. It is—A line drawn due east from the outlet of Lake Pohenagamook, on the American boundary, to strike the River Ristigouche.

No reasons for this proposal accompany it; but it was forwarded with some intelligent and instructive observations on this district of Canada. The objections to the line are similar to those already mentioned.

The proposal of Major Robinson, R.E, Capt. Henderson, R.E., and Mr. Johnson, is—" That New Brunswick shall be bounded on the west by the boun- " dary of the United States, as traced by the Commissioners of Boundary, under " the Treaty of Washington, dated August, 1842, from the source of the St. Croix " to the outlet of Lake Pohenagamook; thence north-easterly by the prolonga- " tion of the straight line which has been laid down on the ground as the boun- " dary of the United States, between the iron monument at the north-west branch " of the River St. John and the iron monument at the said outlet of Lake Pohena- " gamook, until the line so prolonged shall reach the parallel of 47° 50' of " North latitude, to that branch of the Restigouche River called the Redgewick " or Grand Fourche; then along the centre of its stream to the Restigouche " River; then down the centre of the stream of the Restigouche River to its " mouth in the Bay of Chaleurs; and then through the middle of that bay to " the Gulf of St. Lawrence; giving to New Brunswick the islands in the said " River Redgewick and Restigouche to its mouth at Dalhousie."

Having already shown how erroneous are the views entertained by the Commissioners of the principles on which their decision should have proceeded, I might, without impropriety, disregard what they state in favour of this line. They say, however, " This is a line which may be easily ascertained, defined, " and marked, with comparatively little expense, and with ease and certainty. " It gives to the provinces a convenient form, and confirms to each its posses- " sions and inhabitants; or, if there is any exception, it is too inconsiderable for " notice in determining a question of this nature, and in every particular, as far " as the knowledge and belief of the Commissioners extend, divides the territory " in dispute in the manner likely to be most beneficial as regards the provinces " comparatively, and as respects the interest and convenience of its inhabitants. " The territory lying west of the due north line, which the ancient boundary " leaves without the strict limits of either province, comprises 4,400 square " miles. Of these the proposed conventual line will give 2,300 square miles to " New Brunswick, and 2,100 square miles to Canada; and of that tract of " country lying to the north of the Ristigouche which lies within the limits of " New Brunswick, 2,660 square miles are assigned to Canada. The seigniories " of Temiscouta and Madawaska fall within the limits of New Brunswick, or " very principally. The Commissioners would have assigned them to Canada, " had it been possible to do so without much injury to the general arrangement. " They believe, however, that the inconvenience of separating them from " Canada is more nominal than real. The inhabitants are few, not exceeding " 20 families of poor humble settlers. The tenure of a large portion of these

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" seigniories has been changed to common socage by legislative enactments at " the instance of the owners; and it is believed that the proprietor, " , will be content with a similar change."

Private dealings with the Madawaska fief, or the acts private parties may possibly do in the management of their own property, I cannot notice. The conversion of the seignioral tenure into socage tenure must have been effected, not by legislative enactments at the instance of the owners, but by the owners acting on the legislative enactments of the Imperial Act of the 6 Geo. IV., c. 59, which especially and alone applies to land within the jurisdiction of Lower Canada. The Commissioners have cited the effect of a law, confined in its operation to Lower Canada, on the tenure of the property of the seigniory, and at the same time deny that the property is within the limits of Lower Canada.

I have already shown that the territory in question is within, and not without, the limits of Canada.

The proposed line confirms to New Brunswick infinitely more than its possessions and its inhabitants. That which is to the north of the Restigouche is within Canada. The important district on the west is also part of Canada. The apparent equal division that is proposed is fallacious. It assigns to New Brunswick almost the entire western side of the upper basin of the St. John; and, if Lord Ashburton was correctly informed, this upper basin is not fertile, with the exception of the Madawaska district. (Parl. Paper, p. 7, 1842.)*

The proposed boundary can hardly be thought to consult the convenience of the province of Canada. It is of the highest importance, even to Imperial interests, trade and navigation of the Upper St. John and of the State of Maine should be connected with the navigation of the St. Lawrence, and no attempt ought to be made to separate the communication of Canada with the River St. John by a provincial boundary.

The proposal of the Commissioners I regard to be impolitic and inequitable. I, therefore, feel that I am bound to adhere to the proposal, unless some similar one is suggested, made on the part of the Government of Canada through Mr. Price. It concedes as much as I think is required. The extent of the concession, which circumstances have rendered proper, for the purpose of establishing a cordial understanding between the two provinces, local authorities are more competent to comprehend than I can be. What has been offered will, I think, and it certainly ought, to satisfy the reasonable expectations of the people of New Brunswick, and to be regarded as a highly honourable proposal to remove existing difficulties.

There are two alterations I should suggest, if the arbitrators acting with me should adopt the proposal of the Government of Canada: instead of attempting to describe a line "parallel" to one at so great a distance as that referred to, it would be better to substitute a compass line. Secondly, I think Simon Hebert's concession, at its north-west angle, should be made the point of departure of the direct compass line.

It is desired that the land which may be included within the limits of New Brunswick may be declared, in the Act of the Imperial Parliament which will be necessary to carry into effect our award, to be held under the tenure of common socage. There can be no actual necessity for such a provision. All land falling within the limits of the province will become subject to its ordinary law relating to real property. An injustice might be done through our awards, if lands so included within the limits of New Brunswick were already charged or incumbered under the law of Lower Canada.

(Signed) THOMAS FALCONER.

3, Fig-tree Court, Temple,
December 26, 1850.

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* Parl. Paper, 1842, p. 7.—" Of the land likely to come to us by any practical settlement, nine-tenths of it are, from its position and quality, wholly worthless. It can support no population, it grows even little timber of value, and can be of no service but as a boundary, though from its desert nature an useful boundary for the two governments. In considering, on a map, a division of the territory in question, this remarkable circumstance must be kept in mind, that a division of acres by their number would be a very unequal division of their value. The southern portion of this territory, the Valley of Aristook, is represented to be one of the most beautiful and fertile tracts of land in this part of the continent, capable of the highest state of cultivation, and covered with fine timber, while the northern portion, with the exception of that small part comprised within the Madawaska settlement, is of the miserable description I have stated."—(Lord Ashburton, Parl. Papers, 1840, p. 7.)

CANADA.

No. 18.

No. 18.

COPY of a LETTER from T. FALCONER, Esq., to Earl GREY.

Wootton, Lymington, Hants,
May 5, 1851.

MY LORD,

DR. LUSHINGTON, it appears, has lost two of the papers; and I am, therefore, only enabled to send the enclosed as part of the papers alluded to in my letter of the 19th of April.

Page 37.

I have, &c.,
(Signed) T. FALCONER.

To the Right Hon. Earl Grey,
&c. &c. &c.

III.

NOTE upon the Discussion relating to the CANADA and NEW BRUNSWICK BOUNDARY, 2nd April 1851.

1. I SUGGESTED that the boundary line, described in the Proclamation of 1763, namely, the line passing "along the highlands which divide the rivers "that empty themselves into the River St. Lawrence from those which fall "into the sea, and also along the north coast of the Baie des Chaleurs and the "coast of the Gulf of St. Lawrence to Cape Rosieres," applied, on the west of such line, to highlands which divide the rivers answering the description on the western limit of the line, and did not necessarily imply "highlands" from the western extremity of the line continuously to the Baie des Chaleurs. This was not assented to: had it been, the words of the Imperial Act of 1774 might have been shown to be governed by this interpretation of the Proclamation.

2. I admitted that the Imperial Act of 1774 does not describe a line agreeing with the physical character of the country on the eastern extremity of the southern highlands, but suggested that, as the words of the Act of 1774 and of the Treaty of 1783 are the same in all material expressions, the solution of the doubts which affected the terms of the Treaty of 1783 should be followed so far as the Treaty of Washington might apply to the question: this was not assented to.

3. I held that the northern highlands, marked out by the Commissioners do not, on the eastern extremity of the line, comply either with the terms of the Proclamation of 1763 or of the Imperial Act of 1774.

4. It was agreed that a conventional line should be drawn.

5. If the Act of 1774 cannot, in consequence of the Treaty of Washington, be complied with—if the southern highlands are to be a guide—and if the boundary line of the Commissioners cannot be taken correctly to fulfil the words of the Act of 1774; if the northern highlands are to be a guide—and it is asked, what is the southern boundary line of Canada? the reply must be, that it is, necessarily, undefined.

6. If, then, there is no defined southern boundary line of Canada, the next consideration is, what parts of the territory in dispute may be assumed to be parts of Canada irrespective of any legally-defined southern boundary?

I consider that all seigniories are to be assumed to be distinctly portions of Canada; such as the seigniory of Madawaska and the seigniory of Shoolbred, and also the territory within the extinct seigniory of Cloridon.

Whatever interpretation may be given to the Act of 1774, it cannot be said, even by implication, to have been designed to deprive Canada of any of its seignories. We ought not, therefore, to draw any line of boundary which shall take from Canada any portion of territory which has been defined as seignories to be within the jurisdiction of its government.

The settlements of New Brunswick, to the west of the due north line from the River St. Croix, are distinctly beyond any presumable limits of the province of New Brunswick. We pass the well-marked limit of this due north line in proposing a new boundary, merely because there is a desire in both provinces to respect these settlements, extending from the Great Falls of the River St. John to the mouth of the Madawaska River, though illegally made. We propose to assign to New Brunswick territory including these settlements; but this is no valid reason why we should interfere with the defined limits of seigniories, the settlements within which have not occasioned any provincial differences.

By setting aside the northern highlands of the Commissioners as a boundary, the seigniory of Madawaska, simply as a seigniory, remains a defined portion of Canada. It cannot be said to be without the legal limits of the province, though the general provincial limits may be uncertain.

In any apportionment of territory west of the due north line, the seigniory of Madawaska should, therefore, be left undisturbed, and remain excluded from consideration as part of a disputed district.

7. If we draw a line favourable to New Brunswick from the mouth of the Madawaska River, so as to include its Madawaska settlements, what remains, excluding from consideration the seigniory of Madawaska, which can be assigned to Canada? Merely the block of land bounded by the seigniory and the River Madawaska on the east, and by the River St. John on the south. If this block of land is not confirmed to Canada, there will be assigned to New Brunswick the whole of the district really in dispute west of the due north line, though this district is confessedly, throughout its whole extent, beyond the legal limits of the province of New Brunswick, and its settlements in Madawaska are admitted to have been encroachments.

For these reasons the two lines proposed by Dr. Twiss are objectionable: the one passing through the water communication of the Madawaska seigniory, and depriving Canada of a large portion of this seigniory; and the other, simply assigning to Canada the land above, a line drawn from the outlet of Lake Poheganamook to the boundary of the seigniory.

8. The claim of New Brunswick to any territory east of the due north line from the River St. Croix, and north of the River Restigouche, is of a very late date indeed. The River Ristigouche has, from the year 1763 until within a very few years—I believe until the late survey was made—been regarded, without any dispute, to be a portion of the boundary between the two provinces.

On the north side of this river was the extinct seigniory of Cloridon, and there still exists the seigniory of Shoolbred. This latter seigniory was erected by the British Government since the Conquest, and the Crown could not have erected it subject to the incidents of the French tenure of land, unless it had been within the limits of Canada.

By a provincial Act of the Legislature of Canada, 9 Geo. IV., c. 73, the county of Bonaventure was declared to be "bounded on the east, and the "north by the county of Gaspé, and to consist of such part of the inferior "district of Gaspé as is included between the said county of Gaspé and the "district of Quebec, including all the islands in front thereof, in whole or in "part, nearest to the said county; which county, so bounded, comprises the "seigniory of Shoolbred, the Indian village, or mission, and the settlements "above and below the same, on the north side of the River Restigouche, the "townships and settlements of Carlton, Maria, Richmond, Hamilton, including "Bonaventure, Cox, including the town of New Carlisle, Hope, including "Paspediac, La Nouvelle, and Port Daniel."

Mr. Bouchette, the surveyor of the province, in his "Account of Canada," states the following rivers to be within the limits of this county:—

Restigouche.	Seminac.
Metapediac.	Mistone.
Great Cascapediac.	Gadnamgoushet.
Little Cascapediac.	Goummitz.
Bonaventure.	Piscudy.
Great Nouvelle.	Wembrook.
Little Nouvelle.	Great Wagansis.
East Nouvelle.	Little Wagansis.

This county returns one member to the provincial Legislature of Canada.

By the Imperial Act of the 3rd and 4th Vic. (1840) c. 35, sec. 18, it is enacted, "that every county which before and at the time of the passing of the "said Act, intituled 'An Act to make temporary provision for the Govern-"'ment of Lower Canada,' was entitled to be represented in the Assembly of "the province of Lower Canada, except the counties of Montgomery, Orleans, "L'Assumption, Las Chesnage, L'Acadie, Laprairie, Dorchester, and Beauce, "hereinafter mentioned, shall be represented by one member in the Legis-"lative Assembly of the province of Canada."

CANADA.

And by the 26th section of the same Act, it is enacted, " That it shall be " lawful for the Legislature of the province of Canada, by an Act or Acts to be " hereafter passed, to alter the divisions and extent of the several counties, " ridings, cities, or towns, which shall be represented in the Legislative As- " sembly of the province of Canada, and to establish new and other divisions " of the same, and to alter the apportionment of representatives to be chosen in " and for those parts of the province of Canada which now constitute the said " provinces of Upper and Lower Canada respectively, and in and for the " several counties, ridings, and towns of the same."

The effect of this section of the Imperial Act appears to be, to give to the Legislature of Canada jurisdiction over the whole district, constituting the county of Bonaventure, as described in the provincial Act.

I may take this opportunity of saying, that I have probably assumed a wrong view of the expression of the Commissioners, that " no imperial interests were " involved in the settlement of this question." It may be presumed their remark was confined to military considerations.

THOMAS FALCONER,

3, Fig-tree Court, Temple,
April 4, 1851.

III.

THE principle respecting existing possessions was recognised in the case of Penn *v.* Baltimore, in the year 1750, a case which Lord Hardwicke described as " involving the right and boundaries of two great provincial governments " and three counties, and to have been worthy of the judicature of a Roman " Senate rather than of a single judge." * * * " I am of opinion," said Lord Hardwicke, " that full and actual possession is sufficient title to maintain a suit " for settling boundaries; a strict title is never entered into in cases of this " kind, neither ought it." * * * " In cases of this kind, of two great " territories held by the Crown, I will say once for all, that long possession " and cultivating countries is one of the best evidences of title to lands or " district of lands of America that can be, and so have I thought in all cases " since I have served the Crown; for the great beneficial advantages arising to " the Crown from settling, &c., is, that the navigation and commerce of this " country is thereby improved, These persons, therefore, who make these " settlements, ought to be protected in their possession as far as law and equity " can," &c.

THOMAS FALCONER.

IV.

PROPOSAL of April 14, 1851.

THAT New Brunswick shall be bounded by a line drawn due north from the River St. John to the south-west corner of the Concession of Simon Erard, on the eastern side of the mouth of the River Madawaska, and prolonged to the parallel of latitude of 47° 50′. Hence along that parallel of latitude to the branch of the River Restigouche, called the Redgewick, or Grand Fourche. Hence along the centre of its stream to the Restigouche River; thence along the centre of the stream of the Restigouche River to its mouth in the Bay of Chaleurs; and thence through the middle of that bay to the Gulf of the St. Lawrence, giving to the provinces of Canada and New Brunswick, respectively, the islands in the River Redgewick and the River Restigouche in part, or in whole, nearest to the banks within the aforesaid boundary.

THOMAS FALCONER.

No. 19.

No. 19.

COPY of a LETTER from Dr. TRAVERS TWISS to Earl GREY.

MY LORD, Doctors Commons, June 19, 1851.

I BEG to acknowledge the receipt of a communication from Mr. Merivale, enclosing, by direction of your Lordship, a copy of " certain notes received from Mr. Falconer, respecting the question of the boundary line between Canada and New Brunswick, and a copy of which notes has also been sent to the Right Honourable Dr. Lushington."

As it appears to me that Mr. Falconer's notes by themselves would furnish to your Lordship but an imperfect view of the difficulties which the question of boundary gave rise to in the judgment of his colleagues in the arbitration, I beg to present to your Lordship, with the assent of the Right Hon. Dr. Lushington, a copy of the proposal submitted by myself to the consideration of the arbitrators. That proposal contains the original view, which I was led to form after a careful examination of the documents and maps transmitted on behalf of the two provinces from the Colonial Office, and before the arbitrators met to discuss the question.

I beg likewise to present to your Lordship a note upon the discussion of April 2, 1851, which may serve to elucidate more fully the two alternative lines of boundary, which I suggested in the course of that discussion, and to which Mr. Falconer alludes in his note No. 3, as appearing to him to be objectionable for certain reasons.

Your Lordship will thus be placed in possession of the views of the arbitrator appointed on behalf of the province of New Brunswick, by the side of the opinion of the arbitrator on behalf of the Province of Canada, and will be enabled to appreciate the concessions, which have been made on either side, in order to promote an arrangement of the question.

With regard to the boundary line, upon which the Right Hon. Dr. Lushington and myself ultimately agreed to report to your Lordship, it would have been to myself a subject of much satisfaction if Mr. Falconer could have acceded to our decision. As the reasons of Mr. Falconer for withholding his assent have been stated by himself to your Lordship, I forbear to allude to them further than to observe that they received, in the course of the discussion, the fullest consideration.

I have, &c.,

The Right Hon. Earl Grey, (Signed) TRAVERS TWISS.
&c. &c. &c.

PROPOSAL for an arrangement of the boundary between the provinces of Canada and New Brunswick, submitted on the part of Dr. Travers Twiss, the arbitrator nominated by his Excellency Sir E. W. Head, Bart., Lieut.-Governor of New Brunswick, with the advice of the Executive Council of that province.

THE undersigned, in submitting a proposal for an arrangement of the boundary between the provinces of New-Brunswick and Canada to the consideration of his colleagues in the arbitration, thinks that it may conduce to the more speedy settlement of the subject of the arbitration if he should prefix to it a statement of the grounds on which he has been led to make the proposal. He begs, therefore, to lay before them, at some length, the view of the subject which he has formed after a careful examination of the data at his command.

It appears from the Despatch of Earl Grey to the Earl of Elgin and Kincardine, dated Downing-street, June 27, 1850, No. 507, that the duty of the arbitrators upon the question of boundary between the provinces of New Brunswick and Canada is, "to report to Her Majesty's Government, and in that report to point out the line which they consider the most convenient, and the most equitable, without being tied to the mere interpretation of the law as it stands." It thus becomes necessary to consider the questions of fact, which will determine the convenience of a given boundary, in conjunction with the questions of fact which will determine the equity of a given boundary, and by the union of these two considerations, to satisfy the object of the arbitration.

The question of equity claims precedence with reason over the question of convenience, as the maintenance of a *de facto* order of things may be involved in the former question, whilst the latter mainly relates to the effect of future arrangements; but in order to determine the question of equity, it will be necessary to ascertain, if possible, the question of strict right, from which to measure the equity, and the question of right involves a question of law. The law, therefore, which gives rise to rights on behalf of either province must be in the first place ascertained.

The question, then, being a question between two provinces, subject to one and the same sovereign, the rights of each province must rest upon the law of that sovereign, not upon those rules which determine the reciprocal rights of independent sovereign states. Hence use and occupation, which are acts that presume sovereignty, and may establish a title as between the claims of contending sovereign powers, do not serve for any such purpose between provinces which are subject to a common sovereign. Again, treaties and conventions between the common sovereign and other sovereign powers, which serve to establish the boundaries of his territory, as against a foreign sovereign, afford no positive argument as to the subdivision of that territory, excepting so far as they incidentally supply historical evidence of facts, like other documents.

The provinces in question being thus municipal divisions of territory instituted by a common sovereign, it becomes necessary to refer to the acts of that Sovereign, in order to ascertain their respective limits. Those acts in regard to Canada, consist of a proclamation of the Crown in 1763, declaring the boundaries of the Government of Quebec, and an Act of the Imperial

Parliament of 1774 (14 Geo. III., cap. 83), enacted expressly to remedy the defects and inconveniences of the proclamation. In regard to New Brunswick, they consist of a Royal Commission to Montague Wilmot, Esq., Governor of Nova Scotia, in 1763, and a Royal Commission in 1784, to the Governor of New Brunswick, upon the subdivision of the ancient provinces of Nova Scotia, and the erection of New Brunswick out of it.

In 1763, the British Crown became sovereign, by conquest or cession, of all the territories of the French king, on the western side of the River Mississippi. Those territories had been at one time designated by the common name of New France, as distinguished from Louisiana, and the boundaries of French Canada, a territory of New France, had been the subject of various treaties and consequent discussions between the French and British Crowns, antecedently to the total cession of the country to Great Britain, by the Treaty of Paris in 1763. By the 4th article of that Treaty, the Most Christian King renounced all pretensions to Nova Scotia, or Acadia, and guaranteed it with its dependencies to the King of Great Britain. His Most Christian King further ceded and guaranteed in full property, "Canada with all its dependencies, as well as the isle of Cape Breton, and all the other isles and coasts in the Gulf and River of St. Lawrence;" and by the 7th Article, it was agreed that the limits of the French and British territories on the continent of America, should be the River Mississippi from its source to the sea. No light is thrown upon the subject by the language of this treaty, further than the inference, that certain coasts in the Gulf of the St. Lawrence were regarded as not forming part of the French province of Canada, or of the French province of Nova Scotia or Acadia, being enumerated and ceded to the British Crown, apart from either.

The object of the Acts of the British Crown in 1763 was to constitute a legal order of things with regard to the boundaries of its newly acquired territory, as the international limits of former days between the French and British provinces, if they had in any way been maintained down to 1763, had become obliterated under the sceptre of a common sovereign. But those international limits had always been a subject of dispute, and the ancient limits of Acadia had not been agreed upon between the two Crowns, when the hostilities broke out which led to the conquest of Quebec and the treaty of Paris. It thus becomes useless to refer to the earlier treaties between the French and the British Crowns, as they had never received a definite interpretation. Besides the object of the present inquiry is not to determine the boundaries of Nova Scotia as granted to the Earl of Stirling in 1621 by King James I., or the boundaries of Nova Scotia as identified with or distinguished from Acadia, or the limits of the British province of Nova Scotia as against the French province of Canada, but the limits of the British province of New Brunswick, erected in 1784 by the British Crown out of the British province of Nova Scotia, constituted by the British Crown in 1763, as contradistinguished from the British province of Canada, erected by the British Crown in 1763 out of the territory newly acquired by the British from the French Crown by the treaty of Paris.

In regard, then, to Canada, a proclamation was issued by the Crown immediately upon the conclusion of the treaty of Paris, defining the limits of the government of Quebec in these words (7th October, 1763) :—

"The Government of Quebec is bounded on the Labrador coast by the River St. John, and from thence by a line drawn from the head of that river through the Lake St. John to the south end of the Lake Nipissim, from whence the said line, crossing the River St. Lawrence and the Lake Champlain in 45° north latitude, passes along the highlands which divide the rivers that empty themselves into the said River St. Lawrence from those which fall into the sea, and also along the north coast of the Bay of Chaleurs, and the coast of the Gulf of St. Lawrence to Cape Rosier, and from thence crossing the mouth of the River St. Lawrence by the west end of the island of Anticosti, terminates at the aforesaid River St. John."

In the following month of the said year a Commission was issued by the Crown to Montague Wilmot, Esq., as Governor of Nova Scotia, dated 21st November, 1763, and in this Commission the boundaries of Nova Scotia are thus defined:—

"To the northward our said province (Nova Scotia) shall be bounded by the southern boundary of our province of Quebec, as far as the western extremity of the Bay des Chaleurs, to the eastward by the said bay and the Gulf of St. Lawrence, and to the westward, although our said province hath anciently extended and doth of right extend as far as the River Pentagoet or Penobscot; it shall be bounded by a line drawn from Cape Sable across the entrance of the Bay of Fundy to the mouth of the River St. Croix, by the said river to its source, and by a line drawn due north from thence to the southern boundary of our colony of Quebec."

It is obvious from the terms of this Commission, that its object was to limit not to extend the heretofore boundaries of Nova Scotia to the westward. To travel therefore out of the four corners of this Commission into antecedent Commissions, which may have assigned a more extensive circumscription to this province, would be to defeat its express object. In an analogous manner to travel out of the terms of the proclamation of 7th October, 1763, in order to determine the limits of Canada, would be to raise an issue which would frustrate the effect of that proclamation.

It would thus appear that the British province of Nova Scotia, and the British Government of Quebec, were conterminous as far westward as a line drawn due north from the source of the St. Croix River, beyond which the boundary of the Government of Quebec was continued along the watershed, which divides streams running into the St. Lawrence from those which fall into the sea. The mutual boundary to the eastward of the due north line was "a line from the Bay of Chaleurs along the highlands, which divide the rivers that empty themselves into the St. Lawrence from those which fall into the sea."

It remains to be seen whether the respective territorial circumscriptions of the two provinces have undergone any modifications from competent authority, and in what respect the boundary of the province of New Brunswick is determinable or not from these instruments.

It appears from an Act of Parliament, known as the Quebec Act (14 Geo. III., cap. 83), passed in 1774, by which the boundaries of the province of Quebec were defined in detail, and certain territories, islands, and countries were annexed to and made part and parcel of it, that the province of Quebec was described as "bounded on the south by a line from the Bay of Chaleurs along the highlands which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the sea, to a point in 45° north latitude on the eastern bank of the Lake Champlain."

The southern boundary therefore of the province of Quebec was thus substantially the same with the southern boundary of the government of Quebec; and as this boundary was now established by an Act of Parliament, no subsequent commission or proclamation of the Crown could affect it. There can therefore be no legal doubt that the boundary of the province of Quebec is to be gathered from the words of this Act of Parliament, there being no subsequent Act of the Legislature which has modified it.

Ten years subsequently the province of Nova Scotia underwent a modification, and the province of New Brunswick was erected out of it by a Royal Commission in the year 1784. It appears that this new province was described henceforth in the Commissions issued to its Governors as "bounded on the westward by the mouth of the River St. Croix, by the said river to its source, and by a line drawn due north from thence to the southern boundary of our province of Quebec; to the northward by the said boundary as far as the western extremity of the Bay des Chaleurs, to the eastward by the said bay and the Gulf of St. Lawrence to the bay called Bay Verte, &c."

No alteration has been made in the territorial circumscription of this province, as far as the language of legal instruments can throw light upon it, further than that the disruption of the British provinces of North America, west of the St. Croix River from the mother-country, has necessarily led to the geographical determination by actual survey of the mouth and the source of the St. Croix River, in accordance with treaty arrangements between the United States of North America and Great Britain.

It may be convenient, perhaps, at once to dispose of this part of the question, as any cession of territory on the part of the British Crown to a foreign power for the purpose of international boundary, abrogates at once all provincial rights or claims in regard to that territory.

By the Treaty of 1783 it was agreed between Great Britain and the United States of America that the following are and shall be their boundaries, viz., "From the north-west angle of Nova Scotia, viz., that angle which is formed by a line drawn due north from the source of 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."

This Treaty, it may be observed, was concluded in the year preceding the erection of the province of New Brunswick out of the province of Nova Scotia. The definition, therefore, which it contains, of the north-west angle of Nova Scotia, would apply, after 1784, to the north-west angle of New Brunswick.

The boundary of the United States, from the aforesaid north-west angle, was continued "east by a line to be drawn along the middle of the River St. Croix, from its mouth in the Bay of Fundy to its source, and from its source directly north to the aforesaid highlands, which divide the rivers that fall into the Atlantic Ocean from those which fall into the River St. Lawrence."

The boundary of Nova Scotia would thus appear to have undergone no alteration by the Treaty arrangements with the United States, from what it was defined to be in the Royal Commission granted to Governor Wilmot in 1763, and New Brunswick would be entitled to all the rights of Nova Scotia.

It seems, however, that certain doubts arose as to the river which was truly intended in the Treaty of 1783, under the name of the River St. Croix, and Commissioners were thereupon appointed on behalf of the United States and of Great Britain to decide this question.

It would appear that, in the original letters patent to Sir W. Alexander, the western branch of the St. Croix is expressly named as the boundary of the province of Nova Scotia. The words of the patent are, "Ad fluvium vulgo nomine Sanctæ Crucis appellatum, ed ad scaturiginem remotissimam, sive fontem ex occidentali parte ejusdem, qui se primum prædicto fluvio immiscet, unde per imaginariam directam lineam quæ pergere per terram seu currere versus septentionem concipietur, ad proximum navium stationem, fluvium, vel scaturiginem in magno fluvio de Canada sese exonerantem, et ab eo pergendo versus orientem per maris oras littorales ejusdem fluvii de Canada, ad fluvium, stationem navium, portum, aut littus communiter nomine de Gachepe vel Gaspé notum et appellatum," &c.

According to this instrument the westernmost limit of Nova Scotia was originally the River St. Croix, from its mouth to its westernmost source. Whereas in the Commission granted to Montague Wilmot in 1763, Nova Scotia is said to have anciently extended, and doth of right extend, as far as the River Pantagoet or Penobscot. It would thus appear that the original letters patent of Sir W. Alexander (10th September 1621) had been somehow or other* superseded by an extension of the western boundary of Nova Scotia beyond the westernmost source of the St. Croix to the River Pentagoet or Penobscot. The original letters patent may accordingly be discarded. Further, as the object of Governor Wilmot's Commission was to restrict the western limits of Nova Scotia, it is unnecessary to travel out of it to determine

* The grant from Cromwell to Sir Charles St. Stephen and others (9 August 1656), "of the country and territory called Acadia, and part of the country called Nova Scotia," recites, "*et de là*," i. e., le fort St. Jean, "rangeant toute la côte jusqu'à Pentagoet et la rivière St. George dans Missourus, situé sur les confins de la Nouvelle Angleterre," &c.

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what was the western boundary of the original grant, the real problem before us being the western boundary under the Commission of 1784, formed by the River St. Croix and the due north line from its source.

Now it may be assumed that the true source of the St. Croix River, or the headspring most distant from the Bay of Fundy, will best satisfy the terms of the Commission. In the earlier letters patent "the most remote source" had a specific signification attached to it from its equivalent, "the western spring which first mingles itself with the river," so that it was necessary that a given headspring should satisfy the condition of being the most remote source westwardly; in other words, should either be the most westward of the springs which first mingle themselves with the river, or be the most remote from the Bay of Fundy, and at the same time the most westward of the headsprings which could be regarded as sources. In the later Commission, however, with which we are now concerned, the source of the River St. Croix, whatever be its true source, is the point of departure for the due north line.

The Treaty of 1783 rendered it necessary to determine this point physically. Doubts seem to have arisen subsequently to this Treaty as to the river itself, which was intended to be described under the name of St. Croix. The Commissioners who were appointed to decide this question, in accordance with the Convention of 1794 (Jay's Treaty), decided, in the first place, by a majority of two to one, that the River Schoodie was the River St. Croix, intended in the Treaty of 1783, and that the western branch of that river was the trunk and main branch; but this Report was not accepted as final; and there is some uncertainty as to the grounds upon which the final Report of the Commissioners was made, which established the River Schoodie, and its northern branch to its source, to be the River St. Croix, as intended by the Treaty of 1783. It is immaterial, however, whether this was a line settled by way of accommodation or judicially determined according to the Convention of 1794, inasmuch as the settlement received the full concurrence of both parties, and the doubts which rested on the Treaty of 1783 were thereby removed, that Treaty being the formal instrument which settled the boundary between the United States of America and the possessions of the British Crown in North America.

It would thus appear that the north-west angle of Nova Scotia was defined in the Treaty of 1783 to be "that angle which is formed by a line drawn due north, from the source of St. Croix River to the highlands," which divide those rivers that empty themselves into the St. Lawrence from those which fall into the Atlantic Ocean; and that it was determined in 1789 that the source of the St. Croix was the northernmost source of the Schoodie River, described in some maps as the Chiputnaticook River.

The Royal Commission, therefore, of 1784, which erected the province of New Brunswick out of the province of Nova Scotia, and defined it as "bounded westward by the mouth of the river St. Croix, by the said river to its source, and by a line drawn due north from thence to the southern boundary of our province of Quebec," must evidently be construed in subordination to the treaty of 1783, which had ceded in the previous year the country westward of the St. Croix to its source, and thence westward of the due north line to the United States.

The interpretation of the treaty of 1783, although only finally settled in 1798, had a retrospective effect, and the Commission in 1784, as well as the subsequent Commissions, must be held to deal only with the territory which the Crown had not already ceded in 1783.

It results from these and other obvious considerations, that the legal boundary of the province of New Brunswick, westwardly, must be held to be the river St. Croix and its northernmost source, and thence a straight line drawn due north to the point where it meets the southern boundary of the province of Quebec.

It remains, then, that the southern boundary of the province of Quebec should be determined.

Now the boundaries of the province of Quebec, as settled by 14 Geo. III., cap. 83, are as follows:—"All the territories, islands, and countries in North America, belonging to the Crown of Great Britain, bounded on the south by a line from the bay of Chaleurs, along the highlands, which divide the rivers that empty themselves into the river St. Lawrence from those which fall into the sea, to a point in 45° N.L. on the eastern bank of the river Connecticut, keeping the said latitude directly west through the lake Champlain, until in the same latitude it meets the river St. Lawrence."

It is obvious, on examining the various maps which have been submitted to the arbitrators, that the point upon the bay of Chaleurs, from which this line was intended to commence, must be a point somewhere to the north of the mouth of the river Restigouche, as that river falls into the sea and not into the river St. Lawrence.

In the map of Canada and the northern part of Louisiana, published by Thomas Jefferys, geographer to His Royal Highness the Prince of Wales, in 1760, in his history of the French dominions in North and South America, and dedicated to Brigadier-General Townshend, the captor of Quebec, five years subsequently to Mitchell's map, and the French map annexed to the "Mémoires des Commissaires du Roi," the Restigouche river is marked down by name as emptying itself into the Bay of Chaleurs, after pursuing a due east course from the southern base of the "Mammelles du Matane," which are represented as highlands throwing off from their northern slope waters emptying themselves into the River St. Lawrence.

In the same work of Jeffery's is to be found "a new map of Nova Scotia and Cape Breton, with the adjacent parts of New England and Canada, composed from a great number of actual surveys and other materials, regulated by many new astronomical observations of the longitude and latitude." In this map the Restigouche is represented as rising at the foot of a range of mountains, marked as Monts Notre Dame, of which the Mammelles de Matane are represented as a spur running northward, and are described in the text as "a double-headed mountain on the southern shore of the River St. Lawrence, about two leagues within land."

After pursuing a course nearly due east, the Restigouche is laid down as emptying itself into the Bay des Chaleurs. The range of mountains eastward, marked as Albany or Notre Dame mountains, are represented to become trifurcated in the peninsula of Gaspé, and their southern fork appears to abut on the northern shore of the Bay des Chaleurs.

Now the work of Jeffery's, to which reference has been made, is a work upon which some reliance may be justly placed. It was prepared by the geographer to the Prince of Wales; it was dedicated to General Townshend, as the person who had subjected the French possessions in North America to the dominion of Great Britain, and it is stated to have been compiled from the best and most recent accounts of the country. Further, upon examination the maps will be found to be far more accurate than any previously published by French authorities. If, therefore, it were necessary to have recourse to any map of that period for the purpose of determining the physical land-marks which correspond to the provisions of the proclamation of 1763, and the Act of Parliament of 1774, it would seem reasonable to have recourse to Jeffery's work, as indicating the state of geographical knowledge at that time possessed by the British authorities.

It appears further from the last and most accurate survey, completed by Major Henderson, R.E., Captain Robinson, R.E., and Mr. Johnstone, that in pursuing a course eastwardly from the embouchure of the river Restigouche, along the northern shore of the Bay of Chaleurs, we arrive at a well-defined point, where highlands rise up at once from the shores of the bay, at no great distance from the embouchure of the river. These highlands are designated as the Tragedicgash mountains, and are described in the report of the survey just alluded to, as "very remarkable highlands at the north-west extremity of the Bay of Chaleurs (upwards of 1,000 feet in height.)"

If the course of these highlands inland is pursued, they are found to constitute the watershed which turns off down its southern flank waters flowing into the Restigouche river, which empties itself into the sea. There can, therefore, be no doubt that a line drawn from this point of departure from the coast of the Bay des Chaleurs, so far satisfies the description of a line from the Bay of Chaleurs, along the highlands, which divide the rivers that empty themselves into the river St. Lawrence from those which fall into the sea.

It remains to be seen whether there are any other highlands which will satisfy the double condition of resting upon the Bay of Chaleurs and forming a watershed. But the inquiry is rendered unnecessary, on the present occasion, as the object being to ascertain the special boundary of the province of Quebec, in reference to the province of New Brunswick, the Commission to Governor Wilmot, of the date of November 21, 1763, which is the complement of the Royal Proclamation of October 7, 1763, says, "that to the northward the province of Nova Scotia shall be bounded by the southern boundary of the province of Quebec, as far as the western extremity of the Bay of Chaleurs."

The result of comparing the language of this Commission with that of the Royal Proclamation and the Quebec Act is to constitute a threefold condition for drawing the line of demarcation from a point in the Bay of Chaleurs. It must be a watershed line westward after leaving the Bay of Chaleurs; it must abut upon the coast of the Bay of Chaleurs somewhere to the north of the mouth of the Restigouche river, and must be continuous with a line extending eastward along the north coast of the bay.

It results from the survey alluded to, that no such watershed occurs north of the mouth of the Restigouche, until we arrive at the Tragedicgash mountains. These mountains appear to run in a north-west direction without cutting or intersecting any fall of water for about 45 miles, when they meet the range of highlands visible from the River St. Lawrence, from the north flank of which waters flow into the River St. Lawrence, and from the south flank into the Restigouche river, or into rivers flowing into the sea at some point south of the mouth of the Restigouche. In following the line of these highlands they are found to run westwardly for a comparatively short distance, when they turn to the south throwing off from their eastern flank streams tributary to the Restigouche, and they continue that course to a point between the sources of the Mistouche and the Kedgewick, two of the said tributaries. The southern course of the highlands is suddenly checked at a point where the Beaver stream, one of the head streams of the Metis river flowing into the St. Lawrence, is thrown off on their northern flank into the lake Metis, and where the watershed takes a westwardly course, and is almost immediately struck by the due north line drawn from the source of the St. Croix.

After a careful examination of the various surveys and reports, as well as of the arguments in elucidation of them, it seems to the undersigned hardly to admit of a doubt, that the line of boundary between the British province of Canada and the British province of New Brunswick, which will satisfy the requirements of legal right, has been correctly laid down in the report of Major Robinson, R.E., Captain Henderson, R.E., and Mr. Johnstone. Further, it results that the legal boundary of the province of New Brunswick to the westward is the due north line from the source of the St. Croix, as finally decided between the United States and Great Britain, in accordance with the treaty of 1783. The western limits of the province of New Brunswick, as defined in the commission to its Governor, in 1784, and in subsequent commissions, were conditional on the arrangements of the treaty of 1783, and although the interpretation of Article II. of that treaty was not placed beyond the reach of doubt before the year 1798, the determination of its intention had of course a retrospective effect.

On the other hand, the boundary of the province of Canada, as settled by the 14 Geo. III., c. 83, from which in point of law there can be no deviation, must be carried along the highlands, which divide the rivers that empty themselves into the St. Lawence, from those which fall into the sea, to a point in 45° N. lat. on the eastern bank of the river Connecticut.

Now, it appears from the survey of Major Robinson, R.E., Captain Henderson, R.E., and Mr. Johnstone, in conjunction with the survey of Mr. Featherstonehaugh, and Mr. Mudge,

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that there is a watershed line which satisfies these conditions, the minimum elevation of which is 1,240 feet. This watershed line, which attains its lowest elevation in a district of morass, turns off down its western flank the head stream of the Fomine river, a tributary of the Chaudière river, which flows into the St. Lawrence, and down its eastern flank the head stream of the Matawagwam river, a tributary of the St. John. It further continues its course, dividing streams flowing into the St. Lawrence from streams flowing into the sea, until it strikes the frontier line between the United States and the British territory, as settled by the Treaty of Washington, at a point very near the source of the St. John river, which empties itself into the Bay of Fundy. It so far satisfies completely the legal requirements, according to the Act of Parliament, of being highlands which divide the rivers that empty themselves into the river St. Lawrence from those which fall into the sea.

On examining the maps which have been submitted for the inspection and information of the arbitrators, it appears that the result of the Treaty of Washington has been, that a very considerable district lying between the frontiers of the United States on the one hand, and the legal boundaries of the two provinces of Canada and New Brunswick on the other, is a possession of the British Crown, and remains as yet unassigned by the Crown to any provincial government.

This district is described in the Report of Major Robinson, R.E., Captain Henderson, R.E., and Mr. Johnstone, as comprising about 4,400 square miles.

Now, it is alleged on behalf of both Canada and New Brunswick, that the provincial authorities of either province have exercised acts of jurisdiction over portions of this territory, and have instituted surveys and allotted districts of land to settlers respectively from either province. Such acts would no doubt furnish arguments in an international dispute, as they would imply the sovereignty of the British Crown represented by the provincial authorities, and might with reason be alleged in any question at issue between the Crown of England and an independent sovereign power, as evidence of use and occupation, and the undisputed exercise of sovereign power, &c. But such acts could only serve to establish the right of the Crown itself, and could not found any claims between provinces belonging to the British Crown. No legal rights could therefore accrue to either province from such acts.

The question as between the two provinces is a question not of international, but of municipal law, and the proofs of their respective claims must be sought for in vouchers, which the municipal law recognises. Now, if we refer to the Proclamation of 1763, the power of the government of Quebec to make grants of land was confined to the limits of the province of Quebec, as defined by the Proclamation, and that power would be subsequently extended in 1774 to the boundaries of the province of Quebec, as defined by 14 Geo. III., c. 83, but no further.

The fief of Madawaska appears to have been granted out in 1683 by the French crown, with the liability to perform certain feudal services towards Quebec, and the tenure of the fiefs of Chloridon and Lake Metapediac was analogous. This feudal relation towards Quebec did not necessarily imply any territorial identity of the fiefs with the French province of Canada. They might for other reasons be within the ancient French province, but certainly not by reason of being fiefs of Quebec. But these fiefs were clearly beyond the territorial limits of the English province of Quebec, as settled by the Proclamation and the Act of Parliament, and the territorial authority of the British Government of Quebec could only extend over the limits assigned to it by the Proclamation and the Act of Parliament; and it would appear from the letter of the Surveyor-General of New Brunswick, 21st June, 1785, that a dispute respecting the territory on the Lake Temisquata and the Madawaska river arose in the year immediately following the erection of the province of New Brunswick (1784).

As far, however, as the Madawaska fief is concerned, it appears that by some process of law, the details of which are not before the undersigned, the ancient feudal tenure is held to have been converted into free socage, and the feudal relation of this district to Quebec has determined; so that it is now allodial land, held in capite from the British Crown within a district unassigned to any provincial government; and further, it appears to be at present the property of an American company. The fiefs of Chloridon and Metapediac, which are within the legal territorial limits of the province of New Brunswick, appear to have undergone an analogous change of tenure.

The undersigned would observe in this place, that infeudation was a species of contract, and that when a given district was erected into a fief, it was alienated *sub modo* by the proprietors; in other words, it was granted out on condition of certain services to be performed by the grantee. The failure of the vassal to perform those services was one mode of terminating the contract; on the other hand, the lord himself might determine it by making over the *dominium supremum* to the vassal. This feudal relation was a personal, not a territorial relation. Accordingly, when the French king granted out the Madawaska district, as a "*fief relevant de Quebec,*" the grantee was personally bound to perform certain services, or pay certain dues to the town of Quebec. When the tenure of Madawaska was subsequently converted howsoever into free socage tenure, the fief became allodial land, and the representative of the original grantee was henceforth released from all service. It would seem, that the British Crown, which had succeeded to all the rights of the French Crown in respect of its lordship over this and other fiefs north of the Restigouche river, exercised towards the conclusion of the last century the *droit de retrait*, and resumed the *dominium utile* of certain of these fiefs, *e. g.* (Metapediac, Port Daniel, Restigouche), so as to consolidate them, and then regranted them out on socage tenure.

Much stress has been laid upon this fact, as if it furnished conclusive evidence of these fiefs being within the territorial limits of Canada. The undersigned apprehends that the *jus retractus* was exercised by the British king as lord of the fief, inasmuch as the feudal lord possessed, amongst other rights, by virtue of his direct dominion, the right of reclaiming a fief,

if alienated, or about to be alienated, by sale on the part of the vassal, upon payment of the actual or proposed purchase-money. Thus the Lieut.-Governor of Canada (General Hope), in the Instructions given to Mr. Collins in 1786, says, that "it has lately been found expedient to assume for the king, the seigniories of Port Daniel and Restigouche, by the *droit de retrait*, from persons who had offered the same for sale." Although the legal transactions connected with the exercise of the *droit de retrait* and the subsequent change of tenure might formally be conducted in the Chancery at Quebec, this circumstance does not necessarily imply any territorial identity between these districts and the province of Canada. There is more difficulty in reference to the seigniory of Shoolbred, which seems to have been erected in 1788, by the Crown, on the north bank of the Restigouche River, and abutting on the westernmost extremity of the Bay of Chaleurs, by letters patent out of the Chancery at Quebec. Whether the effect of this grant would have been valid, so as to supersede in any way the rights conveyed to the Governors of New Brunswick under the previous Commission of 1784, cannot be determined without a careful examination of the letters patent and the Commission. It may be observed, however, that the Crown has not unfrequently issued grants of land which were, in strict law, invalid by reason of previous grants of the same land; yet the title of the second grantee, not having been disputed at the proper time by the representative of the first grantee, has acquired the sanction of time, and may not be disturbed. But this applies only to grants of the Crown, which do not conflict with an Act of Parliament. The description of New Brunswick in the Royal Commission had not received the sanction of an Act of Parliament. There was, therefore, in this respect no insurmountable obstacle in the way of a Royal grant; whereas, as the southern boundary of Canada had been defined by an Act of Parliament in 1773, no Royal grant of land beyond that boundary, although valid for the purposes of the grantee, could have the effect of extending the territorial boundary of the province of Canada.

In regard to acts of jurisdiction exercised by the respective governments of Quebec and New Brunswick in criminal matters, they were acts of the government in regard to subjects of Her Majesty, and they only serve to show how indeterminate for practical purposes the southern boundary of the province of Quebec and the western boundary of the province of New Brunswick have always been, as either government has exercised criminal jurisdiction in respect of offences committed by British subjects in the Madawaska territory.

On referring to the 2nd Article of the Treaty of Paris of 1783, it will be seen that it was agreed between his Britannic Majesty and the United States of America "that the following are and shall be their boundaries, viz., from the north-west angle of Nova Scotia, viz., that angle which is formed by a line drawn due north from the source of St. Croix river to the highlands, along the said highlands which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut river, &c., ... east, by a line to be drawn along the middle of the River St. Croix from its mouth in the Bay of Fundy to its source, and from its source directly north of the aforesaid highlands which divide the rivers that fall into the Atlantic Ocean from those which fall into the St. Lawrence."

If the articles of this treaty had been drawn up to embody the results of actual survey, and were not speculative articles which were to be satisfied by a subsequent survey, they might, perhaps, be invoked to throw light upon the question before the arbitrators; but it appears that when the actual boundary came to be determined, a doubt arose as to the river intended by the name of the St. Croix; and when that difficulty had been settled in 1798, pursuant to a special convention, a further difficulty arose as to the highlands to which the direct north line was intended to be drawn. The result was a protracted negotiation, terminated by the Treaty of Washington, by which all discussion of the respective rights of Great Britain and the United States with regard to the 2nd Article of the said treaty was waived, and "such a conventional line was agreed upon, in continuation of the boundary from the source of the St. Croix river, as was thought to be convenient to both parties, with such equivalents and compensations as were deemed just and reasonable." The ultimate decision, therefore, of this international boundary by the treaty of Washington, throws no light upon the provincial boundaries.

It is obvious, however, on comparing (1) the language of the Proclamation of 1763 and the Act of Parliament of 1774 with (2) the tenor of the Commission to Montague Wilmot, Esq., in 1763, and (3) with the articles of the treaty of 1783, that the object of the British Crown was in the first instance, to comprise, under the Government of Quebec* the entire basin of the St. Lawrence river, that is, all the countries watered by the St. Lawrence and its tributaries. In the second instance, to comprise within the province of Nova Scotia the country watered by rivers flowing into the sea south of the St. Lawrence river, and into the Bay of Fundy, as far westward as the St. Croix river. And in the third instance, to concede to the United States the basin of the Connecticut river, with a river boundary formed by the St. Croix, so that the United States would possess all the country watered by rivers flowing into the Atlantic Ocean, *i.e.*, emptying themselves to the westward of the Bay of Fundy.

In comparing the language of the Act of Parliament of 1774 and of the Treaty of 1783, although the term "sea" and "Atlantic Ocean" are expressions which, in certain cases, may be synonymous, yet in these documents those expressions have a specific application, the word "sea" in the Act of Parliament being opposed to "the River St. Lawrence," and the term "Atlantic Ocean," in the Treaty, to "the Bay of Fundy."

* It is observed in the "Mémoires des Commissaires du Roi," vol. i., p. 156 :—"Toutes commissions des Gouverneurs de Canada au moins toutes celles dont on a pu retrouver des copies dans les depôts, établissent, que leur gouvernement comprenait toutes les rivières qui se dechargent dans le fleuve St. Laurent, et à plus forte raison les deux rives du fleuve." In the map prefixed to the first volume of the "Mémoires," in which the limits of a great variety of grants from the French and British Crowns respectively are laid down, the limits of Nova Scotia, according to the grant of James I. in 1621, are traced out, as well as the limits of the settlement of the Sieur Denys in 1654, on the coast of the Gulf of the St. Lawrence.

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Unfortunately, however, the country had not been surveyed; it was not ascertained at that time that the high lands, which divide streams flowing into the St. Lawrence from streams emptying themselves into the Atlantic Ocean, *i. e.* to the westward of the Bay of Fundy, were, strictly speaking, to the westward of the source of the St. John, and consequently would not be struck at all, at least in the part where they answered that description, by a straight line drawn due north from the source of the St. Croix. It is impossible, for instance, to regard the range of islands south of the Restigouche, and intersected by the St. John river and its tributaries, as the watershed in any sense of streams tributary to the St. Lawrence, as the Restigouche, for instance, empties itself into the sea, so that the southern range cannot satisfy the description of a watershed, which divides rivers flowing into the St. Lawrence from rivers flowing into the Atlantic Ocean. Again, the northern range of highlands, which is the watershed of the St. Lawrence, cannot be regarded as the watershed of rivers flowing into the Atlantic Ocean, until after it has reached a point westward of the source of the St. John river, where it cannot be struck by a direct north line from the St. Croix. The framers of the Treaty of 1783 most probably did not foresee that the source of the St. John river would prove to be so far to the westward of the source of the St. Croix River. On the other hand, it is difficult to suppose that those who framed the Commission to the Governor of Nova Scotia, or those who prepared the Treaty of 1783, believed the source of the St. Croix to be on the one hand in the highlands which separated waters flowing into the St. Lawrence from waters flowing into the sea, or, on the other hand, in the highlands which divided waters flowing into the St. Lawrence from waters flowing into the Atlantic Ocean, otherwise they would never have used the words a "line drawn due north from the source of the St. Croix river to those highlands respectively." It may further be observed, that the southern range of highlands satisfies the condition of being highlands, which divide rivers flowing into the Atlantic Ocean from rivers flowing into the St. Lawrence; for the Atlantic Ocean is distinguished in the Treaty of 1783 from the Bay of Fundy; and on the northern flank of these highlands, between the westernmost head of the Connecticut, which falls into the Atlantic, and the head spring of the St. John river, several tributaries of the St. Lawrence take their rise; but they fail to satisfy this condition in the part where the direct north line from the source of the St. Croix river strikes them. The confusion in this Treaty was increased by introducing the words "north-west angle of Nova Scotia," which had been otherwise defined to be formed by a line drawn due north to the highlands, which divide streams falling into the St. Lawrence from streams falling into the sea.

It seems to have been the opinion of the arbitrator (the King of the Netherlands) in 1831, that the boundary of the Treaty of 1783 was incapable of being determined in precise accordance with the words of the Treaty. But the language of the Treaty differs from the Act of Parliament of 1774 in this respect—that the Treaty speaks of rivers flowing into the Atlantic Ocean, the Act speaks of rivers flowing into the sea, so that the same insuperable difficulty may not arise in interpreting the Act of Parliament. At least the Crown and the Provincial Governments could not have entertained any such view, inasmuch as Commissions of Survey have been instituted since the Treaty of Washington for the express object of determining the highlands of the Act of Parliament.

If it were the business of the arbitrators on the present occasion to determine the legal boundaries of the two provinces, the argument already advanced would determine the province of New Brunswick to be the territory bounded on the west by the River St. Croix, as settled in 1798, and a due north line drawn from its source to the watershed in latitude 48° 1′, which divides the streams which flow down its northern flank into the St. Lawrence from those which flow down its southern flank into the Restigouche River; and on the north by a line drawn along the said watershed to the Bay of Chaleurs, agreeably to the Report of Major Robinson and his colleagues.

The province of Quebec, on the other hand, would be legally bounded by a line drawn along the said watershed from the Bay of Chaleurs to the head spring of the Connecticut River. It would thus appear that a considerable territory belonging to the British Crown remains legally unassigned to either Government at present, although grants of land within its boundaries have been made from time to time by the Government of one or other of the two provinces, and both provinces claim to have executed acts of territorial jurisdiction within its limits. Further, it would seem, that the province of Canada has exercised an administrative superintendence over certain districts south of its legal boundary, which stood in the relation of fiefs to Quebec whilst Quebec belonged to the French Crown and have been enfranchised since they became subject to the British Crown, although it would appear from a letter of the Surveyor-General of Canada in 1787, that the country about the Temisquata lake and the Madawaska river, over which both provinces claim to have exercised jurisdiction, was then unsettled.

It appears also from the Report of the Commission of Survey of July 20, 1848, that a tract of land westward of the due north line lies between the north highlands and the frontier of the United States, which, according to strict legal right, belongs to neither province, being included within the limits marked B, C, D, on the map, and which in 1763 formed part of the ancient territory of Sagadahok.

But it further appears from that Report, that the line of division which the strict legal rights of the provinces agreeably to the Proclamation, and the Act of Parliament, and the Commissions to the Governors of Nova Scotia and New Brunswick, thus demand, is at variance with the actual possessions of both provinces, and is also incompatible with their mutual advantage and convenience.

Keeping in mind, then, the legal right of the two provinces, for the purpose of adjusting the equity which may arise, it remains for us to consider the question of convenience.

It is stated by the Commissioners of Survey, that Canada has exercised jurisdiction and extended its settlements along the Restigouche River for a considerable distance from its

mouth, which river has practically become the boundary of the two provinces. The fact of such settlements having been made shows that it suits the convenience of Canada to extend itself in that direction, and it is obvious that free access to the sea by the mouth of the Restigouche River must be a matter of great importance to those settlements, as well as to the district of Gaspé.

On the other hand, New Brunswick has extended its settlements to the westward of the direct north line drawn from the source of the St. Croix, and the inhabitants of the district which forms part of the ancient territory of Sagadahok, have been chiefly settled under the authority of New Brunswick, and are familiar with the laws and usages of that province. It is obvious also that access to the Bay of Fundy down the St. John River must be matter of great importance to the settlers on the banks of the Madawaska and the St. Francis rivers, thereby enabling them to transfer the produce of that district to the ports of the Ocean.

The question of equity at once arises, if the arbitrators should assign to Canada an extent of territory between the Restigouche River and the watershed line, which legally belongs to the province of New Brunswick. For this district, however, compensation may be made to New Brunswick by a proprtionate assignment of territory to the west of the direct north line drawn from the St. Croix River.

The undersigned accordingly proposes that the boundary between the two provinces be a straight line drawn from the base of the Iron Monument, which marks the north-west angle of the frontier of the United States at the outlet of the Lake Pohenagamok to the nearest point of the watershed, which divides waters flowing into the St. Lawrence River from the tributaries of the St. John River, the elevation of which point is marked in the map of the Commissioners of Survey as 1,919 feet high, thence along the watershed, as determined by the survey of those Commissioners, to wit, Major Robinson, R.E., Captain Henderson, R.E., and Mr. Johnstone, to the point where the said watershed is struck by a line drawn due north from the source of the St. Croix; thence by a line drawn due east to the head stream of the River Mistouche, thence along the mid-channel of the River Mistouche to the Restigouche river, and thence along the mid-channel of the Restigouche to its mouth in the Bay of Chaleurs; the islands in the said rivers to belong to one or other of the said provinces according as they are on the one or other side respectively of the mid-channel nearest to each province, and the navigation of the rivers Mistouche and Restigouche to be common to both provinces.

The result of this arrangement will be to detach from New Brunswick, according to its strict legal limits, a tract of land south of the watershed line, and bounded by the Mistouche on the west and the Restigouche river on the south, comprising about 2,400 square miles, which will be transferred to Canada, and in compensation for this subtraction of territory, there will be assigned to New Brunswick a portion of the unassigned territory west of the due north line, comprising about 3,000 square miles; the remainder of the unassigned territory comprising about 1,400 square miles, may conveniently be assigned to Canada, as it lies immediately between the frontier of the United States and of Canada.

Although the result of this arrangement will be to add about 3,800 square miles to the present legal limits of the province of Canada, whilst the province of New Brunswick in surrendering up 2,400 square miles and in receiving in compensation 3,000, will only have an addition made to its territory of 600 square miles, still the arrangement seems calculated to suit the convenience of the two provinces, and to harmonize as nearly as possible with an existing order of things on the north bank of the Restigouche; whilst it will satisfy the equitable claims of New Brunswick; neither province having any legal claim in respect of the territory to the westward of the direct north line drawn from the source of the St. Croix, which has remained hitherto unassigned.

Doctors Commons, February 22, 1851. (Signed TRAVERS TWISS.

Note upon the Discussion of April 2, 1851.

I held that the legal southern boundary of Canada was well defined; that the expression "along the highlands" denoted a continuous line from the Bay of Chaleurs to the Lake Champlain, and that the highlands north of the Restigouche River marked out by the Commissioners of Survey in their Report, July 20, 1848, satisfied the terms of the proclamation of 1763, and of the Act of Parliament of 1774.

I also held that the seigniories south of the parliamentary boundary were not portions of the territory of the province of Canada.

Mr. Falconer held that the seigniories were within the legal territorial limits of Canada, and ought to be preserved to that province; and urged that it was a matter of feeling on the part of Canada to retain the seigniories.

I said that I had abandoned a portion of territory, which I held to belong legally to New Brunswick, and so far had disregarded the feeling of that province as to surrendering land within its legal limits; but that I was willing to defer to the feeling of Canada on Mr. Falconer's representation, as far as was consistent with due consideration for New Brunswick.

I had already consented in my original proposal to assign the territory east of the Mistouche and north of the Restigouche river to Canada, and had met, by anticipation, Mr. Falconer's view in favour of assigning the seigniories to Canada, as far as the seigniories to the eastward of the Mistouche were concerned.

It remained that the Madawaska seigniory should be considered.

The question of convenience, as far as the boundary line was concerned, appeared to me to require that this seigniory should be assigned to New Brunswick: its water communication pointing to the River St. John as its natural outlet, and the land not being the property of Canadians, but of an American company.

I said that I was willing to modify my proposal in this respect, if an equivalent could be

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found, which might be offered to New Brunswick, and if a convenient boundary could be otherwise drawn.

A suggestion was then made by Mr. Falconer, that a boundary line should be drawn which should give to Canada the entire Madawaska district, and also the north bank of the St. Francis River, and the north bank of the Upper St. John, and both banks of the Madawaska River.

In support of this suggestion, Mr. Falconer urged that the Madawaska district would be of no pecuniary value to Canada, as it was already allotted, but that the land on the north banks of the St. Francis and the Upper St. John was of considerable value, being as yet unallotted, and so far calculated to produce a revenue to the province by its sale or otherwise.

I said that I had agreed to defer to the feeling of Canada, but that the question of interest, which was now raised, touched both provinces. That I was willing to entertain either question apart from the other, but that I could not give way on both: that I had waived my original proposal in deference to the alleged strong feeling of Canada in favour of a territorial connexion with the Madawaska district, although the assignment of that district to Canada would make it difficult to establish a convenient boundary. I was also disposed to admit that New Brunswick had no paramount interest in possessing Madawaska, but that the case was different with regard to the north banks of the St. Francis and the Upper St. John; besides New Brunswick would not receive a fair equivalent for the territory east of the Mistouche if Mr. Falconer's suggestions were to be adopted.

It was urged by Mr. Falconer that it was more for the interest of the settlers on the Upper St. John that they should be provincially connected with the navigation of the St. Lawrence than with that of the Lower St. John.

I could not accede to this view, as it appeared from the papers before the arbitrators that the produce of the Upper St. John had hitherto found its way to the ocean down the Lower St. John, and not across the highlands, between the Upper St. John and the St. Lawrence, and I thought it not desirable to separate the settlers on the upper St. John by a provincial boundary from the Lower St. John.

I was willing, however, to discuss the question of interest, provided a convenient boundary could be secured.

I suggested accordingly the consideration of one or other of the following boundaries:—

1. Either a line to be drawn from the northern angle of the frontier of the United States, at the outlet of the Lake Pohenagamok, to the south-west angle of the Madawaska district, and along the southern and eastern edge of that district, until it met the river at the head of the Temisquata Lake; thence along that river to its source; thence due north to the watershed, and along the watershed eastward till it struck the Mistouche river; thence down the Mistouche and the Restigouche rivers to the sea, by which line the Madawaska district would be given to Canada: or, 2. If it should appear to both the other arbitrators that the interest of the settlers on the Upper St. John required that there should be no provincial boundary between that river and the St. Lawrence, then that the question of feeling should be put out of sight, and that the Madawaska seigniory should be divided by a line drawn through the Lake Temisquata, so as to allow a convenient river and lake boundary to be drawn.

Mr. Falconer objected to both of these suggestions. I stated that I could not consent to the line proposed by him consistently with due regard to the equity and convenience of such a boundary, but that I was desirous to hear the views of the third arbitrator.

Dr. Lushington undertook to propose a line after examining the large map at the Colonial Office, and ascertaining that the details of it would be practicable.

I said that I would willingly listen to any suggestion, but that I should prefer a boundary line which should be constructed on the basis of not separating the settlers on the Upper St. John from the Lower St. John.

April 3, 1851. (Signed) TRAVERS TWISS.

No. 20.

(No. 611.)

No. 20.

COPY of a DESPATCH from Earl GREY to Governor-General the Earl of ELGIN AND KINCARDINE.

MY LORD, Downing-street, June 25, 1851.

I HAVE now to transmit to your Lordship the enclosed award* of the Right Hon. Dr. Lushington and Dr. Travers Twiss, two of the arbitrators nominated for the settlement of the question of Boundary between Canada and New Brunswick.

I have delayed its transmission for some time, in hopes of being able to accompany it with the observations of the two arbitrators on the ground of their award, as well as those of the third arbitrator, Mr. Thomas Falconer, who dissented from them. But these have not as yet reached me in a complete state; and as the Parliamentary session is now advancing, I can no longer delay submitting to Parliament a measure for the purpose of carrying into execution this award and terminating thereby the long-pending controversy between the two provinces.

I have, &c.,

The Earl of Elgin and Kincardine, (Signed) GREY.
&c. &c. &c.

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* For Enclosure *vide* p. 34.

No. 21. CANADA.

No. 21.

COPY of a LETTER from the Right Hon. STEPHEN LUSHINGTON to Earl GREY.

MY LORD, 18, Eaton-place, June 30, 1851.

(Received July 1, 1851.)

I HAD, some time since, the honour of receiving, by your Lordship's directions, a printed copy of the Protest, and other papers sent to the Colonial Office by Mr. Falconer, the Arbitrator appointed by Canada, respecting the demarcation of the boundaries between that province and New Brunswick.

I am also apprised that Dr. Twiss has forwarded to your Lordship a copy of the paper which he originally produced when the arbitrators met for the discussion of the case. Permit me to assure your Lordship that there is no argument contained in these papers which did not receive the most deliberate consideration before the award was made, and that, therefore, it appears to me only necessary to observe that, having again read Mr. Falconer's protest, and other papers, I adhere, without the least change of opinion, to the determination I had previously come to.

I have, &c.,

The Right Hon. Earl Grey, STEPHEN LUSHINGTON.

&c. &c.

APPENDIX.

(No. 99.) No. 1. No. 1.

COPY of a DESPATCH from the Right Hon. W. E. GLADSTONE, to Earl CATHCART.

MY LORD, Downing-street, July 2, 1846.

THE long-pending controversy between the provinces of Canada and New Brunswick respecting the settlement of their boundary line, has been the subject of a correspondence already much protracted. So far as it is possible to throw light on such a question by the mere interchange of Despatches and explanatory reports, nothing remains tobe done for the elucidation of it. But the result of the study of those documents is to show that, the reconcilement of their seeming contradictions is unattainable at this distance from the territory to which the discussion refers. In fact, the accumulation of documents on the subject has been so great, as to perplex, rather than assist, any inquiries by Her Majesty's Government, into the various topographical and other details into which they so copiously enter. And yet, without the intervention of Her Majesty's Government in this country, the prospect of any adjustment of the dispute seems entirely hopeless; so opposite are the views both of principles and of fact, on which the disputants on either side have proceeded.

To render that intervention effectual, I have therefore thought it necessary to delegate the task of examining this dispute, and of reporting on it, to two officers of Her Majesty's Royal Engineers, Captain Pipon and Lieutenant Henderson, assisted by Her Majesty's Attorney-General of Nova Scotia. To the two former it will especially belong, to ascertain, by actual inspection, aided by their professional science, all the facts in dispute respecting the natural formation, and the military and other advantages of the territory in question. To those gentlemen, aided by their legal colleague, will then belong the duty of considering, and reporting for the information and guidance of Her Majesty's Government, whether there is any line which could be drawn for the demarcation of the two provinces, which would satisfy the strict legal claims of each. If they should find it impossible to discover such a line, their next duty will be to consider and report how a line could be drawn which would combine the greatest amount of practical convenience to both provinces with the least amount of practical inconvenience to either; adverting, at the same time, to such interests (if there be any such), as the empire at large may have in the adjustment of this question. These reports, when complete, will then be made to Her Majesty's Government, and, I trust, will form the basis of an early and satisfactory decision of this controversy.

I transmit to your Lordship copies of the instructions which I have addressed to the three Commissioners of Inquiry on this subject, and a copy of the instructions respecting it which I have written to the Lieutenant-Governor of Nova Scotia.

CANADA.

Your Lordship will afford to the Commissioners all the aid in your power in the prosecution of their inquiries, and you will especially afford them access to all maps, plans, reports, and other public documents bearing on the subject which may be found in the archives of your Government. You will also direct all the public officers of Canada capable of throwing light on any of the questions in dispute, to answer any such inquiries, whether oral or written, as the Commissioners may address to them respecting the investigations with which they are charged. The high reputation of those Commissioners in their respective professions justifies the hope that they will pursue it with energy, and conduct it to a successful and satisfactory close.

I have, &c.,
(Signed) W. E. GLADSTONE.

The Right Hon. Earl Cathcart,
&c. &c. &c.

No. 2.

No. 2.

COPY of INSTRUCTIONS from the Right Hon. W. E. GLADSTONE to Captain PIPON and Lieutenant HENDERSON.

GENTLEMEN, Downing-street, July 2, 1846.

IN the prosecution of the inquiry with which you have been charged respecting the line of the proposed railway connecting the different provinces of British North America, you will probably be brought into the immediate vicinity of the territory, which, since the Treaty of Washington, has been in dispute between the provinces of Canada and New Brunswick. The adjustment of that dispute by any mutual consent of the parties to it having proved impracticable, I have considered how far such an adjustment might be effected by the arbitrament of Her Majesty's Government in this country. But the remoteness of the locality, and the conflict of so many voluminous statements and proofs, to the right understanding of which some knowledge of that locality is indispensable, have convinced me that the reconcilement of these differences could not be so effected. The only resource which has remained, is, that of committing to competent persons on the spot the duty of pursuing the inquiry, and of reporting for the assistance of Her Majesty's Government their joint opinions on the practical course it may be fit to take.

To you, therefore, as Her Majesty's Commissioners for the purpose, I propose to intrust this investigation, the Master-General and Board of Ordnance having expressed to me their assent to your acceptance and discharge of that employment. I have also instructed the Lieutenant-Governor of Nova Scotia to offer to Mr. Johnstone, the Attorney-General of that province, the office of your colleague as legal Commissioner. Assuming his acquiescence in the proposal, I have now briefly to indicate what will be the objects of your and his joint inquiry, and what the duty which will devolve on you and on him.

After actually inspecting the territory in dispute (as far any such inspection may be requisite, either for your thorough understanding of the reports hitherto made on the subject, or for clearing up any ambiguities in them), you will prepare such plans and maps of the country as may be sufficient for the full explanation of the controversy. That duty performed, you will next consider with Mr. Johnstone whether any line can be drawn for the demarcation of the two provinces which would satisfy the strict legal claims of each. If you should find it impossible to discover such a line, the three Commissioners will then consider how a line could be drawn which would combine the greatest amount of practical convenience to both provinces, with the least amount of practical inconvenience to either. You will, at the same time, advert to such interests (if any such there be) as the empire at large may have in the adjustment of this question.

The three Commissioners will then prepare and transmit to Her Majesty's Secretary of State having the department of the colonies, the result of their inquiries, and a report of their conclusions on both of these questions, supported by such proofs and arguments as may appear to them, collectively, to be necessary in support of those conclusions.

You will keep a distinct account of all the expenses which you may incur in the execution of this duty.

CANADA.]
July 2, 1846.

The Governor of Canada, and the Lieutenant-Governor of New Brunswick, will afford you all the aid and facilities in their power in your discharge of this duty. I enclose, for your information, a copy of the instruction which I have addressed to them for this purpose.

I have, &c.,
(Signed) W. E. GLADSTONE.

Captain Pipon and Lieutenant Henderson,
&c. &c. &c.

No. 3.

No. 3.

Copy of a LETTER from the Right Hon. W. E. Gladstone to the Lord Falkland.

My Lord, Downing-street, July 2, 1846.

The mission of Captain Pipon and Lieutenant Henderson to survey the line of the projected Railway connecting the several provinces of British North America has suggested to me the employment of those officers, at the same time, on another public duty : I advert to the investigation of the dispute between the provinces of Canada and New Brunswick, on the subject of the division between them of the territory secured to Her Majesty by the Treaty of Washington. To the professional science and practical skill of those officers I propose to intrust the actual examination in person in the country in debate, and the preparation of all such maps and plans as may be necessary for the further elucidation of the controversy ; but I have thought it right that some member of the legal profession should be associated with them in deliberating on the further questions which will engage their attention. Those questions are, first, whether any line can be drawn for the demarcation of the two provinces which would satisfy the strict legal claims of each ; and, secondly (if no such line can be found), how a line can be drawn which would combine the greatest amount of practical convenience to both provinces with the least amount of practical inconvenience to either, adverting at the same time to such interests (if any such there be) as the empire at large may have in the adjustment of this question.

My object in making this communication to your Lordship is, to desire that you would propose to Mr. Johnstone, the Attorney-General of Nova Scotia, the acceptance of the office of Legal Commissioner for the purposes I have explained. The weight so justly due to his present office, and the high reputation for learning and ability which Mr. Johnstone enjoys, combined with the perfect impartiality to be expected from him on such an occasion, point him out as of all persons the most elegible for the discharge of this duty, and I trust that he will not decline to assume it ; if so, he will find Captian Pipon and Lieutenant Henderson fully prepared to co-operate with him in these inquiries, and to lay before him all the information, oral and documentary, which they may possess or may be able to collect on the subject.

For Mr. Johnstone's and your Lordship's further information, I inclose the copy of the instruction I have addressed to Lord Cathcart and Sir William Colebrooke respecting the execution of the proposed Commission, and the facilities to be afforded to the Commissioners.

I have, &c.,
(Signed) W. E. GLADSTONE.

Lord Falkland,
&c. &c. &c.

(No. 99.)

No. 4.

Copy of a DESPATCH from the Right Hon. Earl Cathcart to W. E. Gladstone, Esq.

Government House, Montreal, July 26, 1846.
(Received August 13, 1846.)
(Answered August 22, 1846, No. 22, page 85.)

Sir,

I have the honour to submit for your information, a copy of a Report of a Committee of the Executive Council, of which I have approved, on your Despatch, No. 99, of the 2nd instant, relative to the question of Boundary between Canada and New Brunswick.

July 24, 1846.

I have, &c.
(Signed) CATHCART.

The Right Hon. W. E. Gladstone,
&c. &c. &c.

CANADA.

Encl. in No. 4.

Enclosure in No. 4.

COPY of a REPORT of a Committee of the Honourable the Executive Council, dated 24th July 1846, approved by his Excellency the Governor-General, in Council, on the same day.

ON the Despatch, No. 99, 2nd July 1846, on the subject of the measures to be adopted by Her Majesty's Government for adjusting the question of Boundary between this province and New Brunswick,—

The Committee of Council having carefully reflected on the above-mentioned Despatch, which your Excellency was pleased to communicate for their information, beg leave respectfully to submit some observations thereon for your Excellency's consideration.

They have felt some little disappointment that a Commission should be thought necessary in this matter, as from the Despatch of the 3rd March last, they had, as it appears, erroneously supposed that the Report therein alluded to was all that was required to enable Her Majesty's Government to dispose of the question between the two provinces.

This feeling has, perhaps, been strengthened by the strong hope that was felt by the members of the Committee, that Her Majesty's Government would have assumed the decision of a question involving only the import of the words used by the Home Government, in erecting the province of New Brunswick. It appears to the Committee, that there was no other question, and their attention was not directed to any other consideration, so far as right was concerned, than the construction of these words, and they therefore rested confidently on the construction placed by the Home Government, on precisely similar words, when the boundary between the British dominions and the territory of the United States was in dispute.

Again, they have felt that the language used in the Despatch to his Excellency the Lieutenant-Governor of New Brunswick, is calculated to lead to the impression that, by the Treaty of Washington, Great Britain has acquired title to some territory on this continent, to which she was not before clearly entitled, and which formed no part of her provinces; and that the question now to be decided was, how shall this newly-acquired territory be divided?

To prevent any such misapprehension, so far as the Committee of Council are concerned, they beg leave briefly to recapitulate their views of the question in dispute?

They thought it admitted of no dispute that to the westward of a line drawn due north from the source of the River St. Croix, the boundary line between the United States and the British Territory was the boundary between the United States and Canada, for as it appeared to them there was no possible construction by which the limits of New Brunswick could be extended to the westward of that due north line.

They further thought, that whatever range of highlands formed the boundary between British and United States territory, the same range would in its easterly continuation be the boundary between Canada and New Brunswick.

They relied confidently on the correctness of the claim of Great Britain to the territory to the northward of that range of highlands of which Mars Hill forms part, and consequently that the easterly continuation of that range of highlands would form the boundary between New Brunswick and Canada.

Feeling, however, that both those provinces had adopted the River Ristigouche as the boundary between them, they abstain from pressing any claim to the southward of that stream, though the preceding observation will show that they had strong ground for such an assertion.

But to their apprehension it seemed undeniable that New Brunswick could have no pretensions as of legal right, to land west of the "due north line," and whatever might be conceded to her, of such land, was a concession at the expense of Canada. In brief, they only relied on the arguments of the British Government, as to the true range of highlands, and they did not strive to add weight to them, even if it had been possible.

They also felt that by the Ashburton Treaty, Great Britain, in yielding a portion of the claims, had, in effect *pro tanto*, diminished the province of Canada, and they more confidently thought that the pretensions of New Brunswick, to so much of what Great Britain retained, became the less reasonable in regard to this province.

They now submit that the appointment of the Attorney-General of Nova Scotia, as one of the Commission of Inquiry, will not be considered in Canada as the appointment of an impartial arbitrator, especially when it is coupled with the expression in the Despatch to his Excellency the Lieutenant-Governor of New Brunswick, referring to a division of the territory in question. The establishment of the division line between the two provinces in that part where the United States never set up a claim, has also to be considered, as the River Ristigouche, though adopted as before-mentioned, is certainly not the boundary contemplated in any of the Royal Commissions or Proclamations bearing on the question.

They fear that it will be remembered that New Brunswick was formerly a part of Nova Scotia, that the claim of New Brunswick will, to a certain extent, at least, be founded on documents relating to Nova Scotia, and that every association and feeling connected with this question will naturally influence Nova Scotia more favourably to New Brunswick than to Canada, and therefore that an officer of Nova Scotia will, however unjustly, be suspected of a leaning unfavourable to this province.

The Committee disclaim in the strongest manner any intention or idea of raising any imputation against the character and reputation of the Attorney-General of that province; but in a question of such vital interest to Canada, and in the decision of which its inhabitants will feel they have so much at stake, they could not refrain from stating the impressions produced on their own minds, by the reference of this subject to a Commission, and their apprehension of the feeling to which the constitution of the Commission may give rise.

They earnestly hope, however, that the question may be speedily brought to a close. New Brunswick, by her geographical position, possesses a control over the revenues from the lumber

floated down the St. John, and seems disposed to exercise it as if Canada had really no right or claim at all on the territory in question.

(Certified)

To the Civil Secretary. (Signed) E. PARENT.

(No. 75.) No. 5.

COPY of a DESPATCH from Lieut.-Governor Sir W. M. G. COLEBROOKE to the Right Hon. W. E. GLADSTONE.

Fredericton, New Brunswick,

SIR, July 28, 1846.

I HAVE had the honour to receive your Despatch, No. 40, of the 2nd instant, apprising me of the appointment of Commissioners to consider and report to Her Majesty's Government on the line of boundary between this province and Canada, and having received from the Commissioners an application for the information on the subject, I will take measures to furnish it, and to render to them all the assistance they may require in the prosecution of the duty intrusted to them.

I have, &c.,

(Signed) W. M. G. COLEBROOKE.

The Right Hon. W. E. Gladstone,
&c. &c. &c.

(No. 22.) No. 6. No. 6.

COPY of a DESPATCH from Earl GREY to Earl CATHCART.

MY LORD, Downing-street, August 22, 1846.

I HAVE received your Lordship's Despatch, No. 99, of the 26th ultimo, Page 83. in which you enclose the copy of an approved Report of a Committee of the Executive Council of Canada, signifying the objections which they entertain to the course pursued by Her Majesty's late Government, in appointing a Commission to report upon the question of the proper boundary line between Canada and New Brunswick.

I regret that the proceedings which have been adopted with the view of terminating this lengthened debate, should not prove satisfactory to the Executive Council; but as I am not aware that a more appropriate course could have been taken than that of appointing a Commission of Inquiry, and as I cannot allow myself to doubt that Mr. Johnstone will impartially discharge the duties intrusted to him, I must decline to interrupt the proceedings of the Commission by any alteration in my predecessor's arrangement.

I have, &c.,

The Right Hon. Earl Cathcart, (Signed) GREY.
&c. &c. &c.

(Nos. 270 and 55.) No. 7. No. 7.

COPY of a DESPATCH from Earl GREY to Governor-General the Earl of ELGIN AND KINCARDINE.

MY LORD, Downing-street, August 26, 1848.

I HAVE the honour to transmit to your Lordship the accompanying copy of a Report, and its Appendix, which has been drawn up by the Commissioners appointed by the Queen to investigate and report upon the respective claims of Canada and New Brunswick to the territory ceded to Great Britain by the Treaty of Washington.

I shall abstain from submitting this Report to the consideration of Her Majesty until I shall have learned the opinion which the authoritiesin Canada and New Brunswick entertain upon it; but I trust that both provinces will regard the result of this inquiry as satisfactory, and as fairly determining upon their respective claims.

I have, &c.,

The Earl of Elgin and Kincardine, (Signed) GREY.
&c. &c. &c.

P.S. The copies of the maps referred to in the accompanying Report are now in course of preparation, and will be forwarded to you as soon as they are completed.

CANADA.

Enclosure in No. 7.

Encl. in No. 7.

MY LORD, Halifax, Nova Scotia, July 20, 1848.

ON the 2nd July 1846, the Right Hon. W. E. Gladstone, then Her Majesty's Secretary of State for the Colonies, appointed the late Captain Pipon and Captain Henderson of the corps of Royal Engineers, Her Majesty's Commissioners for prosecuting the exploration and scientific investigation judged necessary for the adjustment of differences existing between Canada and New Brunswick in relation to the territory which, since the Treaty of Washington, has been in dispute between those provinces; and the Right Honourable Secretary at the same time nominated Mr. Johnstone, the then Attorney-General of Nova Scotia, to be the colleague of Captain Pipon and Captain Henderson as legal Commissioner.

The Secretary of State, in indicating the duties that would devolve respectively on these Commissioners, instructed Captain Pipon and Captain Henderson that, after actually inspecting the territory in dispute as far as such inspection should be requisite, they should prepare such plans and maps of the country as might be sufficient for the full explanation of the controversy; and that duty being performed, they were directed to consider with Mr. Johnstone whether any line could be drawn for the demarcation of the two provinces which would satisfy the strict legal claims of each. Should it be found impossible to discover such a line, the three Commissioners were then to consider how a line could be drawn combining the greatest amount of practical convenience to both provinces with the least amount of practical inconvenience to either, adverting at the same time to such interests, if any such there were, as the empire at large might have in the adjustment of that question. And the three Commissioners were instructed to prepare and transmit to Her Majesty's Secretary of State, having the Department of the Colonies, the result of their inquiries and a report of their conclusions on both of these questions, sustained by such proofs and arguments as may appear to them collectively to be necessary in support of those conclusions.

Under the authority and instructions thus communicated, Captains Pipon and Henderson in the summer of 1846, pursued their preliminary topographical surveys, until, by the untimely death of the former officer, the whole duty devolved on Captain Henderson.

In the summer of 1847, Major Robinson (appointed by Her Majesty's Government to succeed Captain Pipon) and Captain Henderson continued the needful explorations; and these officers having returned to Halifax have been, during the last winter and spring, engaged in preparing the maps and other delineations requisite for the explanation of the subject.

Mr. Johnstone has been in correspondence and personal communication with the Commissioners as circumstances required; and being in Montreal in the autumn of last year on public business, he availed himself of the occasion to obtain, in personal conference, the views of Mr. Papineau, then the head of the Land Department in Canada, and formerly one of the Commissioners for settling this controversy, who, by command of Lord Metcalfe, visited Fredericton in July 1845.

On his return Mr. Johnstone pursued the route by way of Fredericton and St. John, for the purpose of enjoying a like advantage in New Brunswick; and he had the benefit of meeting and conversing with, on the same subject, Mr. Baillie, the Surveyor-General and Commissioner of Crown Lands of that province, who had been appointed a Commissioner on the part of New Brunswick in 1844, for meeting a Commissioner from Canada with a view to the adjustment of the dispute.

The map and other papers proper for the full explanation of the controversy having been completed by Major Robinson and Captain Henderson, the three Commissioners have met and considered the subject, and they have the honour now to report the result of their deliberations in the order directed by Mr. Gladstone.

1st. On the question whether any line can be drawn for the demarcation of the two provinces which would satisfy the strict legal claims of each.

In prosecuting this branch of the inquiry it seems proper, in consequence of arguments that have been advanced in the course of the controversy, to offer the preliminary observation that the object of the investigation being to ascertain the boundaries appointed to the provinces after they came under the dominion of Great Britain, the question is not controlled by any previously-existing extent of territory or jurisdiction.

The Proclamation of 7th October 1763, is therefore the first subject of examination, and forms the foundation of the titles to be considered. By this instrument the Government of Quebec is declared to be bounded "on the Labrador Coast by the River St. John, and from thence by a line to be drawn from the head of that river through the Lake St. John to the south end of the Lake Nepissin, from whence the said line, crossing the River St. Lawrence and the Lake Champlain in 45 degrees of north latitude, passes along the highlands which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the sea, and also along the north coast of the Bay des Chaleurs and the coast of the Gulf of St. Lawrence to Cape Rosiers, and from thence, crossing the mouth of the River St. Lawrence by the west end of the Island of Anticosti, terminates at the aforesaid River St. John."

No reference being here made to the previously-existing limits of the territory or jurisdiction of Canada as held or exercised by the French, or to the real or supposed extent of Acadia, or any territory or colony previously possessed or claimed by Great Britain, and the British Crown having unquestionable authority to subdivide in any manner it saw fit the territories then recently ceded to it, the province of Quebec could neither be extended beyond or circumscribed within the limits assigned to it by the Proclamation, except by authority of the Sovereign or Parliament of Great Britain.

In June 1774, the Quebec Act, 14 Geo. III., chap. 83, was passed, with the declared object among other things, of remedying omissions and inconveniences that had been felt in the operation of the Proclamation.

It does not profess to substitute any boundaries for the province of Quebec in place of those defined in the Proclamation, nor does it declare the limits by which that province had been or was to be bounded. It enacts that certain territories, islands, and countries should be, "during His Majesty's pleasure, annexed to and made part and parcel of the province of Quebec as created and established by the Royal Proclamation of the 7th October 1763."

The Proclamation therefore, modified by the Act, remained in full vigour.

The description of the territories mentioned in the Act commences in the following manner: "bounded on the south by a line from the Bay of Chaleurs along the highlands which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the sea to a point in 45 degrees of northern latitude on the east bank of the River Connecticut, keeping the same latitude directly west through the Lake Champlain," &c. &c.

The description terminates without bringing this line back to its place of beginning; and the north coast of the Bay of Chaleurs, one of the boundaries under the Proclamation, necessarily continued under the same authority to be so after the Act.

On examination it will be perceived that no alteration in the limits of the province of Quebec from those established under the Proclamation was made by the Act, or could have been designed, and that the difference in the two descriptions is immaterial. The Act reverses the course followed in the Proclamation: it names a point at which the line meets the 45 degrees of north latitude, on which the Proclamation is silent, and mentions as a boundary on the south a line from the Bay of Chaleurs along the highlands, while in the Proclamation the connexion between the bay and the highlands is left to implication.

The title of New Brunswick may be considered as commencing with the Commission to Montague Wilmot, Esq., as Governor of Nova Scotia, dated 21st November 1763, being only a few weeks after the Proclamation; and from the nearness of these dates it may be assumed that the laying off of the two provinces of Quebec and Nova Scotia were simultaneous Acts.

In this Commission the boundaries are stated thus:—

"To the northward our said province (of Nova Scotia) shall be bounded by the southern boundary of our province of Quebec as far as the western extremity of the Bay des Chaleurs, to the eastward by the said Bay and the Gulf of St. Lawrence, and to the westward, although our said province hath anciently extended and doth of right extend as far as the River Pentagoet or Penobscot, it shall be bounded by a line drawn from Cape Sable across the entrance of the Bay of Fundy to the mouth of the River St. Croix, by the said river to its source, and by a line drawn due north from thence to the southern boundary of our colony of Quebec."

In the year 1784, Nova Scotia was divided, and the province of New Brunswick erected out of it.

The new province, as appears from the Commissions of the Governors at an early period, was defined as follows: "bounded on the westward by the mouth of the River St. Croix, by the said river to its source, and by a line drawn due north from thence to the southern boundary of our province of Quebec, to the northward by the said boundary as far as the western extremity of the Bay des Chaleurs, to the eastward by the said bay and the Gulf of St. Lawrence to the bay called Bay Verte, &c."

The strict legal rights of the two provinces being dependant on the terms and just construction of the Proclamation, and the Quebec Act explained by the Commission to Governor Wilmot, it is necessary to examine with precision the mode in which the boundaries are described, that, by the language of the documents, qualified by the nature and condition of the subject, the intention of the Government and the legitimate meaning of its declarations and acts may be ascertained.

The following conditions result from the several descriptions when considered together:—

1st. That Canada shall be bounded by the north coast of the Bay of Chaleurs as far as its western extremity, to which Nova Scotia is specifically stated to reach.

2nd. On the south side, by a line from such western extremity along certain highlands to the 45th degree of north latitude, at a point on the eastern bank of the Connecticut River.

3rd. That those highlands shall be "the highlands which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the sea."

Had no inherent characteristic been selected to mark the highlands that were designed to form the demarcation between Canada and the adjoining possessions of the Crown, the descriptions contain nothing else which could ensure a boundary capable of being ascertained through an unexplored and wilderness country, the interior of which was almost unknown, extending over the great distance that separates the Bay of Chaleurs from the Connecticut River, and an object deemed by the Government of no small importance would have been placed at the hazard of conjecture or accidental coincidences, and made subject to very great risk, if not the almost certainty of failure.

The physical attribute of the highlands was therefore the only security employed for attaining the needful certainty.

It may be reasonably presumed that in addition to this advantage another benefit was contemplated from the peculiar nature of the boundary, namely, the giving to each province jurisdiction over the whole course of such rivers as emptied themselves within it, a convenience likely to be much regarded at a time when, in the absence of roads, the facilities of water-carriage directed the course of settlement. This presumption is the more probable, as the object of securing a certain definable boundary might have been effected by the ordinary means of lines running by magnetic courses or between given points; the latter object could only be attained in the mode that was adopted.

It has been seen that the Proclamation and Act speak of "the highlands" dividing the rivers falling into the St. Lawrence from those falling into the sea, as of certain not conjectural existence, and it cannot be imagined that the Government did not apprehend the import and

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consequences of its own act; or however little may have been known with accuracy of the course and relative bearing in connexion with other objects of the highlands or the interior of the country, that it did not possess or suppose itself to possess adequate information of the River St. Lawrence and the Bays of Chaleur and Fundy, and the rivers emptying themselves into them, and the general elevation of the land, to justify their assumption that such a boundary might safely be relied on, to say nothing of the intrinsic probability from natural causes that a range of highlands, fulfilling the condition, existed.

While, however, it may be well believed that the description was framed on a conviction that certainty and convenience were secured by a boundary dependent on its physical character, yet whatever may have been the notions and opinions that led to the selection of a line thus distinguished, or whatever may have been the ideas prevalent (if any were entertained) as to the actual location of the highlands, or their position relatively to other circumstances or features of the country, the Act of the Government in unconditionally adopting that boundary was decisive and clear, and the legal claims of the provinces can now only be governed by the plain meaning and legal construction of the documents by which the title is created; and it is believed that no exposition can be conducted on sound principles that does not demand in the construction of these documents that the controlling and distinguishing element in the boundary shall be its division of the rivers that discharge their waters in the opposite directions indicated in the Proclamation and Act, and that to this paramount consideration points less important for effecting the general objects shall be held subordinate.

Whatever line, therefore, shall be found substantially to answer the description these documents give of the boundaries of the provinces, must control the legal claims of Canada and New Brunswick. Whether a boundary of that character actually existed was a question demanding for its solution exploration and scientific research.

Vide Appendix.

At this point, then, it is that appeal must be made to the topographical result of the labours of those Commissioners to whom the exploration and research directed under Mr. Gladstone's Despatch were committed; and from the observations made and the knowledge acquired in the fulfilment of this duty, they have felt no hesitation in pronouncing as their clear and decided opinion that highlands do exist which separate the rivers that empty themselves into the River St. Lawrence from those that fall into the sea; that these highlands connect themselves continuously by highlands with the north coast of the Bay of Chaleurs at its western extremity, and reach the 45th degree of north latitude at the eastern branch of the Connecticut River, thus essentially fulfilling the several requirements of the Proclamation, Act of Parliament, and Commissions for the southern boundary of Canada, and laying the foundation for establishing the strict legal claims of the two provinces.

On the accompanying map, prepared by Major Robinson and Captain Henderson, this line is coloured green, and it will be seen that the northern highlands, claimed by New Brunswick, are adopted, and the line contended for by Canada as her southern boundary is rejected.

The determination and confidence with which the claims of both provinces have been supported, and the arguments which on behalf of Canada have been used in support of the boundary to which that province thinks herself entitled, call for some consideration of the principal objections that have been urged on her part against the northern highlands, which this report presents to your Lordship as forming the southern boundary of Canada under the terms of the Proclamation and the Quebec Act.

In this view some of the observations that have been already offered have been made, which otherwise would have been deemed unnecessary.

In attempting to avert the application of the fundamental principle on which the northern highlands are preferred, and the southern range repudiated, namely, the necessity that the boundary heights should divide the rivers that empty into the St. Lawrence from those that fall into the sea, the advocates of the Canadian claims have intimated that the word "sea" in the Proclamation and Act might be read "Atlantic Ocean," and the conditions of the description be held to be adequately satisfied by highlands possessing the required qualification as far east from the 45th degree north latitude as the due north line and the St. Croix River.

It is difficult to apprehend the ground on which an exposition is proposed, so little in harmony with the letter and the apparent spirit of the written instruments to which it is applied, whether considered in relation to the nature of their subject or the policy of their framers.

The territories to be affected by the contemplated division from the Connecticut River to Chaleur Bay were bounded towards the north by the River St. Lawrence, and towards the south and east by the Atlantic Ocean and Bay of Fundy, and the Gulf of St. Lawrence, and the Bay of Chaleurs.

In speaking of a division of the waters flowing into the St. Lawrence from those flowing in an opposite direction, the word "sea" was alike appropriate throughout the whole course of the line; the term "Atlantic Ocean" could only apply to a part of the boundary.

The subject therefore in itself furnishes no warrant for departure from the plain meaning of the language used.

So, also, as the whole of these territories were British in 1763, and no reason has been assigned, and none can be easily imagined, for subjecting one portion of the country bordering on the line to a policy different from that applied to another, nearly as extensive, the objects of the Government, as legitimately deducible from its language and acts, and the nature of the subject, seem as little to favour this construction.

But further, although it must reasonably be presumed from the dates that the boundaries of Nova Scotia were under consideration when those of Quebec were determined upon, yet the construction under review renders inappropriate and inapplicable throughout the whole extent of Nova Scotia that peculiar qualification of the boundary which it has been seen gave to the

description its only certainty, and effected an object of policy which it may be reasonably supposed the Government had in view.

It seems likewise to be a violent improbability that for no assignable reason a boundary should have been given to Nova Scotia so extensive as from the Bay of Chaleurs to the due north line, which could only be ascertained and tested by a quality discoverable alone out of her limits far to the west.

For so great a departure from the language, plain meaning, and natural construction of written instruments, some reason of a constraining power may justly be required. None can be found.

The treaty of 1783, and the supposed intentions of the British Government, as evinced by the treaty, and as subsequently manifested in negotiating its execution, have been appealed to in this connexion.

But as the Proclamation and Governor Wilmot's Commission passed nearly 20 years previously, neither the treaty nor what occurred under it could affect the condition of the description throughout that long interval of time, and the title existing then must have continued the same in its inherent nature afterwards.

The treaty, too, was made when the circumstances were greatly altered.

A foreign and independent party was introduced, and the subject was less extended than that over which the Proclamation had operation, and it was contracted just to that extent which made the term "Atlantic Ocean" appropriate, for the territory to be defined under the treaty extended no further east than did that ocean.

An argument against the line along the northern range of highlands, which has been much relied on (and which appears to be the only intrinsic objection) is derived from the language of the Act of 1774, in the commencement of the description, "bounded on the south by a line from the Bay of Chaleurs along the highlands that divide the rivers that empty themselves," &c.

The objection turns chiefly on the words "on the south," as connected with the course of the line claimed by New Brunswick for some distance from its commencement at the bay.

It will be best understood by an extract from one of the most able papers in support of the Canadian claims, where it is said,—

"The words of the Act of 1774, 'bounded on the south by a line from the Baie des Chaleurs along the highlands which divide the rivers that empty themselves,' &c., would never be supposed to have been intended to direct that from the Baie des Chaleurs a line should be run in a direction almost north for a distance of from 35 to 40 miles ere the commencement of the southern boundary of Quebec could be found, for this line from the Baie des Chaleurs to the highlands would form a western and not a southern boundary for the province of Canada."

The same objection has been very elaborately argued by another Canadian Commissioner, who has reiterated it in a variety of forms, and deduced from it many inferences. The objection seems to overlook the nature of the subject, viz., the boundaries of an unexplored country of great extent, of which the interior geographical relations were unknown, and treats the supposed intentions of Government and the import of its language as if controlling lines of small extent, the result of actual survey or accurate and minute knowledge.

This mode of exposition would introduce more serious objections than this; for instance, the Bay of Chaleurs, in 1763 and since, was called in the Governor's commissions an eastern boundary of Nova Scotia and New Brunswick, whereas it is the northern limit.

Again, the line itself so much controverted and now under consideration, from the earliest to the present time, is called the south boundary of Quebec and Canada and the northern of Nova Scotia and New Brunswick, and on that description this objection is founded. Yet Canada, not less than New Brunswick, offers, as adequately fulfilling this designation, a range of highlands which on its own maps exhibits not only deviations from a west course as palpable as that now objected to, but which, even in its general course, is far from giving a south boundary.

The Proclamation of 1763, however, furnishes a key to the meaning of its framers in this particular, by clearly exhibiting their intention to confine the description of the boundaries to definite objects known or assumed to exist, leaving the intermediate details necessary for uniting the line of which they were ignorant to be supplied as the country should become more perfectly known.

This significantly appears both in the course of the line from the St. Lawrence to the highlands and from the highlands to the north coast of the Bay of Chaleurs.

In the latter case, which is the point under consideration, the expression is "passing along the highlands which divide, &c., and also along the north coast of the Baie des Chaleurs."

The governing objects being, consequently, these highlands and the north coast of the Bay of Chaleurs, the description, by necessary implication, required that they should be united. The exact method of uniting them was evidently a matter of detail, but it seems in every way probable that the framers of the Proclamation were aware of the existence of the very remarkable highlands at the north-west extremity of the Bay of Chaleurs (upwards of 2,000 feet in height), and which, from an inspection of Mitchell's map, which appears to have been used by them officially, are represented as the continuation of the range of highlands dividing the waters of the St. Lawrence from those flowing to the sea.

The Act of 1774 could contemplate no alteration, because the highlands were the same as in the Proclamation, and the relative position to the Bay of Chaleurs was necessarily unchangeable. The difference of language was such as arose from commencing at the Bay of Chaleurs, and from introducing what was supposed to be the general course of the highlands in the whole distance between that bay and the 45° of latitude.

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But as the objection could only avail to defeat this line, without having power to substitute another not conformed to the description, and as the point on which it arises is obviously one of little moment, and the main objects of the description are plainly expressed and capable of being defined, were it necessary to bend and control this uncertain and immaterial point in the description, to preserve the operation of the certain and essential, the just rules of exposition would, it is conceived, in such a case allow this license.

It seems, however, in the present instance, unnecessary to depart from the strict rules of interpretation.

A line dividing the sources of rivers falling in opposite directions could not be assumed to be a line free from many windings; and the term "bounded on the south," applied to such a line running through an extent of country stretching from the Bay of Chaleurs to the Connecticut, could not be used strictly, or be intended to describe a direct line.

If so, the particular part of the line in which deviations might occur, or their nature and extent, must be deemed immaterial, and be treated as incidents inseparable from such a boundary, of which its framers must be presumed to have been well aware, their general objects being secured by the ascertained points of commencement and termination.

Major Robinson and Captain Henderson having visited the Bay of Chaleurs, and explored the country both north to the St. Lawrence and south of it into the interior of New Brunswick, and given due consideration to what, in their opinion, were the intentions of the framers of the Proclamation and Act, and the amount of knowledge they may be reasonably supposed to have possessed of the bay, have given it as their opinion that the highlands of Tracadiegash, which rise abruptly at what to all intents and purposes is the western extremity of the Bay of Chaleurs to an elevation of some 2,000 feet, best fulfil the language and intentions of the Proclamation, &c., and that the line may be traced from thence in a north-westerly direction, neither cutting nor intersecting any rivers, for about 45 miles through an elevated country, when it may be considered as meeting the more specific range of north highlands, which from thence runs westwardly for a comparatively short space, where it turns to the south, and continues that course for a very considerable distance, until it is brought into the vicinity of the due north line.

The exact locality of the western extremity of the Bay of Chaleurs, as mentioned in the Quebec Act, does not appear to the Commissioners to require to be sought for with the precision which has been insisted on both by Canadian and New Brunswick Commissioners.

No accurate survey had been made of the bay at the time the Proclamation was issued, and therefore it cannot be supposed that any precise spot was intended by the introduction of the term western extremity.

The existence of the mountain range of Tracadiegash highlands must have been perfectly well known to those who had visited the bay, and it is to be remarked that in sailing up it they appear rising like a wall, completely closing it in, and forming its western extremity. The shape of the bay, as laid down on Mitchell's map, justifies the conclusion that this was the idea then entertained.

Another objection to which great importance has been attached is derived from the treaty of 1783.

From the mention of the north-west angle of Nova Scotia, in connexion with the line between Great Britain and the United States, the understood identity of this line and the south boundary of Canada is assumed, and from the subsequent assertion of Great Britain that the southern range of highlands formed the Treaty line, the deduction is drawn that this line is the true southern boundary of the old province of Quebec.

Many authorities seem opposed to this view.

British official agents employed in negotiating the line with the United States refused to admit the identity of the provincial with the Treaty line, and required that the north-west angle should be ascertained by first determining the highlands described in the Treaty, and the rivers they divide.

Colonel Mudge and Mr. Featherstonhaugh have exposed the fallacy of attempting to determine the true range of highlands from a previous assumption of the north-west angle of Nova Scotia.

In the first statement on the part of Great Britain, according to the provisions of the Convention concluded between Great Britain and the United States on the 29th September 1827, for regulating the reference to arbitration of the disputed points of boundary under the Fifth Article of the Treaty of Ghent, it is stated (page 23), after detailing the evidence of Simon Herbert, of the Madawaska settlement, that "this last-cited evidence proves an actual jurisdiction over this territory since the Treaty of 1783, by the British province of New Brunswick. The claims of this province and Canada with respect to this and other parts of the territory in this quarter are conflicting *inter se*, and show the uncertainty of their respective boundaries, which, in fact, have never been settled, and may require the interference of the mother-country to adjust; but these conflicting inter-colonial claims, which have arisen since the Treaty of 1783, are altogether irrelevant to the present controversy between Great Britain and the United States as a foreign power, and under that Treaty. Whether under the one province or the other the possession is British."

Messrs. Draper and Papineau.

The Canadian Commissioners, whose argument is under consideration, themselves concede that it compels the adoption of a boundary between the due north line and the Bay of Chaleur, not conformable with the Proclamation and Act of 1774.

Colonel Mudge and Mr. Featherstonhaugh.

Apparently in view of a difficulty resulting from that fact, the British Commissioners before named have given their opinion "that the Acts of the British Government touching the partitionment of lands between the provinces of New Brunswick and Lower Canada are not appropriate matters for discussion in the dispute with the United States."

The converse seems here to be at least as applicable.

Great Britain and the United States, by a modified arrangement of the dispute, have felt the true position of the highlands, and of the north-west angle of Novia Scotia yet undecided.

Besides, nothing that has been advanced by the Canadian Commissioners, however correct it otherwise might be, can warrant the conclusion that the opinion of the British Government, as supposed to be expressed in the treaty, and as afterwards advanced in discussion with the United States was authoritative between the colonies. For as the treaty was not designed to alter, and had not force to alter the colonial boundaries (which remains to be ascertained after the treaty by the same distinctive features as before), if, in fact, the line of highlands claimed by Great Britain as the boundary with the United States was not the ancient provincial boundary, a mistaken assumption on that point could not affect the latter boundary. Nor if the true position of the north-west angle, as capable of being ascertained, should prove inconsistent with the indicia, of the highlands between Great Britain and the United States as described in the treaty, could it be proper for the mere purpose of removing a discrepancy arising from the introduction (very needless it would seem to have been) of the north-west angle into the treaty, either on the one part to change the true position of that angle, or on the other to substitute other highlands for those marked out by the treaty.

Lastly. The institution of the present Commission, and the instructions to explore the territory in dispute, and to consider whether any line could be drawn for the demarcation of the two provinces which would satisfy the strict legal claims of each, is decisive that Her Majesty's Government does not consider those claims to be concluded by the treaty of 1783, or by anything that has taken place under it.

The Commissioners are therefore unable to perceive that they should fulfil their duty by surrendering to this objection the convictions they derive from the topographical evidence before them as applicable to the documents by which the boundary was originally established.

They consider their duty to be to discover, if it can be discovered, the line between the two provinces according to the terms of the Proclamation, the Quebec Act, and the Governors' Commissions; and by adopting the distinguishing characteristic of the highlands mentioned in the Proclamation and Act, as a controlling fact in the description, they best show their deference to the example of the Imperial Government, as they thereby conform to the same principle that the British Government maintained in its controversy with the United States, and which as applicable to the line then in question, and the language of the treaty well justified the claim of Great Britain when disembarrassed from connexion with the north-west angle of Nova Scotia.

Much on both sides has been written of the possession taken, and the jurisdiction exercised by the two provinces.

These can have little effect on the question of title, for the same differences of opinion that now agitates the two provinces on this subject existed as early as 1785, and it is clear they have not been adjusted or waived from that time to the present.

The following extract of a letter from the Surveyor-General of New Brunswick to the Surveyor-General of Quebec, dated at St. John, N. B., 21st June 1785, given in the Appendix to one of the Canadian Commissioners' Reports, explains the controversy as it then stood:—

"By your letter you seem to think that the Tamasquata Lake, and the discharge therefrom (or the Madawaska River) fall into your province, surely some great mistake or misinformation must occasion this idea. New Brunswick is bounded on the northward by the bounds or line settled by Act of Parliament between Nova Scotia and Canada, which Act expressly mentions the line between those provinces is to run on the height of land separating those rivers that fall into the St. Lawrence from those that fall into the sea; therefore the Tasmasquata waters discharging themselves by the Madawaska into the St. John, and by that river into the sea, renders the business so clear that your error can only originate from a want of knowledge of our limits, or not having lately perused the Acts describing the bounds of your province."

Two years afterwards ineffectual efforts appear to have been made by the Provincial Governments to adjust the boundary. At that time the Canadian Surveyor-General endeavoured to establish a line from the Bay Chaleur to the Great Falls of the River St. John, and thence westward; while the Surveyor-General of New Brunswick insisted on commencing at the Portage between the River St. Lawrence and the Lake Temiscouta for the purpose of examining which way the waters inclined on the heights there that their course might determine the boundary.

Thus New Brunswick contended for the same principle, and claimed from it the same result in 1785 as she does now, and as it has been deemed imperative to adopt in this Report; and the Government of Quebec sought a boundary much further south than the sister province would admit, although considerably to the north of that subsequently, and now claimed by Canada.

Concessions of land and jurisdiction exercised by Canada under the French, and since 1763 under the Colonial Government, have been urged in opposition to the north line of highlands.

Any argument drawn from the Acts of the French Government has been anticipated in a preliminary observation.

The exercises of authority since the proclamation are met by corresponding Acts on the part of New Brunswick. Her measures of appropriation and of jurisdiction between the Restigouche and the south highlands, and to the west of the due north line have been, especially of latter years, as extensive, continued, and decisive as those maintained by Canada south of the north highlands.

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These Acts on either side, therefore, prove nothing on this branch of the subject beyond ignorace of the true boundary or a mutual spirit of appropriation under conflicting titles.

But it might be urged that although concessions of land and the exercise of jurisdiction by the French Government were admitted to confer no title, they yet furnished a motive calculated to influence the British Government which should be considered as interpreting its Acts.

This may be admitted to be true under some circumstances and to a certain extent, and if, in fact, it were shown that in 1763 there were many Canadian settlers who would have been separated from the Quebec Government by the north highlands, and if any other line of highlands could be found which would in any adequate degree satisfy the terms of the Proclamation and Act, the suggestion would be entitled to serious consideration.

Neither of these facts, however, appear.

The Proclamation placed under the jurisdiction of Quebec, the fishermen of Gaspé and the settlers on the southern bank of the St. Lawrence and its tributaries; but if there were inhabitants on the south coast of the Bay of Chaleurs, they were as distinctly retained under Nova Scotia.

A letter of the Surveyor-General of Quebec in 1787 shows that the country about the Tamascouta Lake and Madawaska River was then unsettled.

The inhabitants located near the Great Falls of the River St. John are mentioned as Acadians; they therefore originally may have been Nova Scotian rather than Canadian subjects, and nothing in the communication creates the impression that they were settled there before 1763.

It is more than probable that the Government believed the means they adopted to be the best for the purpose of placing under Canadian jurisdiction, as far as was practicable, all the inhabitants and concessions of lands known to belong to Canada. Nor is there any reason to believe that the extent to which they may have failed in this result was sufficient to have justified or would have occasioned the abandonment of a line recommended by its general adaptation to the policy of the Government in this respect and in other particulars.

Objections, however, which like this, are founded on the supposed intentions of Government, are obviously of little weight, if their only effect shall be to set aside a boundary that satisfies the Proclamation and Act in their more important requirements unless there be another line more perfect to substitute.

A slight comparison is sufficient to show that the line claimed by Canada cannot support this character.

Indeed, although there have not been wanting advocates of the Canadian claims who go the length of asserting the coincidence of their line with the requirements of the Proclamation and Act, yet it appears from the able Report before referred to (Messrs. Draper and Papineau) that there are others who stop short of this point, and admitting that the line along the southern highlands does not satisfy the terms of the Proclamation and Act, endeavour to bring the northern line into the same predicament.

The line claimed by Canada at its commencement is required to cross from the north coast of the Bay of Chaleurs at its head to the opposite shore. This fact is admitted by the same gentlemen whose Report has just been noticed to be at variance with the apparent meaning of the Proclamation and Act. Soon after, as is seen on the maps prepared by another of the Canadian Commissioners, it diverges abruptly to the south for a long distance, giving occasion to an objection similar to that urged against the north line, of making an east instead of a south boundary for Canada, if such an objection were available; and it passes to the due north line near Mars Hill on a general south-west course, in which respect, as also in occasional interruptions of continuity, it is as liable to criticism as the north line.

It is, however, in the essential part of the description that the objection to the highlands claimed by Canada becomes, as it is conceived, fatally irreconcilable with the Proclamation and Act, inasmuch as these highlands do not divide the rivers that empty themselves into the St. Lawrence from the rivers that fall in the opposite direction, being in fact themselves separated from the heads of the rivers falling into the St. Lawrence by the large river, the Restigouche, and the valley it passes through.

This boundary, too, divides the St. John River 220 miles below its source, and instead of confining Canada to the St. Lawrence and her tributaries, it would give her a large portion of the St. John, with the Tobique, the Madawaska, and St. Francis, important rivers falling into the St. John, and the Restigouche from its source, with all its numerous and not insignificant tributaries.

On the other hand the north line, after running among highlands from the north coast of the Bay of Chaleurs at its head without crossing its waters, pursues its course along highlands that divide the rivers that empty themselves into the St. Lawrence from those that fall into the sea to the Metiarmette, where the two lines meet and unitedly run to the Connecticut River at the 45° N. latitude along highlands that continue to fulfil that essential requisite.

Comparing, then, the two boundaries, and in the interpretation of the documents and the application of the facts, avoiding the extremes of verbal severity and unlicensed freedom, the conclusion on the minds of the Commissioners is irresistible, that unless the language of the Proclamation and Act shall be deprived of all distinctive meaning and a plainly expressed intention in harmony with the nature of the subject, and consistent with a rational and probable policy shall be disregarded, the north range of highlands is the south boundary of the ancient province of Quebec demanded by the Proclamation of 1763 and the Act of 1774.

If this conclusion be not correct, the Proclamation and Act must be considered as having failed of any operation as far as relates to this important boundary, for unquestionably the south highlands cannot satisfy the descriptions either in their letter or spirit.

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The observations hitherto have been confined to the south line of Canada; but it is also necessary to inquire into the west boundary of New Brunswick because its settlement affects the question between that province and Canada if the north highlands shall be adopted.

After the due north line from the source of the St. Croix, as it has been adjusted between Great Britain and the United States, has fulfilled its distance, New Brunswick claims to be entitled to remove it further west to the position it would have occupied had it been struck from the western source of the River St. Croix instead of the northern, and where it is contended it ought to have been placed agreeable to the Treaty of 1783.

To sustain this claim, it is asserted that the line with the United States was settled conventionally for quieting controversy, and not according to strict right.

In this view on the part of New Brunswick the Commissioners cannot concur.

The adjustment of the due north line between the United States and Great Britain was the judicial and not conventional act of the Commissioners appointed under the Treaty of Ghent, and it was subsequently acted upon, and has been finally ratified, by both Governments.

Whatever, then, may be individually thought of the correctness of the decision, it cannot practically be questioned by the provinces; but it is conceived that the line must be treated as occupying the true position designed by the Treaty, and concluding the claims of New Brunswick to extend westwardly. Therefore, in answer to the question on which the Commissioners were required by the Right Hon. the Secretary of State first to give their opinion, they have the honour to report that, in their opinion, a line can be drawn for the demarcation of the provinces of Canada and New Brunswick which would satisfy the strict legal claims of each: That is—

Commencing at the point at which the extension of the due north line strikes the north highlands before-mentioned, and running along those highlands and reaching the north coast of the Bay des Chaleurs at the highlands of Tracadiegash, agreeably to the accompanying map, being that part of the line coloured green which lies between the letters A and B.

They further report that a tract of country lies between the north highlands westward of the due north line, and the line of the United States, which, according to the strict legal rights of the two provinces, belongs to neither, being included within the lines marked B C D on the map, and which, in 1763, formed part of the ancient territory of Sagadahock.

The Commissioners deem it their duty further to report, that the line of division which the strict legal rights of the provinces, agreeably to the Proclamation and Act of Parliament and Commissions thus demand, is at variance with the actual possessions of both provinces, and is incompatible with their mutual advantage and convenience.

The inquiry, therefore, which was directed by the Hon. the Secretary of State to be made by the Commissioners if they should find it impossible to discover a line satisfying the legal claims of the provinces, is practically as needful as if that result had followed the investigations under the first branch of the subject.

Mr. Gladstone's directions are, "To consider how a line could be drawn which would combine the greatest amount of practical convenience to both provinces with the least amount of practical inconvenience to either."

Each province has exercised jurisdiction and extended its settlements as far as and along the Restigouche River for a considerable distance from its mouth, which thus has practically become to that extent their boundary, although each has claimed a right to extend its line far beyond.

Any attempt to alter this practical and subsisting division could not fail to be very injurious, without offering the prospect of any adequate benefit, and therefore, in this particular, the legal line of division calls for modification; and it would be proper that a large portion of this territory north of the Restigouche should be confirmed to Canada, although lying to the south of her anciently-defined boundary, and according to that boundary being strictly a portion of New Brunswick.

A considerable portion of the country that lies to the west of the due north line, between the north highlands and the newly-settled United States line, the Commissioners believe would be beneficially and properly assigned to New Brunswick, whether as regards the comparative benefit to the two provinces, or their meritorious claims, or the interests and convenience of the inhabitants.

The inhabitants of this portion of the country have chiefly settled under the authority of New Brunswick, and are familiar with the administration of its laws and usages; and the St. John and its tributaries, the Madawaska, and the St. Francis, offer to them, through New Brunswick, the most eligible mode of transport to market for their timber and other products of the country.

Over this territory New Brunswick for many years past has claimed and exercised ownership and jurisdiction; has assisted its inhabitants in distress; and during the struggle with the neighbouring State of Maine on the Boundary question, actively and at much inconvenience and expense maintained her jurisdiction and possession, and, by her energy, for many years assisted in frustrating the attempts at actual occupation made by parties from the State of Maine; while Canada, removed from the scene of disquietude, remained passive.

Under these various considerations the Commissioners have mutually agreed to recommend a conventional boundary between the provinces of Canada and New Brunswick, which they believe will, agreeably to the desire of the Secretary of State, combine the greatest amount of practical convenience to both with the least practical inconvenience to either.

The conventional boundary they propose is defined by the following lines: that is to say—

That New Brunswick should be bounded on the west by the boundary of the United States, as traced by the Commissioners of Boundary under the Treaty of Washington, dated August 1842, from the source of the St. Croix to the outlet of the Pohenagamook, thence north-easterly, by prolonging the straight line which has been laid down on the ground as the boundary of the

CANADA.

United States, between the Iron Monument at the north-west branch of the River St. John, and the Iron Monument at the said outlet of Lake Pohenagamook, until the line so prolonged shall reach the parallel of 47° 50′ of north latitude, thence by a line due east to that branch of the Restigouche River called the Kèdgewick or Grande Fourche, then along the centre of its stream to the Restigouche River, then down the centre of the stream of the Restigouche River to its mouth in the Bay of Chaleurs, and then through the middle of that Bay to the Gulf of St. Lawrence, giving to New Brunswick the islands in the said Rivers Kedgewick and Restigouche to its mouth at Dalhousie.

This is a line which may be easily ascertained, defined, and marked with comparatively little expense, and with ease and certainty. It gives to the provinces a convenient form, and confirms to each its possessions and inhabitants; or if there is any exception, it is too inconsiderable for notice in determining a question of this nature: and in every particular, as far as the knowledge and belief of the Commissioners extend, it divides the territory in dispute in the manner likely to be most beneficial as regards the provinces comparatively, and as respects the interest and convenience of the inhabitants.

The territory lying west of the due north line, which the ancient boundary leaves without the strict limits of either province, comprises 4,400 square miles. Of these the proposed conventional line will give 2,300 square miles to New Brunswick, and 2,100 square miles to Canada; and of the tract of country lying to the north of the Restigouche, which lies strictly within the boundaries of New Brunswick, 2,660 square miles are assigned to Canada.

The seigniories of Temiscouta and Madawaska fall within the limits of New Brunswick altogether, or very principally.

The Commissioners would have assigned them to Canada, had it been possible to do so without much injury to the general arrangement.

They believe, however, that the inconvenience of separating them from Canada is more nominal than real. The inhabitants are few, not exceeding 20 families of poor, humble settlers.

The tenure of a large portion of these seigniories has been changed to common soccage by legislative enactments at the instance of the owners, and it is believed the proprietors of the remainder will be content with a similar change.

There do not appear to the Commissioners to be any interests which the empire at large has in the settlement of this question.

All which is respectfully submitted by your Lordship's

Most obedient, humble Servants,

WM. ROBINSON, Captain Royal Engineers,
Brevet-Major.
G. W. M. HENDERSON, Captain Royal Engineers.
J. W. JOHNSTONE.

APPENDIX.

TOPOGRAPHICAL REPORT, and Description of the Plans and Sketches, accompanying the Report of the Commissioners on the Disputed Boundary, dated 20th July 1848.

No. 1. *General Map of the Provinces of Nova Scotia, New Brunswick, and part of Canada East, showing the Disputed Territory.*

THE Commissioners in the course of their duties upon the railway exploration survey, and upon a former service, that of tracing and surveying the boundary between the British provinces of North America and the United States under the Treaty of Washington, dated August 1842, have either jointly or separately traversed and seen, with but trifling exception, the whole of the territory now in dispute.

They have crossed and re-crossed it from the St. John and Restigouche Rivers to the banks of the St. Lawrence, in four separate lines, at wide intervals apart.

They have been up the whole course of the St. John River to within a few miles of its source in the highlands; and in New Brunswick they have traversed, with their lines and their explorations, the mountain range lying between Mars Hill and the Bay Chaleurs.

They have compiled the general map from the best authorities open to them, viz., the Admiralty charts, the surveys of the Commissioners of Boundary under the Treaty of Washington, Arrowsmith's map of New Brunswick, and Bouchette's Canada, &c.

The want of good maps, and correct information as to the topographical and physical character of the interior of the country, have been the principal cause of the constantly-recurring disputes which have now for more than half a century occurred in this part of North America, and rendered necessary Commission after Commission for inquiry and research.

Much valuable information of the country has from time to time been obtained by the various Commissioners; but even yet the still wilderness state of the interior has prevented any very accurate survey of it from being made.

The main rivers and relative situations of the great lakes, and the outlets of the principal streams are known; but the sources of the rivers and their courses, save of those portions upon which settlements have been made, are not yet sufficiently well determined to be laid down upon a map, more than in a very general way.

But extreme accuracy is fortunately not indispensable in this general map: it is deemed sufficiently correct for the object of the present Report.

The topographical features of the country are remarkable, and sufficiently well-defined to comment upon; and they have a strong bearing upon the subject under consideration.

The whole surface of the territory in dispute is of the most varied character; undulating

Reference.

Boundary Line claimed by Canada

Dº ..... Dº ..... by New Brunswick

Dº ..... Recommended by Her Majesty's Commissioners

Scale of English Miles.

5 10 20 30 40 50

MAP

TO ACCOMPANY AND ILLUSTRATE THE REPORT OF

HER MAJESTY'S COMMISSIONERS

For the Settlement of the Boundary Line in dispute between

CANADA & NEW BRUNSWICK

Wm Robinson, Major R.E. Engrs. }
G.W.M. Henderson, Capn R.E. Engrs. } Commissioners
J.W. Johnston }

20th July 1848.

Arrowsmith Litho.

and broken into hill and dale, mountain and valley; one large and ever-recurring wilderness of forest. Only a few of the highest mountains are bare of trees: the country is everywhere intersected by innumerable streams, rivers and lakes.

But amidst the apparent confusion there may be traced two decided ranges of highlands more or less continuous, extending through the whole country.

The great valleys of drainage are even more strikingly marked than the highlands.

The first of these is the St. Lawrence River.

In looking at the map it will be seen that this river from Quebec to its mouth, that is, to the line crossing over from Cape Rosier to the opposite bank, passing to the west of the Island of Antexosti, runs nearly in a straight course (north-easterly) for a distance of about 400 miles, and is constantly receiving along this entire length, numerous streams which have their sources in the highlands to the southward.

The second great line of drainage runs in the same general direction, at an average distance from it of about 80 miles. It is formed by the valley of the upper St. John, the valley of the Restigouche, and the Bay of Chaleurs, which together, for an equal distance to the first line, are constantly receiving along their whole course, and carry to the sea, the numerous streams which take their rise in the same highlands with the tributaries of the St. Lawrence.

The commencement of this second line of drainage is near the source of the St. John River, at a point marked C. on the plan, which is about 60 to 70 miles south-east of Quebec: it is adjacent to, at the same time, the sources of the Metjaunette and Penobscot Rivers.

Near this point, the great chain of highlands coming from the heads of the Connecticut River, and of whose existence and character as a true dividing ridge proceeding from the westward there has never been any dispute, begin to fall off greatly in altitude, and fork as it were into two ranges of subordinate character.

The most northerly of the two ranges runs along the St. Lawrence, and continues on into the district of Gaspé and connects by the Tracadigash range with the western extremity of the Bay of Chaleurs.

Its course is very irregular, but on an average it is at about 20 miles distance from the St. Lawrence on the north, and at about 60 miles from the great parallel line of drainage on the south.

This range of highlands throws down numerous streams north and south, one portion of which flow into the St. Lawrence, whilst the remainder find their way to the sea by the valleys of the St. John and the Restigouche.

The opposite courses of these streams, their rapid currents, with the altitudes as marked on the plans, demonstrate physically that there is a very decided dividing ridge and water-shed line along all this region, separating waters flowing northward into the St. Lawrence from waters flowing in an opposite direction into the sea.

And we are of opinion that, if deemed necessary and essential, a line could, following this range, be traced and cut out on the ground, which should be in literal agreement with the wording of the Proclamation of 1763, the Quebec Act of 1774, and the Governor's Commissions, and would form, in strict accordance with the terms used in them, the southern boundary of the province of Quebec. On the plan, this line has been drawn and coloured green.

Passing from the termination of the 45th parallel of latitude, it runs along the dividing ridge of the great chain of highlands from the sources of the Connecticut River to the point C, then along the northern range of highlands, dividing everywhere along its course waters flowing into the St. Lawrence, from waters flowing into the sea, as far as and round the sources of the Metapedia River, and from thence, by the nearest course, along the highlands connecting with the western extremity of the Bay of Chaleurs, intersecting no streams, and thereby infringing no terms of the Proclamation and Act.

Returning to the point C. The southern range of highlands being a direct continuation of the greater chain, but of diminished altitude, runs easterly towards the Lake Keeagwagwam, and from thence continues gradually falling off, and much broken in continuity to the St. John.

The range appears again on the other side of this river, and attains altitude and mountain character at the sources of the Tobique, Upsalquitch, and Nepisiquit Rivers. It then falls off again, and diminishes as it approaches the Bay Chaleurs.

This range also throws down innumerable streams in every direction, but the waters all flow to the sea.

During the whole of its course, for 250 miles, not one portion of its waters flows into the River St. Lawrence.

A line along the dividing ridge could not be carried to the north coast of the Bay Chaleurs, without intersecting the main River St. John at a point 220 miles, nearly, from its source, and also crossing the River Restigouche, near its mouth.

The mountains in the district of Gaspé to which the northern range along the St. Lawrence is joined, obtain as great an elevation and mountain character as the great chain between the Connecticut River and the point of branching off near C.

This modification of the great chain into two branches of subordinate character and more doubtful continuity, has been the one great cause of all the disputes and controversies which have occurred.

Plan No. 2.

This shows the country at the point where the disputed boundary commences. It was compiled to accompany and illustrate the report of Captain Broughton and James Featherstonhaugh, Esq., who were appointed by Lord Palmerston in 1840, to visit and report upon that part of the country, and the nature and extent of the northern range of highlands.

CANADA.

This map shows plainly, that following up the dividing ridge from the sources of the Connecticut River as far as the point K, the boundary line may be continued on as a line dividing waters following in different directions, without any break or interruption over to the northern range, and then along it eastwardly.

It has been contended that between the points K and L on this plan, the country is a flat and extensive morass, unbroken by prominent ridges and projecting peaks, and that, therefore, there is no connection between the ranges.

The distance may be about 30 miles.

The altitudes on the plan which are taken and inserted from the report of those Commissioners, show that though flat and a morass, it is still very elevated land, and equally, or even more so than many other portions of the two ranges running eastwardly.

In it are shown some of the sources of the principal streams of the country, viz., the Chaudière, the St. John, and Penobscot Rivers.

It is to all intents and purposes, therefore, "highland," and a dividing ridge for waters flowing in contrary directions.

Plan No. 3.

A map drawn up and compiled under the direction of a distinguished scientific officer of the United States Topographical Engineers.

This plan shows in the most elaborate detail of figures, the heights of the various points along both ranges of highlands.

Sketch No. 4.

A bird's-eye view of the country at the Bay Chaleurs.

This shows the mountainous nature of the country on the northern side, where there is a most unmistakable range of highlands, whilst on the southern side the features of the ground are of a much more modified and humble character.

The mountains on the northern side, rise at once as it were from the sea, whilst on the south side, to attain similar elevations, they must be sought far back in the interior of the country.

By following the northern range of highlands, the first point actually dividing waters following into the St. Lawrence, from waters flowing into the sea, is obtained at about 45 miles.

Following any other line to the southward, is to avoid and not to seek a dividing point, and it cannot be found at any single place between the Bay Chaleurs and the due north lines, or indeed at any nearer point than that marked C on the general plan, that is, for a distance of 250 miles, and not then until after having crossed the Restigouche and St. John Rivers, which together carry off all the waters of the disputed territory to the sea.

Plan No. 5.

A copy of Mitchell's map published in 1775.

This was considered the best map at the time, when the Proclamation of 1763 and the Quebec Act of 1774 were framed. It is on record that this was much consulted and used by official persons up to, and after, 1783. On this map, highlands are shown running along the St. Lawrence, and continued on to the district of Gaspé and on the north of the Restigouche River to the western extremity of the Bay Chaleurs. But none are delineated to the south of the Restigouche River, or in that part of New Brunswick, lying anywhere between Mars Hill on the St. John and the Bay Chaleurs.

The highlands claimed by the Commissioner for Canada (Mr. Wells) are not marked, and may therefore be reasonably supposed could never have been contemplated as the Boundary for the Provinces.

Plan No. 6.

This map appears to have been prepared by Mr. Arrowsmith, by directions from the Colonial Office, for the purpose of showing the various proposals which have been made for the adjustment of the territory in dispute.

Upon these propositions we beg leave to offer the following observations:—

1*st Proposal.*—Sir Wm. Colebrooke and his Council, 15th of January, 1845, proposed a direct line from the junction of the American line on the River St. Francis to the angle above the highest Canadian settlements on the Restigouche, where it changes its direction. At the outlet of the Lake Pohenagamook, a large iron monument has been fixed by the Commissioners under the Treaty of Washington. This point, therefore, is well known, and can readily be found, but the point at the angle of the River Restigouche is very apocryphal, and there might be found great difficulty, in fixing it to agree with the views of the two provinces.

Already settlers, though few in number, have established themselves here and there,—one as far up as the outlet of the Kedgewick River.

There would be very great difficulty in practically marking out such a boundary.

To join by a straight line any two points at a great distance apart, whose relative bearings with each other are quite unknown, requires either a very accurate survey by triangulation to be previously made between them, or else to be done by astronomical observations.

In the present state of the country, the former method is scarcely possible.

By the latter method, it would require the latitudes of the two extreme points, and the difference of longitude between them to be very accurately determined. From these data their bearings with the meridian could be calculated, and the line run. It would, however, be an operation requiring time, careful observations, and the use of good astronomical instruments, chronometers, &c.

The 64 mile line between the two Iron Monuments at the north-west branch of the St. John and the outlet of the Lake Pohenagamook was thus done, and marked on the ground.

2nd Proposition.—Lord Metcalfe and the Executive Council of Canada, April 1845, proposed the Restigouche River and the due north and south line.

This boundary would require no further labour. It is already marked out on the ground.

It gives, however, to New Brunswick the least amount of territory of any of the propositions, and totally cuts off from it the Madawaska settlement.

3rd Proposition.—Mr. Street, July 1845, proposed the Restigouche, the Kedgwick River, the southern boundary of the Madawaska Fief, and the junction of the American line on the River St. Francis.

There would be great difficulty in practically marking out this boundary.

The point on the Kedgwick River is very indefinite, and might be difficult to agree upon.

The relative bearings of the two extreme points would have to be determined under the same difficulties as remarked for No. 1. proposition.

The boundaries of the Madawaska and Temiscouta Seigniories have only as yet been partially and roughly marked. They are defined to be everywhere two leagues from the water's edge.

To be accurately done, a detailed survey of the lake and river would be necessary.

4th Proposition.—Messrs. Draper and Papineau proposed the Restigouche River to the due north line,—thence to the south-eastern corner of the Madawaska Fief,—thence along the south boundary, and down the Madawaska River, &c.

The only difficulty in practically marking out this boundary would be running the straight line through the wilderness to join the two points given.

The distance between them being comparatively small, in this case it might probably be done without astronomical observations, by making a rough survey, and running some trial straight lines, and correcting proportionally the errors where found, until a true straight line was obtained.

5th Proposition.—Lieut. Simmons, of the Royal Engineers, proposed a due east line from the outlet of the Lake Pohenagamook to the River Restigouche.

This line would be easy of execution.

6th Proposition.—The proposition of Her Majesty's Commissioners in the accompanying Report,—viz., to prolong the 64 mile line between the Iron Monument at the north-west branch of the St. John River, and the Iron Monument at the outlet of the Lake Pohenagamook, until it reaches the parallel of 47° 50′ of north latitude, and thence by a due-east line to the Kedgwick River.

This boundary-line is easy of execution, and will form, if carried out and marked on the ground, a well-defined, convenient, and practical boundary between the two provinces.

The determination of the point in latitude, 47° 50′, is the only thing requiring particular attention.

To be done accurately, so as to prevent any controversy afterwards, it would require the services of a person competent to use an altitude and azimuth instrument in conjunction with a portable transit.

The boundary-line between the two provinces, as thus suggested, cuts off, and gives to New Brunswick, the largest portion of the ancient fiefs of Temiscouta and Madawaska, so long considered and held to be entirely Canadian.

But these seigniories are no longer held under their ancient tenures.

There is, in fact, but one seigniorial grant, dated 25th November 1683, which describes the territory as extending three leagues in length along each of the two banks of the river named Madawaska, near the St. John, and two leagues in depth back from the water's edge.

Their superficial extent has been estimated at 279,400 acres, equivalent to 436 square miles.

The whole of this seigniory was purchased some years back from the heirs of the Sieur de la Chenaye, and became the property of Sir John Caldwell.

Reserving a portion of it of about 20,000 acres, this gentleman sold the residue to a Dr. Cummings, of Portland, in the State of Maine, to whose son, Mr. Nathan Cummings, the property now belongs.

The portion reserved by Sir John Caldwell is now owned by his son, Sir Henry John Caldwell, of Quebec.

The tenure of that part purchased by Dr. Cummings was changed under the provisions of the Canada Tenures Act, on surrender to the Crown, when Dr. Cummings received a grant in fee simple to himself and heirs.

With respect to the portion reserved by Sir John Caldwell, it is supposed also to have had its tenure changed under the same Act.

This tract of country is still in a wilderness state. Its boundaries have never been completely laid out; and there may be probably about 20 small families settled within its limits.

To these two individuals, therefore, and the 20 families, can it matter in the least to which province the territory falls.

Its value consists at present chiefly from the lumber which is cut in the woods. The natural channel for this to the market is through New Brunswick, by way of the Rivers Madawaska and St. John.

To the greater portion of them, if not to all, it will be more convenient to them to be under the jurisdiction of New Brunswick than under that of Canada.

Sketch No. 7.—Taken from the top of a mountain on the south side of the Tobique River,

CANADA.

New Brunswick. It shows the character of the country at the head waters of the Tobique, Miramichi, and Nepisiquit Rivers.

Sketch No. 8.—Taken from a mountain near the Lake Metapedia, in Canada, from the top of which the trees had been burnt. It shows the character of the mountains lying at the head waters of the rivers flowing into the St. Lawrence, and those flowing into the Restigouche.

General Plan No 1.—The total superficial contents of the territory in dispute between the two provinces is about 10,900 square miles. Of this, the portion lying west of the due north line (coloured red on the plan), and without the strict legal limits of both provinces, contains 4,400 square miles.

The portion east of the due north line, and lying north of the River Restigouche, between it and the dividing ridge of the northern range of highlands, contains 2,820 square miles. This territory is, *de facto*, held by Canada.

The angular portion at the Forks, contained between the Restigouche River, Kedgwick River, and due north line, contains 160 square miles. Subtracted from 2,820, it gives the 2,660 square miles recommended in the Commissioners' Report to be confirmed to Canada.

The portion lying south of the Restigouche River, and between it and the southern highlands, contains about 3,700 square miles.

The territory included within the boundary formed by the prolongation of the 61-mile straight line until it reaches the parallel of 47° 50′, thence by a line due east to the Kedgwick River, and the due north line from the St. John River, amounts to 2,300 square miles.

WM. ROBINSON, Captain Royal Engineers,
Brevet Major.
G. W. M. HENDERSON, Captain Royal Engineers.

No. 8.

(No. 13.)

No. 8.

COPY of a DESPATCH from Lieut.-Governor Sir W. M. G. COLEBROOKE to Earl GREY.

Fredericton, New Brunswick,
February 8, 1848.
(Received February 28, 1848.)

(Answered March 6th, No. 172, page 100.)

MY LORD,

I HAVE the honour to enclose the copy of a communication which I have received from Lord Elgin on the subject of the jurisdiction of the disputed territory, pending the decision of Her Majesty's Government on the question of the boundary between the two provinces; also copy of my answer to his Lordship, with a Minute which has been recorded by the Executive Council on the subject.

I have, &c.,
(Signed) W. M. G. COLEBROOKE.

The Right Hon. Earl Grey,
&c. &c. &c.

Encl. 1 in No. 8.

Enclosure 1 in No. 8.

Government House, Montreal,
January 29, 1848.

SIR,

Nov. 22, 1847.

I HAVE the honour to transmit, for your Excellency's information, a copy of a letter from Mr. Pouliot, a magistrate of this province, respecting the maintenance of criminal jurisdiction in the disputed territory pending the settlement of the question of boundary between Canada and New Brunswick by the Imperial Government, and of the reply which, after consultation with the Attorney-General of Canada East, I have directed to be addressed to him.

Jan. 18, 1848.

You will perceive that this reply is founded on the instructions contained in the Despatch from the Secretary of State, of the 8th April 1830, which defines the limits within which the jurisdiction of the two provinces respectively should be exercised.

I have, &c.,
(Signed) ELGIN AND KINCARDINE.

His Excellency Sir W. M. G. Colebrooke,
&c. &c. &c.

Sub-Enclosure to Encl. 1 in No. 8.

Sub-Enclosure to Enclosure 1 in No. 8.

Monsieur,

Montréal, Janvier 18, 1848.

AU sujet de vos lettres, datées respectivement les 22 Novembre et 18 December, derniers, demandant des informations quant à l'exercice des droits de jurisdiction dans le territoire de Madawaska.

CANADA.

J'ai l'honneur de vous informer par ordre du Gouverneur-Général, que d'après les arrangements arrêtés par les autorités impériales, en attendant la decision finale sur la question des frontières entre le Canada et le Nouveau Brunswick, le Gouvernement du Canada devra maintenir et exercer sa jurisdiction sur La lac Pemiscouata et la Rivière Madawaska, jusqu' à l'extrémité de l'octroi de terre fait a Simon Hebert à l'embouchure de cette rivière, ce qui comprendra tout le fief Madawaska ; et le Gouvernement du Nouveau Brunswick devra maintenir et exercer sa jurisdiction, comme ci-devant, sur les autres parties du territoire en litige, y compris l'établissement de Madawaska sur la Rivière St. Jean, mais sans l'entendre en remontant la Rivière Madawaska.

Ainsi vous pouvez employer pour le maintien de l'ordre et de la justice, dans le première partie du territoire, tous les moyens que vous pourriez mettre sur en usage dans toute partie reconnue appartenir à cette province.

J'ai, &c.,

J. B. Pouliot, Escurer, J. P.
Rivière du Loup.

(Signé) D. Daly, Secrétaire.

Monsieur, Rivière du Loup,

Auriez vous la bonté de me dire où en est rendu la question concernant la démarcation definitive des limites entre cette province et celle du Nouveau Brunswick, et de prier son Excellence le Gouverneur-Général de nous informer, si en attendant la solution de cette question les juges de paix de cette province doivent considerer le territoire de Madawaska tel que désigné sur la carte de Monsieur Bouchette, comme faisant partie du Comté de Rimouski et dans cette province, et prendre connaissance des délits qui se commettent et faire appréhender les personnes qui en sont accuser.

Vous voudrez bien informer son Excellence que cette localité est maintenant en état d'anarchie déplorable pour les personnes qui y font des affaires, aucuns jugements d'une cours soit de cette province ou de celle de Nouveau Brunswick, ne peuvent y être exécuter ; dernièrement il y a eu des émeutes très sérieuses, lorsques des officiers publics ont voulu mettre à execution des jugements émanés des cours de ces provinces respectivement, un d'eux a été tué dans l'exécution de son devoir, et les coupables demeurent hors l'atteinte des lois et de la justice, en attendant qu'on sache à quels officiers de l'une ou de l'autre province, il appartient de prendre connaissance des félonies et méfaits commis sur ce territoire.

J'ai, &c.,

E. Parent, Escurer,
Assistant Secrétaire Provincial, Montreal.

(Signé) J. B. Pouliot, J. P.

Monsieur, Rivière du Loup, Decembre 18, 1847.

Veuillez donc, s'il vous plait, me donner une réponse immédiate sur la lettre que je vous ai écrite le 22 Novembre dernier, pour demander quelques informations a son Excellence le Gouverneur, concernant le territoire de Madawaska, afin qu'on sche a quoi s'en tenir sur les plaintes qui nous son faites des felonies qui se commettent dans cette localité.

J'ai, &c.,

E. Parent, Escurer, J. P.,
Montreal.

(Signé) J. B. Pouliot, J. P.

Enclosure 2 in No. 8.

Encl. 2 in No. 8.

Fredericton, New Brunswick,
February 8, 1848.

My Lord,

I have had the honour to receive your Lordship's letter of the 29th January, enclosing to me the copy of one which you had received from a magistrate of the province of Canada, respecting the maintenance of criminal jurisdiction in the disputed territory, pending the settlement by the Imperial Government of the question of boundary between Canada and New Brunswick, and also of your Lordship's reply to the magistrate, in which, after consultation with the Attorney-General of Canada East, your Lordship has referred to the instructions contained in Sir George Murray's Despatch of the 1st April, 1830.

The House of Assembly now in Session having addressed me to obtain copies of any recent correspondence which I may have held with your Lordship relative to the extension of the Canada jurisdiction in the Madawaska territory, I have felt myself called on to bring the subject under consideration of the Executive Council, a copy of whose minute I herewith enclose. Your Lordship is doubtless aware, from the tenor of the previous correspondence on this subject, that the jurisdiction in question has been uniformly claimed and exercised by the provincial courts of New Brunswick, a claim which has been affirmed by them on a recent occasion.

In regard to the homicide alluded to in Mr. Pouliot's letter, no notice whatever had reached me, nor does that magistrate mention the name of the party, or the time or circumstances under which such an act was committed which would have enabled the magistrates of this province, either to take cognizance of it or to report their proceedings.

As the question of boundary will, doubtless, in a short time be finally settled, I hope that any conflict of jurisdiction may be avoided, and that the authority of the laws may in the meantime be fully sustained and vindicated.

CANADA.

On the advice of the Executive Council, I propose to transmit the correspondence by the mail of to-day to the Secretary of State for the Colonies, and while they regard the matter wholly as a question of jurisdiction within the competence of the Courts to decide, the Council are nevertheless to support me in guarding, as far as possible, against any conflict of jurisdiction pending the issue of the reference to Her Majesty's Government.

I have, &c.,
(Signed) W. M. G. COLEBROOKE.

The Right Hon. Earl of Elgin and Kincardine,
&c. &c. &c.

Encl. 3 in No. 8.

Enclosure 3 in No. 8.

IN COUNCIL, February 4, 1848.

Present:—

His Excellency the Lieutenant-Governor.
The Hon. George Shore.
The Hon. Hugh Johnston.
The Hon. E. B. Chandler.
The Hon. R. L. Hagen.
The Hon. Thos. Baillie.
The Hon. Alex. Rankin.

The Lieut.-Governor lays before the Council a Despatch which he has this day received from the Governor-General, containing a copy of the instructions given to a magistrate in Canada, regarding the extension of the jurisdiction of that province over a part of the Madawaska settlement, pending the final decision of the question of boundary between the provinces, in reference to which subject he has also received an address from the House of Assembly, and he invites the Board to advise him as to the course which it will be proper to pursue.

Whereupon the Council advise that the Despatches of the Governor-General should be communicated to the House in answer to their Address, and in expressing their regret that there should be any interference at this time in the jurisdiction which has been heretofore exercised by the Courts of this province over the territory in question, they can only recommend that a communication should be made on the subject to Her Majesty's Government.

Extract from the Minutes.
(Signed) RT. FULTON.

No. 9.

(No. 172.)

No. 9.

COPY of a DESPATCH from Earl GREY to Lieut.-Governor Sir W. M. G. COLEBROOKE.

SIR, Downing-street, March 6, 1848.

Page 98.

I HAVE received your Despatch, No. 13, of the 8th February, enclosing copies of correspondence in which you have been engaged with the Governor-General of Canada on the subject of the jurisdiction of the disputed territory pending the decision of Her Majesty's Government on the question of the boundary between Canada and New Brunswick.

I shall receive, I hope, very shortly the Report of the Commissioners appointed to inquire into the merits of this question, and no time will then be lost in taking such measures as may be necessary and proper for closing the discussion between the two provinces. In the meanwhile I am of opinion that the instructions which were issued by Sir George Murray in 1830 constitute the best and most convenient limits within which the jurisdiction of these provinces should be respectively exercised, and it appears to me that the letter of Mr. Daly, of the 18th January 1848, expresses views which substantially coincide with those of the instructions in question.

I have, &c.,
(Signed) GREY.

Lieut.-Governor Sir W. M. G. Colebrooke,
&c. &c &c.

(No. 32.) No. 10. CANADA. No. 10.

COPY of a DESPATCH from Lieut.-Governor Sir W. M. G. COLEBROOKE to Earl GREY.

St. John's, New Brunswick, April 5, 1848.
(Received April 20, 1848.)

MY LORD,

I HAVE had the honour to receive your Lordship's Despatch, No. 172, dated the 6th of March, on the subject of the jurisdiction of the disputed territory, pending the decision of the question at issue between Canada and New Brunswick, and in reference to the instructions issued by Sir George Murray, in 1830, to which reference has frequently been made in the course of these protracted discussions. The correspondence will have shown that the decisions of the Courts of this province, where questions of jurisdiction have arisen, have not been governed by the limitations so prescribed, and that in a case of appeal to the Supreme Court which I had occasion to report, a more extended jurisdiction was affirmed to belong to New Brunswick, by which decision the interests of the party concerned in the appeal were materially affected. Page 100.

I shall consider it my duty formally to communicate a copy of this correspondence to the judges, but under the circumstances it is gratifying to the local Government to learn from your Lordship's Despatches that measures are likely soon to be taken for finally closing the discussion between the two provinces.

I have, &c.,

The Right Hon. Earl Grey, (Signed) W. M. G. COLEBROOKE
&c. &c. &c.

(No. 97.) No. 11. No. 11.

COPY of a DESPATCH from Lieut.-Governor Sir EDMUND HEAD to Earl GREY.

Government House, Fredericton,
October 26, 1848.
(Received Nov. 15, 1848.)

(Answered Nov. 22, 1848, No. 79, page 102.)

MY LORD,

THE enclosed Memorandum will convey to your Lordship the opinion of myself and my Executive Council with reference to the Report of the Commissioners on the Canada Boundary.

I earnestly hope, for the sake of this province, that the question may be speedily settled; and I will only add, that if the matter can be in any manner facilitated by my conferring with the Governor-General, I shall be ready to undertake the journey, whatever may be the season at which your Lordship may desire me to do so.

I have, &c.,

The Right Hon. Earl Grey, (Signed) EDMUND HEAD.
&c. &c. &c.

Enclosure in No. 11. Encl. in No. 11.

IN COUNCIL, 26th October 1848.

Present—

His Excellency the Lieutenant-Governor, &c., &c.

THE Lieutenant-Governor and Executive Council of New Brunswick having considered the copy of the Report of the Commissioners on the disputed boundary with Canada, furnished by Her Majesty's Secretary of State, are of opinion—

That the proposition recommended by the Commissioners should be assented to by New Brunswick, and received as an equitable settlement of the question so long pending.

In doing this, however, at once and without hesitation, it is thought right to observe—

1. That by this recommendation it is proposed to take from New Brunswick 2,660 square miles, to which the Commissioners, having once settled the line of highlands, report New Brunswick to have an undoubted legal claim, whilst there are given to her in return 2,300 square miles of a territory to which the claim of New Brunswick is, to say the least, as good as that of Canada.

2. The Lieutenant-Governor and Council do not admit the soundness of the arguments by which the Commissioners seek to prove that New Brunswick has no legal claim on any territory west of the due north line.

The Government of New Brunswick have, however, the fullest confidence in the justice of

CANADA.

Her Majesty's Government, and as they trust Her Majesty may be advised to act on the recommendation of the Commissioners, they do not think it expedient to discuss questions which, in that case, would be purely speculative.

The Government of New Brunswick are anxious to express their hope, that whatever the decision of Her Majesty may be, that decision may be embodied in an Act of the Imperial Parliament on the earliest opportunity; and they would desire that such Act should contain a clause declaring the tenure of all lands transferred by it to New Brunswick to be common soccage. They think it expedient, moreover, that any such Act should give express powers to the Governor-General of Canada and the Lieutenant-Governor of New Brunswick, acting jointly, to decide all questions relating to the disputed timber dues, or concerning real property, and arising out of the settlement of the Boundary question. The Governor-General and the Lieutenant-Governor might, if thought proper, be empowered to appoint some one Referee or Commissioner to whom such questions might be referred.

Extract from the Minutes.

(Signed) R. FULTON.

No. 12.

(No. 98.)

No. 12.

COPY of a DESPATCH from Lieut.-Governor Sir EDMUND HEAD, Bart., to Earl GREY.

Government House, Fredericton,
October 26, 1848.
(Received Nov. 15, 1848.)

(Answered Nov. 22, 1848, No. 80, page 102.)

MY LORD,

I HAVE to acknowledge your Lordship's Despatch of the 9th of September (No. 57), instructing me to take the necessary measures for repaying, from provincial funds, the proportion of the sum advanced by Her Majesty's Government on account of New Brunswick, in connexion with the Commission for determining the boundary between that province and Canada.

I am desirous of knowing whether I am to understand that one-half of the whole sum of 164*l.* 17*s.* 8*d.* is the proportion considered as falling upon this province, and also whether your Lordship sees any objection to the sum (whatever it may be) being defrayed from the proceeds of the duties on timber cut on the disputed territory, which proceeds are now in the hands of the Central Bank of New Brunswick. This course is recommended by my Executive Council, and I see no objection to it.

The Right Hon. Earl Grey,
&c. &c. &c.

I have, &c.,
(Signed) EDMUND HEAD.

No. 13.

(No. 79.)

No. 13.

COPY of a DESPATCH from Earl GREY to Lieut.-Governor Sir EDMUND HEAD, Bart.

SIR,

Downing-street, November 22, 1848.

Page 101.

I HAVE to acknowledge the receipt of your Despatch, No. 97, of the 26th of October, enclosing a memorandum containing the opinion formed by yourself and by your Executive Council upon the Report of the Commissioners on the boundary in dispute between Canada and New Brunswick.

I beg to assure you that I shall not fail to bear in mind the recommendations of your Council whenever the time shall arrive for the final arbitration of the question, but that I am not prepared to make any further statement on the subject until I shall be in possession of the views of the Governor-General and Council of Canada, to whom the Commissioners' Report has been referred.

Lieut.-Governor Sir Edmund Head, Bart.,
&c. &c. &c.

I have, &c.,
(Signed) GREY.

No. 14.

(No. 80.)

No. 14.

COPY of a DESPATCH from Earl GREY to Lieut.-Governor Sir EDMUND HEAD, Bart.

SIR,

Downing-street, November 22, 1848.

I HAVE the honour to acknowledge the receipt of your Despatch, No.

Page 102.

98, of the 26th of October, relative to the repayment of the sum advanced by

CANADA.

Her Majesty's Government on account of the settlement of the boundary line between New Brunswick and Canada.

I have to acquaint you, in answer, that you appear, according to the accounts rendered by the Commissioners, to have correctly assumed that the amount to be paid by the province under your government is a moiety of the sum of 164*l.* 17*s.* 8*d.*, and that I am aware of no objection to its being defrayed, as proposed, from the proceeds of duties levied on timber cut on the territory in dispute, provided that fund is free from prior charges, and available for such a purpose.

I have, &c.,

Lieut.-Governor Sir Edmund Head, Bart., &c. &c. &c.

(Signed) GREY.

(No. 40.)

No. 15.

No. 15.

COPY of a DESPATCH from Lieut.-Governor Sir EDMUND HEAD to Earl GREY.

Government House, Fredericton,
April 13, 1849.
(Received May 15, 1849.)

(Answered May 22, 1849, No. 133, page 103.)

MY LORD,

I HAVE the honour to enclose a joint Address from the Legislative Council and House of Assembly to Her most Gracious Majesty, praying for an early settlement of the boundary line between this province and Canada, which was this day presented to me.

I have, &c.,

The Right Hon. Earl Grey, &c. &c. &c.

(Signed) EDMUND HEAD.

Enclosure in No. 15.

Encl. in No. 15.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

The humble Address of the Legislative Council and House of Assembly of the province of New Brunswick, in General Assembly convened.

MAY IT PLEASE YOUR MAJESTY:—

WE, your Majesty's devoted subjects, the Legislative Council and Assembly of New Brunswick, beg leave to approach your Majesty with assurances of our sincere attachment to your Majesty's person and government.

We had hoped that ere this the long-pending dispute respecting the boundary between this province and Canada would have been definitively settled; and we therefore regret that no intelligence has yet been received of the determination of your Majesty's Government on this important subject.

Respectfully urging upon your Majesty's Government the necessity for an early settlement of this question, we humbly pray your Majesty that such steps may be taken by your Majesty's Government as will secure to your Majesty's subjects in this province their just rights to the territory in dispute, and establish the boundary line between the provinces.

WILLIAM BLACK, P.L.C.
J. W. WELDEN, Speaker of the Assembly.

(No. 133.)

No. 16.

No. 16.

COPY of a DESPATCH from Earl GREY to Lieut.-Governor Sir EDMUND HEAD, Bart.

SIR,

Downing-street, May 22, 1849.

I HAVE to acknowledge the receipt of your Despatch, No. 40, of the 13th April last, enclosing an address to the Queen from the Legislative Council of New Brunswick, praying for an early settlement of the question respecting the boundary line in dispute between Canada and New Brunswick.

Page 103,

I have to request that you will inform the Council that I have laid their Address before the Queen, but that it will not be in my power to tender any

CANADA.

advice to Her Majesty until I shall be in possession of the views of the Canadian Government on the subject, to which I have again directed the attention of the Earl of Elgin.

I have, &c.,

Lieut.-Governor Sir Edmund Head, Bart., &c. &c. &c.

(Signed) GREY.

No. 17.

(No. 367.)

No. 17.

COPY of a DESPATCH from Earl GREY to Governor-General the Earl of ELGIN AND KINCARDINE.

MY LORD, Downing-street, May 22, 1849.

Page 85.

WITH reference to my Despatch No. 270, of the 26th of August, transmitting the Report of the Commissioners upon the boundary line, in dispute between the provinces of Canada and New Brunswick, I have the honour to acquaint your Lordship that I have received an address to the Queen from the

Page 103.

Legislative Council of New Brunswick, praying for an early settlement of this question, and I have therefore to direct your attention to this subject, in order that Her Majesty's Government may be placed in possession of the views of yourself and of your Council, preparatory to adopting any final decision upon the respective claims.

I have, &c.,

The Earl of Elgin and Kincardine, &c. &c. &c.

(Signed) GREY.

No. 18.

(No. 159.)

No. 18.

COPY of a DESPATCH from Governor-General the Earl of ELGIN AND KINCARDINE to Earl GREY.

Government House, Toronto, March 9, 1850.

(Received April 2, 1850.)

(Answered April 11, 1850, No. 483, page 130.)

MY LORD,

Page 85.

WITH reference to your Lordship's Despatch, No. 270, of the 26th August 1848, transmitting the copy of a Report drawn up by the Commissioners appointed by the Queen to investigate and report upon the respective claims of Canada and New Brunswick to the territory ceded to Great Britain by the Treaty of Washington, I have the honour to enclose herewith the copy of a Minute of the Executive Council, and of a Report by the Commissioner of Crown Lands. The latter document displays considerable research and knowledge of the question at issue, and I cannot but think that it brings to light some points favourable to the claims of Canada, to which the attention of Her Majesty's Commissioners was not directed when they drew up their Report. I have furnished copies of the Minute in Council and Report, herewith enclosed, to the Lieutenant-Governor of New Brunswick.

I have, &c.,

(Signed) ELGIN AND KINCARDINE.

The Right Hon. Earl Grey, &c. &c. &c.

Encl. 1 in No. 18.

Enclosure 1 in No. 18.

EXTRACT from a REPORT of a Committee of the Executive Council, dated 23rd February, 1850; approved by his Excellency the Governor-General in Council on the same day.

"The Committee of the Executive Council have had under consideration, on your Excellency's reference, a Report from the Commissioner of Crown Lands upon the disputed boundary lines between this province and the province of New Brunswick, with the maps thereto annexed, and likewise the Report of the Commissioners appointed by Her Majesty's Government on that subject which is also annexed thereto.

"The Committee of Council after giving to the subject their most careful consideration, find themselves unable to recognise the justice or equity of the recommendation of the Imperial Commissioners, which in their judgment would, if carried into effect, divest this province of a large and valuable portion of territory for the special benefit of New Brunswick. The Committee of Council feel it unnecessary to enter at any length into the subject, which has been most ably treated in the Report from the Commissioner of Crown Lands, in which the Com-

mittee entirely concur so far as regards the merits of the respective claims to the disputed territory. The Committee of Council observe that the Commissioner of Crown Lands has, with a view of compromising the matter in dispute, recommended the surrender by Canada of a large portion of territory to which it is, in the opinion of the Committee, clearly entitled.

"However advisable such a compromise might be, the Committee of Council are not prepared to recommend it without the sanction of the Legislature; but they are respectfully of opinion that the sense of the Canadian Parliament should be taken on the subject during its next Session."

(Signed) J. JOSEPH, C. E. C.

(Certified.)

Enclosure 2 in No. 18.

Crown Land Department, Montreal,
January 27, 1849.

HAVING attentively perused the Report which has been drawn up by the Commissioners appointed by Her Majesty, dated at Halifax on the 20th July 1848, to investigate and report upon the respective claims of Canada and New Brunswick to the territory "ceded" to Great Britain by the Treaty of Washington, which the Right Honourable Earl Grey, Secretary of State for the Colonies, has abstained from submitting to the consideration of Her Majesty, until he had learned the opinion which the authorities in Canada and New Brunswick entertain upon it, but trusts that both provinces will regard the result of the inquiry as satisfactory, and as fairly determining upon their respective claims.

The undersigned, in obedience to your Excellency's order of reference, has the honour of most respectfully submitting for the consideration of your Lordship the following observations relative to the various grounds of argument contained in the Report just referred to, which have led the Commissioners, as the result of their operations and inquiries, to reject the line of boundary claimed by Canada, and to substitute another whereby upwards of one and a half millions of acres of its present public lands lying north of the Rivers St. John and Restigouche would be cut off, besides about 2,000 square miles south of the Restigouche, which are thereby transferred to New Brunswick.

The Secretary of State for the Colonies, the Right Honourable Mr. Gladstone, in indicating the duties that would devolve upon Captain Pipon and Captain Henderson, the Commissioners appointed by Her Majesty for the adjustment of the differences existing between Canada and New Brunswick, instructed them, that after actually inspecting the territory in dispute, as far as such inspection should be requisite, they should prepare such plans and maps of the country as might be sufficient for the full explanation of the controversy, and that duty being performed, they were directed to consider, with Mr. Johnstone, their colleague Commissioner, whether any line could be drawn for the demarcation of the two provinces which would satisfy the strict legal claims of each.

Instructions to the Commissioners for the adjustment of a line of boundary.

Should it be found impossible to discover such a line, the three Commissioners were then to consider how a line could be drawn combining the greater amount of practical convenience to both provinces, with the least amount of practical inconvenience to either, adverting at the same time to such interests, if any such there were, as the empire at large might have in the adjustment of that question.

And the three Commissioners were instructed to prepare and transmit to Her Majesty's Secretary of State having the department of the Colonies, the result of their inquiries, and a Report of their conclusions on both of these questions, sustained by such proofs and arguments as may appear to them collectively to be necessary in support of those conclusions.

Major Robinson (appointed by Her Majesty to succeed the late Captain Pipon, and Captain Henderson) having accordingly effected the needful exploration of the country in dispute, and prepared the maps and other papers proper for the explanation of the controversy, and together with Mr. Johnstone considered the subject, they together submitted the Report now referred.

Explorations effected on the disputed territory.

The consideration of the grounds of argument adduced by the Commissioners in their investigation of the respective claims of both provinces, under the instructions of Mr. Gladstone, will now be taken up as briefly as the subject will permit in the order pursued in the Report.

Accordingly the first subject of inquiry to which the attention of the Commissioners has been specifically called, the nature of which manifestly evinces the desire of Her Majesty's Government to mete out equal justice to the provinces at issue, in the adjustment of a line of boundary between them, is, whether a line can be drawn for the demarcation of both provinces which can satisfy the strict legal claims of each.

First subject of inquiry.

As a just and proper construction upon the import of the words "strict legal claims of each," seems in the first place of material importance towards an equitable adjustment of the line of demarcation desired, a proportionate degree of weight will attach to the deliberations of the Commissioners, according as it shall be found that they have based their conclusions upon titles consistent with the meaning of the terms "strict legal claims of each," sustained by proofs and arguments in support of these conclusions.

Import of the words "strict legal claims."

The Commissioners preface their deliberations on this question by stating, that the question of the investigation being to ascertain the boundaries assigned to the provinces after they came under the dominion of Great Britain, the question is not controlled by any previously existing extent of territory or jurisdiction, and proceed at once to the consideration of the Proclamation of the 7th October 1763, as being the first subject of examination, and as forming in their opinion the foundation of the titles to be considered.

Deliberations of the Commissioners.

CANADA.

The Royal Proclamation of 1763 cannot be considered the first subject for examination.

Now according to a just and impartial import of the terms "strict legal claims of each," which can but have reference to claims based upon ancient possessions, rights or titles derived by grants, concessions from competent authorities, or from sovereigns respectively of Canada and New Brunswick, the Proclamation of 1763 cannot be considered the first subject for examination, nor the foundation of the titles to be considered, as it in fact only assigned (in erecting the Government of Quebec, East Florida, West Florida, and Grenada) boundaries to the province of Quebec, the southern boundary of which became, by inference only, the boundary of Nova Scotia, if indeed they were conterminous countries. The Commissioners would appear not to have conformed to the terms of the instructions, in not first investigating the title of Nova Scotia, which was already a British province, and the older of the British possessions at the period of the Treaty of 1763, situate at the eastern extremity of the peninsular country, between the St. Lawrence and the Atlantic seaboard, as the first subject for inquiry should have been, what were the northern limits of Novia Scotia at the Treaty of 1763. The first public document in reference to Nova Scotia is the Treaty of Utrecht, dated in April 1713, whereby France ceded to England for ever, Nova Scotia and Acadia, "according to its ancient limits,"* and under which title, England held that country at the date of the Treaty of 1763.

The Treaty of Utrecht the title of Nova Scotia.

Anterior to this cession, Acadia had been divided by Louis XIII., in the year 1638, into two separate governments, that of the Etchemins, which may now be identified with the province of New Brunswick, embracing the grants to Charles de St. Etienne Sieur de la Tour, dated 11th February 1638, of "Le Fort et habitation de la Tour, situé en la Rivière St. Jean entre "les 43° et 46° de latitude, ensemble les terres prochainement adjacentes à icelui dans "l'étendue de cinq lieues au dessus de la Rivière St. Jean, sur dix lieues de profondeur dans "les terres, tenir le tout en Fief mouvant et rélevant de Quebec," and also the grant to Sieur de Rasily, on the River and Bay of St. Croix, both situate in the territory called "des Etchemins," over which Mr. de Aulnay de Charnisay was appointed in 163 , Lieutenant-General, with the following limits,—"à prendre depuis le milieu de la terre ferme de la Baie Française, "en tirant vers les Virginies," &c., and that of Acadia, the ancient Souriquois, "depuis le "milieu de la dite Baie, jusqu'au détroit de Canseau."

Territorial divisions and ancient boundaries of Acadia.

The territories into which ancient Acadia was thus divided, namely,† the Etchemins, part of which afterwards composed the province of Sagadahoc, called by the French la Nouvelle Ecosse and Souriquois‡ or Acadia, known as Nova Scotia, appears to have been delineated with some degree of accuracy on the accompanying map A, of P. Cornelli, Cosmographer to the Republic of Venice at Paris, in 1689, being only one year after the Treaty of Breda, which restored to France her possessions in the great peninsula, known under the designation of "le pays appelé l'Acadie," which, subsequently conquered by England, were again, by the Treaty of Ryswick, brought under the dominion of France in 1697.

Treaties of Breda and Ryswick.

Boundaries of Acadia, according to ancient maps.

On this map A, which with the map B, are copied from the maps accompanying the important Report of Colonel R. Z. Mudge, and G. W. Featherstonhaugh, Esquires, Commissioners appointed by the British Government in 1839, to explore the disputed territory under the second article of the Treaty of 1783,§ is distinctly drawn the line of demarcation between the territories of Etchemins, the "Nouvelle Ecosse" (Sagadahoc), situate in ancient Acadia (coloured green) on the Atlantic seaboard, and Canada on the St. Lawrence (coloured yellow), which line, beginning at the head of the Bay des Chaleurs, takes a south-west course, leaving the River Ristigouche and Lake Matapedia on the north, within the country of Canada, and crossing the River St. John to the eastern boundary of La Nouvelle Ecosse (at present the State of Maine), thence passes more westerly round the head waters or sources of the Kennebec and Penobscot Rivers, and south of the head waters of the River Chaudière emptying into the "River of Canada," to the eastern boundary of New England. The map B, likewise important as being published by L'Escarbot in 1609, who was personally acquainted with, and aided in the earliest settlements of the French colony of Acadia, having accompanied Sieur de Poitrincourt || on his second voyage to America in 1606, exhibits in the clearest manner, the territories of Etchemins and Souriquois, mentioned in the Letters Patent granting the territory of Nova Scotia to William Alexander, Earl of Stirling, in 1621, comprising the ancient colony of Acadia, as conterminous with Canada, or La Nouvelle France, and whereon are also represented certain ranges of mountains at the sources of the Penobscot, which are unquestionably identical with the well-known heights and Alpine country of Maine, which trends north-eastwardly towards the head of the Bay des Chaleurs, and another more northerly ridge near the shores of the River St. Lawrence.

Exhibit of the natural features of country upon the charts of early discoveries.

These natural features of country are also distinctly shown on the accompanying map C, published at Paris in 1632, by Sieur de Champlain, exhibiting the well-known range of mountains lying at the sources of the Penobscot and Kennebec Rivers, and extending north-eastwardly across the River St. John to the head of the Bay des Chaleurs; and the range of mountains bordering on the River St. Lawrence, from or near Quebec to the Monts de Nôtre Dame in Gaspé. South of which latter range are inserted the words La Nouvelle France, and the words Etchemins and Souriquois (the tracts which composed the country known as Acadia or Nova Scotia), inserted south of the mountains lying at the sources of the Atlantic rivers, or range first above mentioned.

It is therefore evident that the ancient colonies of Acadia and Canada, or "le pays de la Nouvelle France," were conterminous possessions of France at the period of the Treaty of Utrecht, and therefore, whatever were the northern limits of Acadia in the Letters Patent

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* Twelfth Article of the Treaty. † Extract No. 4. ‡ Extract No. 8.
§ Extract No. 1. || Extract No. 12.

thereof to Sieur de Monts in 1603, as ceded by the above Treaty to England in 1713,* under the designation of Nova Scotia, became the southern boundary of Canada, namely, the 46° of north latitude.†

Thus stood in regard to the contiguous country of Canada, the boundaries of Nova Scotia, or Acadia ceded by the Treaty of Utretcht, and confirmed to England by the Treaty of Aix-la-Chapelle in 1748; and it was not until the peace of 1763 when the general cession by France of all its possessions in North America, wherein the cession of Nova Scotia is specifically confirmed, that the boundaries of the province of Nova Scotia were defined, that is, in the Royal Commission to Montague Wilmot, dated 21st November 1763, appointing him Captain-General and Governor-in-Chief over the province of Nova Scotia, wherein the limits of that province are described as follows: "To the northward, our said province shall be bounded by our province of Quebec as far as the western extremity of the Bay des Chaleurs to the eastward by the said bay and the gulf of St. Lawrence, and to the westward (although our said province hath anciently extended, and doth of right extend as far as the river Pentagoet or Penobscot, it shall be bounded by a line drawn from Cape Sable across the entrance of the Bay of Fundy to the mouth of the River St. Croix, by the said River to its source, and by a line drawn, due north, from thence to the southern boundary of our colony of Quebec."

Boundaries of Nova Scotia in the Commission to Governor Wilmot.

Then according to the historical statement above given, Nova Scotia or Acadia, agreeably to its ancient limits, "did not extend further north than the 46° of north latitude," ‡ and, consequently, its ancient limits fall short of attaining the line of boundary claimed by Canada in the present controversy.

The consideration of the legal claims of Canada in respect to its ancient limits under the import of the terms herein-above adverted to, as to the title of Canada, will next be taken up.

By the treaty of peace concluded at Paris on the 10th February 1763, the king of France renounced all pretensions he had heretofore or might form to Nova Scotia or Acadia in all its parts and guarantees, the whole of it, and all its dependances to Great Britain; "moreover," cedes to "His Britannic Majesty full right to Canada, with its dependencies, as well also as the Island of Cape Breton," &c. &c.

In erecting the extensive and valuable acquisitions secured to England by the treaty of peace into certain distinct Governments, the Royal Proclamation of the 7th October 1763, declares "the Government of Quebec, bounded on the Labrador coast, by the River St. John's, and from thence, by a line drawn from the head of that river through the Lake of St. John, to the south end of the Lake Nipissing, from whence the said line crossing the River St. Lawrence, and the Lake Champlain in 45° of north latitude passes along the highlands which divide the rivers that empty themselves into the said River St. Lawrence from those which fall into the sea, and also along the north coast of the Bay des Chaleurs and the coast of the Gulf of St. Lawrence to Cape Rosiers, and from thence crossing the mouth of the River St. Lawrence, by the west end of the island of Anticosty, terminates at the aforesaid River of St. Lawrence."

It is not pretended in the arguments that have been urged on the part of Canada in the present controversy, that the Imperial Act of the 14th Geo. III., chap 83, in altering certain arrangements made in the Royal Proclamation above cited, relative to certain parts of the territory of Canada and the settlements of the inhabitants of the province of Canada, alters substantially the boundary described in that Proclamation, but it is clearly apparent from the spirit and the policy of the provisions of that Act, that the desire and intentions of the Parliament of Great Britain, were to secure to the inhabitants of the province of Quebec (numbering 65,000 at the Conquest), the free enjoyment of the established form of constitution and system of laws by which their persons and properties had been protected, governed, and ordered for a series of years from the first establishment of Canada.

Spirit and policy of the Quebec Act.

All the possessions of the inhabitants of Canada at the conquest of 1759, that is, the various concessions of fiefs or seigniories, made by the intendants and governors of Canada, the settlements and fishing establishments within the territory called Canada, were then intended to be comprised within the limits of the province of Quebec, and subject in matters of controversy to be decided according to the laws and usages of Canada.§

It is therefore necessary to inquire, what was the extent of Canada at the conquest, and how it occupied with Acadia, the space of country lying between the St. Lawrence and the Atlantic seaboard, and how the partitioning of this territory, under the Proclamation of 1763, according to the pretensions of New Brunswick, would affect the rights of Her Majesty's Canadian subjects, secured to them by the Imperial Statute of 1774, which declares, that all territories, islands, and countries in North America belonging to the Crown of Great Britain, "bounded on the south by a line from the Bay des Chaleurs along the highlands, which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the sea, to a point in the 45° of north latitude, on the eastern bank of the River Connecticut, keeping the same latitude directly west, through the Lake Champlain, until, in the same latitude it meets the River St. Lawrence, from thence, &c., to be part and parcel of the province of Quebec, as created by the Proclamation of 1763."

Boundary of Canada according to the Quebec Act.

By the treaty of peace, it is plain, France ceded all its possessions on the continent of North America, comprising Canada and Acadia; that these countries were known to be contiguous territories at the time of the Conquest, appears further evident by the preambles to the 38th and 39th Articles of the Capitulation, signed at Montreal, on the 8th September 1760.

Contiguity of the possessions known as Acadia and La Nouvelle France at the Conquest.

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* Extract No. 2.
† Extract No. 3.
‡ Extracts Nos. 5 and 6.
§ Section.

Art. XXXVIII., viz., "All the people who have left Acadia, and who shall be found in Canada, including the frontiers of Canada, on the side of Acadia, shall, &c. &c."

Art. XXXIX. "None of the Canadians, Acadians, or French, who are now in Canada and on the frontiers of the colony, on the side of Acadia, Détroit, &c. &c."

The consideration, therefore, of the nature of the boundaries assigned to the province of Quebec, by the Proclamation of 1763, must be interpreted according to the spirit of the Quebec Act, and this appears to be necessary with the view of determining what were the limits of Canada at the period of its earliest settlement.

This important branch of the inquiry having already been ably and satisfactorily supplied in the Report above alluded to, of Colonel Mudge and Mr. Featherstonhaugh, this seems the fitting place to advert to the nature of the service intrusted to them.

Instructions to the Royal Commissioners, Featherstonhaugh and Mudge.

By their instructions, the Royal Commissioners were directed to proceed to New Brunswick for the purpose of making investigation, respecting the nature and configuration of the territory in dispute between Her Majesty's Government and the United States of America, and to report which of the three following lines presents the best defined continuity of highland ranges:—

1stly. "The line claimed by the Commissioners from the source of the Chaudière to Mars Hill.

2ndly. "The line from the source of the Chaudière to the point at which a line drawn from it to the western extremity of the Bay des Chaleurs intercepts the due north line, and—

3rdly. "The line claimed by the Americans (now claimed by the Government of New Brunswick), from the source of the Chaudière to the point at which they make the due north line end."

According to the review of the documentary evidence on the question of ancient boundaries, previously to the Treaty of 1763, contained in the above Report, Acadia and Canada are established to have been at the period of the Treaty of Utrecht, 1713, conterminous possessions of France, and, therefore, whatever were the ancient northern limits of the country known as Nova Scotia or Acadia, ceded to England by that Treaty (namely, the country lying between the parallels of 40° and 46° of north latitude), granted to Sieur de Monts as the limits of his Government to the north, became the extent of Canada to the south.

Southern boundary of the province of Quebec, according to the Quebec Act.

Although the description of the boundary of the province of Quebec, in the Quebec Act, does not profess to alter the boundary described in the Proclamation of 1763, yet it cannot be denied, that in investigating the course of the line of boundary to run from the westerly extremity of the Bay des Chaleurs along the highlands which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the sea to a point in the 45° of north latitude, or the east bank of the River Connecticut, the intended general course of the line of boundary along the highlands is more definite, of a south-westerly direction, between those extreme points, so as to enclose within the province of Quebec the ancient seigniorial concessions made by the king of France,* which are intended according to the spirit of the Quebec Act, to be subject or governed according to the laws and usages of Canada.†

Both the Proclamation of 1763, and the Quebec Act, however, in defining the southern boundary of the Government or province of Quebec, established, by inference, the northern limits, as well of the New England provinces as of Nova Scotia, lying to the south of the line of boundary therein described.

North-west angle of Nova Scotia, according to the Treaty of 1783.

Hence the description of the boundary of the United States, in the Treaty of 1783, in which are used the characteristic terms "along the highlands," and in which the boundary is stated to "commence at the north-west angle of Nova Scotia, that angle which is formed by a line drawn due north from the source of the St. Croix River to the highlands, which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, to the north-westernmost head of the Connecticut River."

There cannot exist a reasonable doubt that the north-west angle of Nova Scotia, abovementioned, the object collaterally in point in the present examination, is identical with the point at which terminates the west boundary line of the province of Nova Scotia, namely, the due north line drawn from the source of the St. Croix (established by the Treaty of Amity, in 1794, as the western limit of Nova Scotia) to the southern boundary of the province of Quebec, stated in the Commission appointing Montague Wilmot, Esq., to the Government of Nova Scotia, in 1763, already cited and repeated in the Commissions to the Governors of the province of New Brunswick, after its erection into a separate province, in the year 1784 (one year only after the Treaty of 1783), in which the boundaries of that province are given as follows:

Erection of the province of New Brunswick.

—"bounded on the westward by the mouth of the River St. Croix, by the said river to its source, by a line drawn due north, from thence to the southern boundary of our province of Quebec, to the northward by the said boundary, as far as the western extremity of the Bay des Chaleurs, to the eastward by the said bay and the Gulf of St. Lawrence," &c.

The strict legal claims of the two provinces being thus established, in respect to the ancient rights and possessions of each, under the sanction of solemn public Acts, antecedently to, and at the Treaty of 1763; the next subject of inquiry connected with the first question, is, whether in fact, highlands do exist, which possess the characteristic attributes designed in the public Acts that have been herein-before recited,‡ that is, "highlands" which divide the waters emptying in the River St. Lawrence from those that fall into the sea, "and ranging in the direction from

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* Extract No. 16.

† This would include the Seigniories of Lake Temisquata and Madawaska, Cloridon, Lake Mitis and Lake Matapedia.

‡ Extract No. 15.

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the Connecticut River to the western extremity of the Bay des Chaleurs," along which a line of demarcation can be drawn for the southern boundary of the province of Canada, at which a line drawn due north from the source of the St. Croix will terminate, and from that point to the western extremity of the Bay des Chaleurs, constitute the northern boundary of the province of New Brunswick.

Demarcation of a line of boundary along highlands.

The solution of this important problem, which is depending upon a scientific and faithful examination of the physical features of the country, extending along the whole line of the southern boundary of Canada, that is, from the Connecticut River to the Bay des Chaleurs, does not appear to suffer any difficulty.

Depending upon a scientific exploration of the highlands.

Major Robinson and Captain Henderson, the Commissioners to whom the exploration and research, directed under Mr. Gladstone's instructions were committed, do not, however,* "hesitate in pronouncing, as their clear and decided opinion that 'highlands' do exist, which separate the rivers that empty themselves into the River St. Lawrence from those that fall into the sea, that these 'highlands' connect themselves continuously by highlands with the north coast of the Bay des Chaleurs, and reach the 45° of north latitude, at the eastern branch of the Connecticut River, thus essentially fulfilling the several requirements of the Proclamation, Act of Parliament, and Commissions, for Governors for the southern boundary of Canada, and laying the foundation for establishing the strict legal claims of both provinces."

"This line on the map, as prepared by Major Robinson and Captain Henderson, is coloured green, and it will be seen that the northern highlands claimed by New Brunswick, are adopted, and the line contended for by Canada, as its southern boundary, is rejected.

Opinion respecting the highlands favourable to the claim of New Brunswick not borne out by the existing knowledge of the country.

The above opinion not being borne out by the existing knowledge of the country in dispute,† appears to demand an inquiry into the physical character of the country, so traversed by highlands, distinguished in the Report under the (appropriate) names of "northern and southern highlands."

In entering upon the consideration of this subject, it is presumed to be understood, that the northern highlands, "in their whole continuity, as a highland range," between the Connecticut River, and the Bay des Chaleurs, distinctly sustain the attributes of dividing those rivers that empty themselves into the St. Lawrence from those that fall into the sea, that feature failing, however, in any instance in regard to the northern highlands, the same departure from the strict conformity with the letter of the description can legitimately be conceded to the southern highlands, and both are to be considered as highland ranges, and bearing the aspect of continuity as highlands under the signification that is given them of mountain ranges.

General map of the country in dispute referred to.

In order to a clear illustration of the natural features of the country in question, the undersigned begs reference to the accompanying map D, "compiled from actual surveys and explorations," &c. This map exhibits the great rivers and their tributaries, which water that tract of country, whether rivers falling into Atlantic Ocean, (taken as synonymous with sea,) or rivers emptying into the River St. Lawrence; the mountain ranges and plains, or level country, as explored and surveyed under the Treaty of Ghent, since the year 1817, to the date of the surveys performed by the Royal Commissioners, G. W. Featherstonhaugh, and Colonel Mudge, of the southern boundary of the province of Quebec, under the second geographical line, they were instructed by the Imperial Government to investigate, also exhibiting the lines of boundary respectfully claimed by Canada and New Brunswick, in the present controversy.

Attributes required to constitute the "highlands" of the Royal Proclamation.

The attributes which are intended to distinguish the character of the highlands to constitute the southern boundary of Canada, both in the Royal Proclamation and the Quebec Act, are, that they should "separate the rivers emptying themselves into the St. Lawrence from those falling into the sea."

Upon inspection of the map, it will be found in beginning the inquiry, according to the description given in the Royal Proclamation of 1763, that is to say, at the River Connecticut, belonging to the class of rivers falling into the Atlantic Ocean, that the northern branches or tributaries of that river, from Hall Stream to the easternmost head of the Connecticut River, take their sources in the highlands, known at the very early period of the settlement of the New England provinces, under the appellation of the "height of land,"‡ in which the opposing waters of the River St. Francis, emptying into the River St. Lawrence, take their sources; the next rivers of the class of Atlantic waters, are,—1st. The Margalloway, which rises in the highlands opposed to the easterly sources of the Salmon River, a tributary of the St. Francis River, and the source of the river known as Arnold River. 2nd. The Androscoggin River, also opposed to the Arnold River. 3rd. The Dead River, opposed to the Spider River, another tributary of the Chaudière, and 4th. The sources of the Moose River, opposed to the sources of the River du Loup, another tributary of the Chaudière rising, in the same continuity of highlands, or height of land, in common with the sources of the above-mentioned four rivers, which are tributaries and principal branches of the River Kennebec, or ancient Sagadahoc. The next river of the class of Atlantic waters, is the Penobscot the north-western tributaries of which river take their sources in the same height of land, in their continuity north eastward, in common with the easterly tributaries of the River du Loup, called the Portage and Metgermette Rivers, to a point in those highlands,§ where the highlands cease to separate the waters of the St. Lawrence, from the rivers falling into the sea, inasmuch as the northerly and easterly branches of the Penobscot take their sources in the highlands, ranging in continuity with those from the head of the River Connecticut, the opposing streams being the sources of the Walloostook, the Alagash, the Fish River, and Restook, all tributary rivers of the St. John.

The highlands at the sources of the RiversMetgermette and Penobscot trend easterly.

* Extracts Nos. 12, 13, and 14.
† Extract No. 17.
‡ Extract No. 22.
§ Extract No. 23.

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These highlands, which are no doubt identical with the southern highlands of the Commissioners, continue in lofty ridges, distinguished by occasional peaks of great elevation, to range in a north-easterly direction, intercepting the "due north line" in the region between the Grand Falls on the River St. John, and the Restook,* thence still in continuity of the same highlands, compose the well known mountainous district, lying along the Salmon and Tobique Rivers, and the upper branches of the River Upsalquitch, represented on the map of the province of New Brunswick, published in 1842, by John Sincoe Saunders, Esq., Surveyor-General of that province, and dedicated to Sir John Colebrooke, Lieutenant-Governor of New Brunswick. The highlands then range from Mount Nictoo, along lofty peaks and mountains, in a continuous ridge to the western extremity of the Bay des Chaleurs, near Dalhousie, a town situate at the base of the hills, which, with those on the northern coast of the bay, from the narrow entrance into the Bay of Restigouche.

Continuity of the highlands east of the River St. John to the Bay des Chaleurs.

It is evident from the foregoing description, that in following the "height of land," or "highlands," in the course indicated by the Royal Proclamation, highlands possessing the necessary physical attributes of dividing certain rivers, stated in that Proclamation, are found and traced to a point in those highlands situate at the sources of the Rivers Metgermette and Penobscot (a distance of about 130 miles from Hall Stream), from whence a continuous range of highlands is traced to the western extremity of the Bay des Chaleurs, constituting the elevated section of country which the Royal Commissioners, Featherstonhaugh and Mudge, have reported and designate on their map as the "axis of maximum elevation."†

These highlands fulfil the conditions of the Royal Proclamation, and are reported as the axis of maximum elevation.

But Major Robinson and Captain Henderson would, as the result of their exploration, establish the existence of highlands along the line claimed by New Brunswick "which would possess the physical attributes designed in the Royal Proclamation and in the Quebec Act," &c.‡

This statement, which would convey an idea of the physical character of the country in which the northern highlands are located, so widely at variance with the official reports of the scientific surveys recorded in this department, and explorations of certain parts of the disputed boundary authorized by the Imperial Government, the accuracy of which is sustained by the operations of the Royal Commissioners in 1840, merits a particular examination; more especially so, as upon the result or the explorations reported by Major Robinson and Captain Henderson have been predicated the various arguments used by their colleague Commissioner Mr. Johnstone, in admitting the claim of New Brunswick, and rejecting the line claimed by Canada as her southern boundary.

Exploratory surveys authorized by the Imperial Government.

In the arguments used in supporting the line of boundary claimed by the United States to run along the head-waters of the streams emptying into the River St. Lawrence from those falling into the River St. John (on similar grounds as now set up by New Brunswick), it was asserted that a range of highlands in continuity of those from the Connecticut River, extended north of the Metgermette portage, dividing the sources of the Chaudière River from those flowing into the River St. John, to the sources of the River du Sud, and other rivers east thereof emptying into the River St. Lawrence, until intersected by the due north line, the pretended north-west angle of Nova Scotia.

Supposed highlands at the sources of the Rivers Chaudière and St. John.

The Imperial Government, desirous of settling the point of difference arising from the contrary and conflicting reports respecting that section of the disputed line of boundary, caused a special survey of the country lying at the sources of the Rivers Chaudière and St. John's to be made.

To that effect the Earl of Dalhousie, then Governor of Lower Canada, instructed the Surveyor-General, on the 8th March 1828,§ "to explore minutely the whole tract of country from the head of the Metgermette branch of the River du Loup falling into the Chaudière to the sources of the River Ouelle, in order to ascertain the fact whether the waters falling into the River St. John are, or are not, divided from those which fall into the River St. Lawrence by land, which can fairly be designated as highlands."

This service, one of the highest importance with reference to the question at issue, which was performed by Fred. Weiss, of the 60th Regiment, and W. Ware, Esq., of the Field Train department, both sworn land surveyors, and Joseph Bouchette, Esq., Deputy Surveyor-General of Lower Canada, placed beyond any doubt the course of the highlands in continuity of the highlands ranging from the head of the Connecticut River to trend easterly from the sources of the Metgermette and Penobscot Rivers, along the sources of the Atlantic rivers towards the Bay des Chaleurs,‖ and not northerly along the sources of the rivers emptying into the River St. Lawrence, as it is reported by Major Robinson and Captain Henderson.

Shown not to exist by the official surveys.

The operations of these surveyors, joined to those of the Royal Commissioners, establish the non-existence of highlands located in the line claimed by New Brunswick that "connect themselves continuously by highlands with the coast of the Bay des Chaleurs, at its eastern extremity, and reach the 45° of north latitude," as fulfilling the several requirements of the Proclamation and Act of Parliament; ¶ and it is apparent that through some mistake, attributable, no doubt, to an imperfect examination of the country in dispute, Major Robinson and Captain Henderson have supposed the north highlands to unite with the southern highlands at the heights of Metgermette and Penobscot, while they are ascertained to unite only south of the line 45°.**

The northern range of highlands unite with the southern range only south of the parallel of 45°.

It has been shown that the southern highlands are a continuity of the highlands fulfilling the attributes of the highlands of the Proclamation, from the head of the Connecticut River to the Metgermette heights, and thence in an uninterrupted chain of mountains reaches the Bay des Chaleurs, intercepting the due north line from the source of the St. Croix; and if assumed as

The southern highlands are the highlands contemplated in the Royal Proclamation of 1763.

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* Extract No. 24. † Extract No. 25. ‡ Extracts Nos. 20 and 26. § Document A.
‖ Documents B, C, and D. ¶ Extract No. 27. ** Extract No. 28.

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the southern boundary of Canada, would, by geometrical construction, at that point of intersection form the north-west angle of the province of New Brunswick.

Objection raised to these highlands.

Yet the objection has been raised in the present controversy that these highlands do not fulfil the necessary requirements of the Proclamation or the Quebec Act, as they only separate, on the east side of the River St. John, the sources of the Tobique River from those falling into the River Restigouche, which are not the waters emptying into the River St. Lawrence. If this objection be valid for the southern, most assuredly it should obtain with respect to the northern highlands, supposing such a deficient feature to exist at the sources of the rivers emptying into the St. Lawrence.

The inquiry in regard to the physical attributes of the northern range must unavoidably begin at the Bay des Chaleurs.

As the northern highlands evidently fail to connect themselves continuously with the highlands trending to the head of the Connecticut River, the inquiry in regard to their possessing, as reported, the physical features and attributes required in the Proclamation and the Quebec Act, must necessarily be made at the eastern extremity of the line, and therefore begin at the Bay des Chaleurs, and thus proceed in the order of the description prescribed in the Quebec Act, that is, a line from the western extremity of the Bay des Chaleurs "along the highlands," &c.

In adopting this mode of investigation, difficulties of a twofold nature present themselves at the outset in drawing the line along the highlands towards the Connecticut River, highlands which would possess the physical attributes strictly required. The first difficulty regards the class of rivers to be divided, and the other, the discovery of a range of highlands connecting the coast of the Bay des Chaleurs with the northern highlands bordering on the St. Lawrence.

Line of boundary claimed by New Brunswick shown on Mr. Baillie's map to commence at or opposite Campbellton.

The line claimed by New Brunswick, as represented on the map (G) accompanying the supplementary report of Thomas Baillie, Esq., Surveyor-General of New Brunswick, and Commissioner on the part of that province, dated December 1844, takes its departure on the north side of the Bay of Restigouche, opposite Campbellton, situate on the south side of that bay, which Mr. Baillie considers the western extremity of the Bay des Chaleurs.*

Western extremity of the Bay des Chaleurs at Dalhousie.

According, however, to the well-authenticated facts and evidences† adduced by Alphonzo Wells, Esq., in his report as Commissioner on behalf of Canada, the western extremity of the Bay des Chaleurs is established at or near Dalhousie, lying on the south side of the entrance of the Bay of Restigouche, and not at Campbellton; whilst Major Robinson and Captain Henderson would place the western extremity of the Bay des Chaleurs 15 miles east of that town, at the elevated mountains of Tracadigash on the north coast of the Bay des Chaleurs.

The above striking difference between the starting-point for the line of boundary claimed by New Brunswick at or near Mission Point, and the starting-point of the line explored by the Commissioners at the Peak of Tracadigash, both assumed in the various statements alleged and in the arguments respectively contained in the Supplementary Report of the New Brunswick Commissioners and in the Report under consideration as the western extremity of the Bay des Chaleurs, appears deserving of investigation with a view of discovering the reasons that have produced so wide a departure as 25 miles, which the line of coast from Mission Point to Tracadigash presents; especially as it was requisite to trace from one or the other of these points a line along highlands to sustain the line of boundary claimed by New Brunswick.

This difference is deserving of investigation.

Upon inspection of the maps D and H (the latter being a copy of part of map B, which accompanies Mr. Wells' Report, compiled by him from official documents collected in New Brunswick), it appears very evident that Mission Point, or Campbellton, nearly opposite to it, are respectively located on the north and south shores of the River Restigouche, near the head of the Bay of that name, which has its entrance into the Bay des Chaleurs between Indian Point, near Dalhousie, and Point Miquasha, on the north coast of the Bay des Chaleurs.

Campbellton or Mission Point situate on the Bay of Restigouche.

According to the statutes of New Brunswick,‡ the parish of Addington, in which lies the town of Campbellton, and the parish of Dalhousie, in which lies the town of Dalhousie, are both bounded and limited towards the north by the River Ristigouche, whilst the Indian Mission village at Cross or Mission Point, is comprised within the ancient limits of the seigniory of Cloridon, conceded in the year 1691, on the north side of the River Restigouche, beginning at the River Porcepie (now called River du Loup), as its eastern extremity, and extending westerly eight leagues perpendicular breadth up the said River Restigouche.

The hills which skirt the shores of the Bay of Restigouche, with the exception of the elevated peaks of Scuminac and River du Loup, do not present any remarkable elevations until opposite Dalhousie, where they rise to a considerable height, ranging thence along the north coast of the Bay des Chaleurs towards the elevated mountains of Tracadigash, also called the Carleton Hills.

The heights opposite Dalhousie range along the coast of the Bay des Chaleurs.

Yet the Commissioner, on behalf of New Brunswick, maintains that the Bay of Restigouche forms part of the Bay des Chaleurs, and has accordingly laid down a line (coloured red) on his map, along supposed highlands which he describes as ranging from Mission Point, northward to the "highlands" bordering on the River St. Lawrence.

Major Robinson and Captain Henderson place the western extremity of the Bay des Chaleurs at Tracadigash.

Major Robinson and Captain Henderson, with this knowledge of the location of the line claimed by New Brunswick, having however explored the country northward to the St. Lawrence, must have failed to discover highlands trending in that direction from Mission Point, and therefore in view of the claim of that province as a result of their exploration of the country on the north shore of the river and Bay of Restigouche, ultimately fixed upon the aforesaid highlands of Tracadigash, which flank the Bay of Cascapedia on the north coast of the Bay des Chaleurs, as the intended highlands along which the southern boundary of the province of Quebec should run.

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* Appendix B, Vol. IV., Journal Legislative Assembly.

† Appendix B, Vol. IV., Journal Legislative Assembly, Section No. 11.

‡ Appendix B, No. 20.

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Whence a line may be traced in a northerly direction, then westwardly, and then south, for a considerable distance.

At these elevated hills, which rise abruptly to the height of near 1,830 or 2,000 feet, the Commissioners have established the western extremity of the Bay des Chaleurs as best fulfilling the "language of the proclamation, whence the line may be traced in a northerly direction, neither cutting nor intersecting any rivers for about forty-five miles through an elevated country, which may be considered as meeting the more specific range of north highlands, which from thence runs westwardly for a comparative short space, where it turns to the south, and continues that course for a very considerable distance until it is brought in the vicinity of the due north line."

In reviewing the foregoing statement, first with reference to the question relative to the western extremity of the Bay des Chaleurs, in addition to the documentary evidence which establishes the boundaries of the parishes of Dalhousie and Addington, on the River Restigouche, contra-distinguished from those of the parishes of Colborne, Durham, &c., which are bounded by the Bay des Chaleurs, besides various other facts which have been adduced in the present controversy, to the effect of satisfactorily showing that the western extremity of the Bay des Chaleurs does not lie east of Dalhousie, if it cannot be laid at Campbellton, or Mission Point; it is only necessary to inspect the hydrographical chart of Captain Bayfield, whereof the Map E. is an accurate trace to perceive the cause of the error into which the Commissioners appear to have fallen in locating the western extremity of the Bay des Chaleurs at Tracadigash.

Error into which the Commissioners appear to have fallen.

The bay at this point is upwards of twelve miles wide, while its northern coast lies nearly due west, about ten miles to Point Miguasha. The highlands from Tracadigash run parallel in an elevated chain of mountains with the coast until opposite Dalhousie, where they form, in conjunction with the hills at the foot of which that town is situate, the elevated mountain barrier at the head or termination of the Bay des Chaleurs, well known to mariners, whilst, owing to the projecting headlands, the view of the entrance of the Restigouche is shut out to persons sailing up the Bay des Chaleurs until nearly opposite Point Miguasha.

Features of the country at the head of the Bay des Chaleurs.

East of Tracadigash the highlands trend in a semi-circular course, under a radius of about fifteen or twenty miles, reaching the entrance (on the east side) of the River and Bay of Cascapedia; north of these mountains lies the table-land of the Peninsula of Gaspé, intersected by the deep ravines formed by the tributaries of the Cascapedia River on one side towards the east, and of the Matepedia towards the west.*

To this aspect of the northerly direction of the Tracadigash mountains may be attributed the error of the Commissioners in supposing them to range towards the St. Lawrence, whilst their general direction lies easterly along the coast towards the highlands at the head of Gaspé Bay.†

Although the exact locality of the western extremity of the Bay des Chaleurs may not be too rigidly insisted upon, nevertheless that point being a departure for the demarcation of a line of boundary according to the Quebec Act, the desired highlands, to make them consistent with the terms "strict legal rights of each province" enjoined in the instructions, should have been formed intermediately opposite Campbellton and Dalhousie, if not at the former, under the pretensions of New Brunswick.

The conclusions of the Commissioners on the important subject relative to the western extremity of the Bay des Chaleurs being thus shown to be unsustained by the existing knowledge of the configuration of the Bay des Chaleurs and of the natural features of the country extending back into the interior of the Peninsula of Gaspé, the inquiry regarding the course of the line they describe to have traced along highlands will now be considered.

In the absence of the maps, referred to in this report of the Commissioners and alluded to in the letter of Earl Grey, the Secretary of State, but which have not been transmitted from the Colonial Office, Mr. Baillie's map of the disputed territory will be referred to in this branch of the inquiry as exhibiting the pretensions of New Brunswick according to the line thereon delineated.

The combined surveys and geological examination of the disputed territory.

It has been ascertained from the combined surveys of the disputed territory and explorations in the districts of Gaspé and Quebec, joined to a geographical examination of the Peninsula of Gaspé,‡ more particularly embracing that section of the country watered by the Cascapedia and Bonaventure Rivers, discharging into the Bay des Chaleurs, and by the Matapedia towards the south, and by the Matane, Cape Chat, and the St. Ann's Rivers emptying into the St. Lawrence towards the north, that the upper sections of the rivers of magnitude which irrigate the great valley, formed by the northern and southern ranges of highlands already mentioned, with the exception of the Rivers Chaudiere and Matapedia, run parallel with the St. Lawrence, or the Atlantic seaboard, and conformable with the direction of the strike of the stratification, which lays in parallel ridges of more or less elevation, bearing magnetic north-east and south-west, subordinately however to the external highland boundaries of this great valley.§

Show that the country is intersected by ridges which run parallel with the St. Lawrence, and subordinately to the northern and southern highlands.

An inspection of the map D. will illustrate these natural physical features, which apply to the Rivers Kennebec, Penobscot, St. John's, Restigouche, Cascapedia, St. Francis, Etchemin, Mitis, Matane and Cap La Madeleine, besides some inferior rivers. The Rivers Chaudiere and Matapedia, like the trunks of several of the above enumerated rivers, run transversal with the direction of the ridges, and as it were in a broad crevice, in which such rivers (being generally rapid and interrupted by falls) have worn their present channels, whilst their numerous tributaries almost invariably course with the longitudinal valleys formed by those parallel

The principal rivers, with certain exception, course with the longitudinal valleys.

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* Extract No. 30.
† Extract No. 31.
‡ Extracts Nos. 32 and 33.
§ Extracts Nos. 18, 19, and 35.

ridges which applies to the Rivers La Famine, Du Loup, Metgermette, Le Bras, tributaries of the former, the Assemequagam and Casupscoult, &c., tributaries of the latter.

Description of the northern range of highlands.

The northern range of mountains is found to maintain its undeviating general course from west of the Chaudèire, north eastwardly,* forming at the sources of the River du Sud and Etchemin the Buckland Group, and beyond this the mountainous region of the Matane and Cape Chat rivers, where it rises in elevated peaks to the height of from 2,000 to 3,650 feet above the sea, the Matane Group being here distinguished under the name of the Shick Shock Mountains, then ranging easterly in a lofty ridge, under the appellation of the Monts de Notre Dame, terminates at Cape Rosiers on the Gulf of St. Lawrence.

Such being the physical features of the country through which lies the line of boundary claimed by New Brunswick, it is difficult to conceive how a line along highlands, whether starting from Mission Point, or from the Peaks of Tracadigash, "can have been traced which fulfils the requirements of the proclamation," &c., &c.†

The report of the Commissioners is incongruous with the existing knowledge of the peninsula of Gaspé.

This statement is inconsistent not only with the known character of the country, but it is incongruous with the geological data obtained of that part of the Peninsula of Gaspé, as such highlands would range transversal with the parallel ridges which characterise the table land of the Peninsula,‡ and that run generally magnetic east and west with the course of the upper branches of the Cascapedia and the eastern tributaries of the Matapedia, and which otherwise would be indicative of a valley to the eastward of this transversal range which does not appear to exist.

Moreover, either line at the extremity of the 45 or 50 miles, would first have to traverse the valley of the Matane and cross the Trout and main branches of that river before attaining the crest of the Shick Shock mountains, then to follow the range westerly to its extremity, recross the Matane, and then passing at the sources of the tributaries of the River Matapedia follow in a southerly course, generally through the level country which characterises the table-land of the St. Lawrence, the line dividing the sources of the Mitis River, emptying into the River St. Lawrence, and those of the River Restigouche until intersected by the prolongation of the due north line.§

The line they describe to run was never intended by the framers of those public Acts to constitute the southern boundary of the province of Quebec.

That the proclamation of 1763, or the Quebec Act, contemplated any such line for the southern boundary of the province of Quebec, cannot for a moment be supposed, as a very accurate knowledge of the breadth of the Peninsula between the Bay des Chaleurs and the River St. Lawrence, as well as the location and direction of the Montagnes de Notre Dame, existed for more than a century before the framing of those public acts. Had it been so intended to connect the range of those mountains with the north coast of the Bay des Chaleurs in accordance with any natural feature then presumed to exist, the line so connecting the highlands of the St. Lawrence with those along the Bay des Chaleurs, would have formed part of the easterly boundary of Nova Scotia, and would no more have been overlooked by the framers of the description contained in the Commission to Montague Wilmot, Esq., in 1763, than were the few miles of the south-west coast of the Bay des Chaleurs as a part of the eastern boundary of that province, and repeated in the erection of the province of New Brunswick in 1784.

Mitchell's map invoked by the Commissioners in support of the claim of New Brunswick.

The report of the Commissioners, in support of the line traced by Major Robinson and Captain Henderson, invokes Mitchell's map as delineating the line of boundary contemplated in the Treaty of 1763 and the Quebec Act for the southern boundary of the province of Quebec. The undersigned, convinced of the good faith on the part of Great Britain, in which that map has been rejected in the evidence adduced by the American Government on the line now claimed by New Brunswick, must refrain from offering any other remark on the subject, inasmuch as most assuredly if such grounds were admitted in justification of the claim of that province, for the same reason the United States were justified in the claim so forcibly resisted in the effective arguments of the British Commissioners under the 5th article of the treaty of Ghent. The merits of the respective lines, as they will best satisfy the proclamation and the Quebec Act, must therefore rest upon the actual discovery of the requisite highlands (to result under the terms of the instructions) from the explorations therein committed to Major Robinson and Captain Henderson.

But is rejected in the arguments of the British Commissioners under the Treaty of Ghent.

A very considerable misconception exists in the report under consideration with respect to the place at which Canada claims the boundary line in question to commence, which it is important to correct. Canada does not claim the commencement of her line of boundary at the Bay des Chaleurs, but at the Connecticut River, agreeably to the Proclamation of 1763, thence to run towards the Bay des Chaleurs, which bay is common property to both the provinces of New Brunswick and Canada; and therefore, crossing the bay of Restigouche, does not involve any interruption in the line of boundary to the north coast of the Bay des Chaleurs. The Act of Parliament of 1774 fixes the point on the Bay des Chaleurs at the western extremity of that Bay, from whence Canada claims its southern boundary to run along highlands, &c., to a point in 45° of north latitude on the east bank of the River Connecticut. This line of demarcation has been already shown to satisfy all the requirements of the Proclamation and the Quebec Act, as exhibiting a continuity of the highlands which divide the waters emptying into the St. Lawrence from those falling into the sea or Atlantic Ocean, whilst the northern highlands, whether in a geographical point of view, or in a geological aspect in regard to the rock formation which distinguishes those highlands, do not unite or connect themselves with the southern range of highlands in any intermediate point between the extreme termination of the great valley inclosed by those ranges from Montpelier, lying south of the parallel of 45° of north

Canada claims her line of boundary agreeably to the description of the Royal Proclamation.

The southern highlands accordingly satisfy the requirements of the public Acts recited.

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* Extract No. 21.
‡ Extract No. 40.
† Extracts Nos. 36, 37, 38, and 39.
§ Extract No. 34.

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The northern highlands do not.

latitude and Cape Rosier. Nor do those northern highlands, supposing their continuity to the head of the Bay des Chaleurs, divide the sources of the rivers emptying into the St. Lawrence from those falling into the sea at any one point in the line claimed by New Brunswick, east of the prolongation of the due north line from the source of the St. Croix.

Under the express terms of the description of the western boundary of New Brunswick, as erected out of the Province of Nova Scotia in 1784: viz., "On the westward by the mouth of the River St. Croix by the said river to its source, and by a line drawn due north, from thence to the southern boundary of our province of Quebec," where even the due north line prolonged to the pretended north-west angle of Nova Scotia, north of the River Restigouche, the province of New Brunswick could have no pretensions whatever to any territory west of that line. And yet it would appear that such pretensions as founded on the claim to the western source of the River St. Croix, are supported by the Commissioners on grounds, however, which are wholly untenable, as the source of the River Chiputnaticook was by the treaty of amity in 1794, determined to be the true source of the St. Croix River, stipulated in the treaty of 1783.*

The pretensions of New Brunswick resisted at an early period by Canada.

The pretensions of New Brunswick to that effect were, at a very early period of the settlement of the country lying south of the River Madawaska, resisted by the Canadian Government, who claimed the territory now disputed by New Brunswick down to the well-known elevated country lying south of the Grand Falls on the River St. John, extending easterly to the head of the Bay des Chaleurs.†

Pending the correspondence and proceedings of the two Governments on the subject of their respective claims arose the question of boundary between the United States and Great Britain under the Treaty of 1783, which, until its settlement by the Treaty of Washington in 1842, kept the decision of the existing difference between Canada and New Brunswick in abeyance. But the latter province meanwhile persisting to extend its jurisdiction up the River St. John and Madawaska, west of its western line of boundary, over a territory claimed as part of the old province of Quebec in the arguments of the British Commissioners under the Treaty of Ghent, it became urgent on the part of the Imperial Government to set bounds to those pretensions of New Brunswick pending the dispute with the United States.

The jurisdiction of New Brunswick and Canada limited in Sir George Murray's despatch at the Little Falls on the river Madawaska.

Accordingly, in the confidential Despatch of the Right Honourable Sir George Murray, Secretary of State, dated 8th April 1830, addressed to his Excellency Sir James Kempt, Governor of Lower Canada, the jurisdiction of the province of New Brunswick was limited to the Little Falls at the mouth of the River Madawaska,‡ agreeably to which limits the authorities of both provinces have been governed in the seizure of timber cut on the territory disputed under the Treaty of 1783.§

Since the Treaty of Washington the Canadian Government, satisfied of its legal right and the justice of its claim to the territory lying within the conventional line settled by that treaty, caused various surveys to be made of the tract of land lying between the River Madawaska and the River St. Francis, in view of organizing the same, and for disposing of the timber growing thereon as part of the public lands and property of Canada; and further, on the grounds herein set forth, to maintain her just right to all the extent of territory lying along the American line of boundary established by that treaty, to the highlands intersected by the western boundary of the province of New Brunswick, near the Grand Falls of the River St. John, thence easterly to the western extremity of the Bay des Chaleurs.

The Commissioners report favourably on the line claimed by New Brunswick,

But the Commissioners, in answer to the first question, have reported, as their opinion, that a line can be drawn for the demarcation of the provinces of Canada and New Brunswick which would satisfy the legal claims of each, that is, "commencing at the point at which the extremity of the due north line strikes the north highlands before mentioned, and running along these highlands till reaching the north coast of the Bay des Chaleurs at the highlands of Tracadigash," agreeably to the accompanying map, being that part of the line coloured green, and which lies between the letters A and B. They further report that a tract of country lies between the north highlands westward of the due north line and the line of the United States which, according to the strict legal rights of the two provinces, belong to neither, being included within the line marked B C, and in the map which, in 1763, formed part of the ancient territory of Sagadahoc.

and that the disputed part of the territory lying west of the due north line is included in the ancient grant of Sagadahoc.

With respect to the first part of the Report it has been shown that the northern highlands, according to the well-ascertained natural features of the country in dispute, do not fulfil the characteristic attributes required in the Proclamation of 1763 nor the Quebec Act; and, as regards the second part of the Report, founded on the supposed boundary of the ancient territory of Sagadahoc, it must be assumed that the Commissioners, in resorting to such an argument to establish the neutrality of a portion of that territory in question, were unacquainted with the arguments urged by the Agents of the British Crown on the boundary question with the United States. The energy with which the British Commissioners resisted, on behalf of Great Britain, the extension of the grant of Sagadahoc to the line the Commissioners would fain assign to that ancient territory renders an appeal to those limits in the present controversy at least anomalous, as coming from a British Commissioner, and it would be calculated to impugn, in the eyes of a foreign country, that good faith by which the British Crown is well known to have been animated in its resistance to the claims of the United States as their north-eastern boundary.

The claim set up by the United States relative to the grant of Sagadahoc resisted by the British Commissioners under the Treaty of 1783.

It would, therefore, unnecessarily extend this Report to enter into a discussion on the claim

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* Extract No. 41.

† Appendix B, Vol. IV., Journal Legislative Assembly, Section No. 31.
Ditto, Section 37.
Extracts Nos. 43 and 44.

which was set up by the United States as the limit of the ancient grant of Sagadahoc to the country lying at the sources of the rivers emptying into the St. Lawrence. It is only necessary to refer to the documentary evidence on the subject, investigated by Messrs. Featherstonhaugh and Mudge, to establish the soundness of the refutation of that claim.*

The northern boundary of the New England provinces, according to the red line map, restricted to the southern highlands or sources of the Atlantic rivers.

In illustration of the claim of the United States in regard to its north-eastern boundary may here be mentioned the map published by Guillaume Del Isle in 1783, on which is represented by a red line (it is supposed drawn by Franklin, one of the American Commissioners then at Paris for the adjustment of the line of boundary with Great Britain) the northern boundary of New Hampshire, one of the Old English provinces.

It is apparent that the line of boundary then claimed by the United States did not extend northwardly beyond the sources of the Atlantic Rivers west of the River St. Croix, and therefore that the ancient grant of Sagadahoc was restricted to the highlands south of the River St. John.

But it has been already shown that Canada was anciently contiguous not only with Acadia, but with the New England provinces from the Connecticut River to the Bay des Chaleurs, and therefore, whatever line of boundary might arise out of the dispute with the United States (representing the old English provinces) became of right the boundary of Canada, whilst the settlement of a continuous line of boundary with Acadia or Nova Scotia would rest upon the instruments which defined the southern boundary of the province of Quebec.

Analysis of the report of the Commissioners.

The Commissioners having thus evidently paved the way to the dismemberment of Canada in reporting the northern highlands as the southern boundary of the province of Quebec; secondly, rejecting the line claimed by Canada as its southern boundary; and, thirdly, representing part of the disputed territory as forming part of the ancient grant of Sagadahoc;—then, as an act of mere indulgence towards Canada, purporting to be for the practical convenience of both provinces at issue, allow Canada to retain the narrow strip of land north-west of the United States' boundary line, assigning the remainder of the disputed territory to New Brunswick.

The above analysis of the Report under consideration points out how vitally would be affected the ancient land-marks of Canada were this recommendation of the Commissioners acceded to by the Imperial Government, and it behoves the province to avail itself of the opportunity thus offered by the Right Honourable the Secretary of State for the Colonies to enter its dissent from the result of the Commissioners' deliberations as contained in their Report, which, in the opinion of the undersigned, neither satisfy the strict legal claims of the province of Canada nor in the conventional line of boundary, which they recommend as far as Canada is concerned combines the greatest practical convenience to both provinces, for the following reasons:—

The result of the deliberations of the Commissioners do not satisfy the strict legal claims of Canada.

Reasons why Canada cannot accede to the conventional line of boundary proposed in the report.

1st. Because the boundaries of Canada, founded on Treaties, Proclamations, and other solemn public acts, extend southward to the boundary originally claimed by Great Britain as the boundary between the British possessions in America and the United States, which has since been restricted by the Treaty of Washington to the conventional line now existing under the authority of that treaty.

2nd. Because Canada has also a legal right to all the territory extending southwardly to the line "along the highlands" forming the "axis of maximum elevation" from a point in the said highlands intersected by the western boundary line of the province of New Brunswick, eastwardly to the Bay des Chaleurs at Dalhousie.

3rd. Because part of this territory anterior to the Treaty of 1763 was granted by the King of France, and composed the frontier settlements of Canada on the side of Acadia, intended, according to the spirit of the Imperial Act of 1774, to be inclosed within the province of Quebec, which exercised jurisdiction over that territory.

This conventional line encroaches upon Canada to the extent of upwards of three millions of acres.

Hence, instead of New Brunswick seceding from any of her rights, as the Commissioners would assume in the conventional line of boundary they have recommended, this line would, in fact, be an encroachment on Canada to the extent of upwards of three millions of acres over; one-half of which territory, that part lying north of the Restigouche and St. John Rivers, Canada has asserted and exercised its jurisdiction, the other half, south of the Restigouche, having tacitly been left under the jurisdiction of New Brunswick.

The strict legal rights of Canada, with reference to her boundary on the side of New Brunswick, being, as the undersigned hopes, thus irrefragably established, he is of opinion, however, that a conventional line of boundary between the sister provinces might be adopted that would, in combining the greatest amount of practical convenience to either of the provinces, meet the views of Her Majesty's Imperial Government consistently with the just and legal claims of both provinces.

Line of boundary between the provinces submitted for the consideration of Her Majesty's Government.

This conventional line of boundary which the undersigned would respectfully submit to the consideration of your Lordship would be as follows, that is to say, commencing on the north bank of the River St. John at the mouth of the river commonly called "Madawaska," thence running towards the north-east on a course parallel with the line traced by the Commissioners of Boundary under the Treaty of Washington from the outlet of Lake Pohenegamook to the north-west branch of the River St. John, until intersected by that branch of the Restigouche River called the Grande Fourche or Kedgewick, thence to the middle of the channel of the said river, and then south-easterly down the middle of the channel of the said River Kedgewick to the middle of the channel of the Restigouche River, thence down the middle of the said channel easterly to the mouth of the said River Restigouche in the Bay des Chaleurs, and thence through the middle of the bay to the Gulf of St. Lawrence, giving to the provinces

* Extracts Nos. 7, 8, 10 and 11.

of Canada and New Brunswick the islands in the River Kedgewick and Restigouche nearest to the shores in front of the said provinces.

Results from the proposed line of boundary.

This line, delineated on the accompanying map by the letters A B C D, and which may with greater facility and at a lesser expense be defined in the field and marked by proper monuments, will divide the territory in dispute in a manner to do the least possible injury to Canada, whilst it will add upwards of 3,000 square miles to the province of New Brunswick, for which it possesses no strict legal right.

The adjustment of a line of boundary resting upon the geographical and natural features of the country.

In the foregoing Report the question at issue has been examined as one to be decided entirely upon the evidence of facts, as one dependent upon the language of the public documents and the geographical features of the country, and wholly irrespective of any consideration which the Commissioners have had in contemplation when adverting to the "meritorious claims" of New Brunswick, the bearing of which, upon the conclusions to be arrived at in such a controversy, does not appear very obvious.

With the desire in the Report of the Commissioners that no reference should be made to the arguments resorted to by Great Britain in its controversy with the United States relative to the north-east boundary, it has been found wholly impossible to comply; nor, indeed, could any urgent reason be assigned for excluding those arguments from consideration, based as they are upon all the public documents, to which a reference must necessarily be had by Canada in resisting the pretensions of New Brunswick over a large section of the territory of this province.

Reference to the documents and information collected under the Treaty of 1783 unavoidable.

The undersigned, therefore, sensibly conceiving that, so far from militating against coming to a just and equitable judgment upon the respective claims of the two provinces, an appeal to the arguments of the Commissioners and Agents of the Imperial Government pending the controversy with the United States is best calculated to facilitate the investigation, and to lead Her Majesty's Government to such a determination as will comport at once with consistency and with the territorial rights of the province of Quebec.

All which is respectfully submitted,

J. H. PRICE, Commissioner of Crown Lands.

Since the foregoing statement was prepared, it is satisfactory to have to remark that the description therein contained of the characteristic features of the country along the lines of boundary, respectively claimed by Canada and New Brunswick, is corroborated and borne out by the result of the exploratory surveys and operations performed by Major Robinson, commissioner appointed to explore the country for a line of railway from Halifax through New Brunswick to Quebec, which report has been laid before the public, and alluded to in the speech of his Excellency the Governor-General, at the opening of the present session of Parliament.

As the description which this valuable document affords of the country along the different routes explored through that portion of the disputed territory, from the Tobique river and mountains to the highland range along the St. Lawrence, is fully sustained by the existing knowledge of that tract of country, the following extract of the Report describing the 4th and 5th obstacles, of the five which Major Robinson enumerates to the carrying out of the proposed railway through that section of country, is respectfully submitted as bearing upon the geographical information desired to be obtained from the explorations directed in Mr. Gladstone's instructions.

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"4. The fourth obstacle is the broad and extensive range of highlands which occupies nearly the whole space in the centre of New Brunswick, from the Miramichi River north to the Restigouche. Some of these mountains rise to an altitude exceeding 2,000 feet.

"The Tobique River runs through them, forming a deep valley or trough, which must be crossed by the direct line, and increases greatly the difficulty of passing by them.

"The lowest point of the ridge overlooking the Tobique River at which any line of railway must pass, is 1,216 feet above the sea. Then follows a descent to the river of 796 feet in 18 miles; and the summit level on the opposite ridge of crest between the Tobique and Restigouche waters is 920 above the sea, or a ridge of 500 feet above the point of crossing the Tobique water. These great summit levels, which must be surmounted, form a serious objection to this route.

"The eastern line by the coast avoids this chain altogether. The greatest summit level along it will not be above 368 feet, while the distance by each from the province line at Bay Verte to the Restigouche River (the northern limit of New Brunswick) will be as nearly as possible the same, there being only a difference of one mile in these two routes through this province.

"The rocks composing this chain of mountains are granite, various kinds of slates, grauwacke, limestone, sandstone, &c.

"5. The fifth and last obstacle to be overcome, and which cannot be avoided by any of the routes, is the mountain range running along the whole course of the river St. Lawrence in a very irregular line, but at an average distance from it of about 20 miles. It occupies, with its spurs and branches, a large portion of the space between the St. Lawrence and the Restigouche River.

"The rocks and strata composing this range are of the same character and kind as the Tobique range. The tops of the mountains are as elevated in this range as in the other.

"It will be evident, therefore, that any line from the coast of Nova Scotia to the St. Law-

rence has a general direction to follow, which is the most unfavourable that could have occurred for it, having to cross all these mountain ranges, streams, and valleys at right angles nearly to their courses.

" The exploring parties failed to find a line through this range to join on the direct line through New Brunswick, but succeeded in carrying on the eastern or Bay Chaleurs' route, owing to the fortunate intervention of the valley of the Metapediac River.

" The line which was tried, and failed, was across from the Trois Pistoles River by the head of Green River, and down the Pseudy, or some of the streams in that part running into the Restigouche River.

" A favourable line from Trois Pistoles was ascertained from Eagle Lake and Torcadi River as far as the Rimousqui; and it is probable that by ascending this river and ascending the Kedgewick River, this line (route No. 4) could be completed.

" But it is most improbable that it could compete in favourable grades with the Metapedia.

" It will be allowing it sufficient latitude to suppose it will be equal in engineering merits, and that if accomplished it will give the route No. 4 an apparent advantage of 40 miles in distance.

" A very striking characteristic in the geological formation of North America, and which has been noticed in the writings of persons who described the country, is the tendency of the rock strata to run in parallel ridges in courses north-easterly and south-westerly.

"On referring to the General Map No, 1, and confining the attention more particularly to that portion of country east and north of the St. John River, through which any line must pass, this general tendency cannot fail to be remarked :

" The River St. Lawrence, the main Restigouche River and intermediate chain of mountains, the Tobique River and mountains, all the streams of New Brunswick (the main trunk of St. John and a branch of the Miramichi excepted);

" The Tobequid range, the Bay of Fundy, and the high and rocky range along the Atlantic shore, have all this north-east and south-western tendency.

" The lines explored for the direct route through New Brunswick were obliged, on this account, to keep the elevated ground crossing the upper parts of the streams.

" By so doing a line was found to the Restigouche, which may be considered just within the limits of practicability, but having very unfavourable summit levels to surmount.

" And the peculiar formation of the strata and general course of the valleys and streams, renders it most improbable that any further explorations to improve this direct line through New Brunswick would be attended with much success.

" Very fortunately for the eastern line, one of the branches of the north-western Miramichi presented itself as an exception to the general tendency, and enabled that line to reach the coast of the Bay Chaleurs.

" The distance across in a direct line from the coast of Nova Scotia to the St. Lawrence has been stated at about 360 miles, forming the difficult and unfavourable portion of the line. When the St. Lawrence mountains are passed, then the tendency of the strata and courses north-easterly and south-westerly becomes as favourable for the remaining 200 miles along that river as it was before adverse.

" The general character of the ground between the St. Lawrence River and the mountains is that of irregular terraces or broad valleys, rising one above another by steep short banks, having the appearance as if the river had at some former periods higher levels for its waters.

" The streams run along these valleys parallel with the course of the St. Lawrence until, meeting some obstruction, they turn suddenly off and find their way over precipices and falls to the main river."

J. H. PRICE,
Commissioner of Crown Lands.

Crown Land Department,
Montreal, February 1, 1849.

Enclosure 3 in No. 18.

Encl. 3 in No. 18.

EXTRACTS from the REPORT of Colonel R. Z. MUDGE and G. W. FEATHERSTONHAUGH, Esq., Commissioners appointed by Her Majesty.

MY LORD, Foreign Office, April 16, 1840

No. 1. IN obedience to your Lordship's instructions, dated July 9, 1839, requiring us to proceed to Her Majesty's Province of New Brunswick, for the purpose of making investigations " respecting the nature and configuration of the territory in dispute" between Her Majesty's Government and the Government of the United States of America, and to " report" which of the three following lines presents the best defined continuity of highland range :— Page 7.

" First. The line claimed by the British Commissioners from the source of the Chaudière to Mars Hill.

" Secondly. The line from the source of the Chaudière to the point at which a line drawn from that source to the western extremity of the Bay des Chaleurs, intercepts the due north line.

" Thirdly. The line claimed by the Americans from the source of the Chaudiere to the point at which they make the due north line end."

We have the honour to present the following report of our proceedings, and of the results which we have arrived at, accompanied with a map, marked A, of the territory in dispute, and of the countries adjacent to it, together with a sheet, marked B, of extracts from other maps, and containing a section and a sketch, all of which are alluded to in this report.

Having found the physical geography of the disputed territory very much at variance with Page 9.

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all the accounts of it, to which we had had access, and perceiving that the popular opinions regarding it both in Great Britain and in the United States of America owed their origin to the previous surveys and negotiations respecting the boundary question, some of which surveys we found singularly at variance with our own careful observations made on the spot as to the heights of some leading points of the country of vital importance to the question, we came to the conclusion that the most significant of those previous estimates, and which were connected with important inferences, were conjecturally made without knowledge of the truth, and that thus very incorrect statements had been submitted to the judgment of the sovereign arbiter, to whom, under the Convention of the 29th September, 1827, those previous surveys were to be referred. We shall in the course of this report point out to your Lordship these inaccuracies in a more specific manner.

Page 11. We close these preliminary remarks by stating, that under these circumstances it has appeared to us that such a lucid exposition of the boundary case as would be deemed useful and satisfactory by your Lordship, would be best made by first reviewing, in a brief manner, the history of that part of North America connected with the disputed territory, with a view to discover how far the ancient descriptions of the territorial demarcations therein coincide with the boundary intended to be established for the United States, by the second Article of the Treaty of 1783; and by then proceeding to a description of the physical geography of the country, and to an investigation of the three geographical lines.

Page 12. No. 2. In 1702 war broke out again, subsequently to which came the Peace of Utrecht in 1713, when France ceded to England for ever her rights to "all Acadia," according "to its ancient limits." The misunderstanding which now arose in the construction of this expression ended in the war of 1756, and the annexation of all the possessions of France in North America to the British empire.

Page 13. No. 3. We have entered into this brief historical sketch to draw your Lordship's attention to the fact, that the most ancient limits of Acadia are those described in the Letters Patent to De Monts in 1603, from the fortieth to the forty-sixth degree of north latitude; and that this parallel, when protracted through the disputed territory to the west, passes through the highlands at the very point where they divide the sources of the Chaudière from the most western waters of the Penobscot. That these same highlands continued from thence running south of the River St. John, in a north-east direction, as far as the western termination of the Bay des Chaleurs, appears to have been known at an early period.

We also find proofs in various concessions made by the Crown of France in ancient times, that all its grants made further to the north than the limits of the Patent of De Monts, were placed within the jurisdiction of the castle of St. Louis, at Quebec; from whence the inference may be fairly drawn, that the country north of the 46th parallel was considered at all times to be within the jurisdiction of Quebec. We shall quote a passage from one of these grants before we enter upon this branch of the subject in more detail:—

"Concessions de M. de la Barre, Gouverneur de Canada, et M. de Meules, Intendant de la Nouvelle France, à Renes d'Amours, Sieur de Dignancourt de terres à la Rivière de St. Jean, près de Medoctet, du 20 Septembre 1684."

Page 13. No. 4. The Fief of Meductit thus conceded lies north of the 46th parallel of north latitude, and the feoffee is bound in the grant to bear "foi et hommage à sa Majesté, au Chateau de St. Louis de Cette. Donné à Quebec le 20 Septembre 1684."

Page 15. No. 5. We shall proceed to show that the right of Massachusetts to go to the River St. Lawrence was denied by the British Government before the establishment of the southern boundary of the Province of Quebec by the Royal Proclamation of 1763, and that the question of the northern boundary of Massachusetts as respected the Sagadahoc territory continued unsettled after that period.

No. 6. The English title to any part of this country first began in 1713, at the Peace of Utrecht, when France ceded Acadia according to its ancient limits, which extended only to the forty-sixth degree of north latitude; and the English title to the remaining part of the country accrued at the peace of 1763, without the northern boundary of Massachusetts ever having been defined by any Act of the British Government from the earliest of those periods. We think it, therefore, manifest that the northern boundary of Massachusetts has always stood nearly in the same relation to the Charter of 1691 that her eastern boundary stands in to that of 1621. It has been stated that in the Charter of the colony of Massachusetts Bay, granted by William and Mary in 1691, the original grant of the colony of Massachusetts, lying east of New Hampshire, which had been vacated, was revived, and the province of Maine, the Sagadahoc country, and Nova Scotia, were annexed to it.

No. 7. The province of Maine had been granted by Charles the First on the 3rd of April 1639, to Sir Ferdinando Gorges. It consisted of an area comprehended between two lines, one extending from the coast by the Piscataway River, 120 miles into the interior, and the other further east extending up the Kennebec River for the same distance. This area is marked out on many of the older maps, as well as on Mitchell's, and has its northern limit far to the south of the height of land described by Pownall, hereafter to be mentioned.

No. 8. The colony of Massachusetts had acquired Maine by purchase in 1677, from Sir Ferdinando Gorges, and by the Charter of 1691 acquired a war title to the country intervening between the Kennebec and the territories of Nova Scotia. This country, in the grant by Charles the Second to his brother the Duke of York in 1664, was bounded on the west by the Kennebec River, and so upwards by the shortest course to the River Canada northward. But the whole of this country was within the ancient limits of Acadia. The French had constructed a fort at the Kennebec, and at various points on the coast eastward from that river. These were subdued in 1654 by Major Sedgewick, under a Commission from Cromwell, who

summoned the Sieur Charles de St. Etienne to surrender all that part of the country; and the summons being obeyed, he took possession of the French ports of Pentagoct (Penobscot), St. Jean, and Port Royal. On the 9th of August 1656, Cromwell granted the country under the Great Seal of England to the same St. Etienne, Thomas Temple, and to William Crowne, under the designation of "the country and territory called Acadia, and a part of the country, called Nova Scotia;" and in the same year Temple was sent out as Governor. Subsequently in 1664 Charles II. granted the territory to the Duke of York, and annexed to the grant the country west of the St. Croix, as far as the Kennebec. But in 1667 the whole country was, by the 10th Article of the Treaty of Breda, restored to France under the designation of "Le pays appelé l'Acadie, situé dans l'AmeriqueSeptentrionale, dont le Roi très-chrétién a autrefois joui."

No. 9. But the Royal Charter of 1691, even if it had been annulled in relation to Sagadahoc by the Treaty of Ryswick, furnishes no ground for a claim on the part of Massachusetts to go to the St. Lawrence. The words of the Charter are simply: "Those lands and hereditaments lying and extending between the said country or territory of Nova Scotia, and the said river of Sagadahoc." The furthest point, therefore, to which this north-western corner of Sagadahoc can be claimed is the source of the river, which being the Kennebec River, is the point passed by the highlands of the Treaty of 1783, in north latitude 46°, or nearly so. This Charter, then, gives no title beyond the head of that river. Indeed the pretence to go from thence to the St. Lawrence has been altogether discountenanced by intelligent Americans, who had carefully studied the subject both before and after their independence. Page 17.

No. 10. Now it is obvious that this opinion is founded entirely upon the hypothesis that the country in question had never been restored to France by any Treaty, whereas we have seen that it had been twice restored, in 1667 and in 1697. But this opinion of the law officers did not sanction at all the right of Massachusetts to go to the St. Lawrence,—a right, as we have before seen, which was not granted by the Charter of 1691. The opinion is purely applied to the terms of the Charter of 1791, and not to those of the grant of 1664 to the Duke of York, and runs thus:— Page 17.

Upon considering the said case and questions, and the evidence laid before us, and what was alleged on all sides, it appears to us, that all the said tract of land lying between the Rivers Kennebec and St. Croix is, among other things, granted by the said Charter, to the inhabitants of the said provinces, &c.

No inference can be drawn from this, that they meant to sanction the right of Massachusetts to go to the St. Lawrence, although it is insinuated by the American statement.

No. 11. It may therefore be safely asserted, that no act of the British Government, in relation to the annexation of the Sagadahoc territory to the colony of Massachusetts Bay, gave that colony a title to any part of it beyond the description contained in the Charter of William and Mary (1691), viz.:— Page 18.

"All those lands and hereditaments lying and extending between the said country or territory of Nova Scotia, and the said River of Sagadahoc;" which being construed as far as the sources of the Kennebec River, coincides with the most southerly source of the River Chaudière.

No. 12. From the earliest periods, it had been known to the French and English settlers in that part of North America, that a great axis of elevation or height of land, which had its origin in the English colonies, passed to the north-east, throwing down from one flank at about 45° north latitude, the head waters of the Connecticut River, which empties itself to the south into that channel of the Atlantic Ocean which separates Long Island from the Continent; and from the other flank, the head waters of the St. Francis River, which empties itself in a north-westerly direction into the River St. Lawrence. Further to the north-east, the head-waters of the Kennebec, and the most western sources of the Penobscot, take their rise in the same height of land. These two rivers discharge themselves into the Atlantic Ocean, whilst the Chaudière River, the sources of which almost interlock with those of the two last-named rivers, empties itself into the St. Lawrence, nearly opposite to Quebec. Equally close to the sources of the Chaudière and the Penobscot, and in about forty-six degrees of north latitude, the south-west branches of the St. John are derived from the same height of land. This river, after running for about 160 miles in a north-easterly course, nearly parallel to the same axis of elevation in which it takes its rise, turns to the south-east, and at the Great Falls of the St. John in north latitude 47° 2′ 39″, passes through the same axis, and proceeds to discharge itself into the Bay of Fundy. It is further of importance to observe, that the trail or path of the Indian nations between the Atlantic Ocean and the River St. Lawrence, lay across that height of land from the earliest times; and that Quebec, which is situated on that part of the St. Lawrence, where the river suddenly contrasts in breadth, and which receives its name from the Indian word Kebec, signifying narrow, appears to have been a place of resort for the Indians, long before the white men visited the country. Page 21.

From Quebec, the Indians were wont to pass up the Chaudière in their bark canoes, carrying them across the Portages, and over the height of land to the waters of the Penobscot, and continuing down which to near the forty-fifth degree of north latitude, they then turned up one of its eastern branches, called Passadumkeay, whence, making a small portage of about two miles, they got into the westernmost waters of the St. Croix, and so reached the Bay of Fundy; performing the whole distance of about 275 miles by water, with the exception of perhaps twelve miles of portage, over which, according to the custom still in use by the North American Indians, they carried their light birch-bark canoes.

No. 13. Can there then be a doubt amongst intelligent men, that the highlands mentioned in the Royal Proclamation are the identical highlands, or height of land, described in the Extracts from Pownall's work? or that the two classes of rivers, spoken of as being divided by Page 23.

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those highlands (one class falling into the St. Lawrence, and the other into the sea) are on the one hand, the St. Francis and the Chaudière of Pownall, the only rivers which there empty themselves into the St. Lawrence; and, on the other hand, the Connecticut, the Kennebec, and the Penobscot, the only rivers which from thence fall into the Atlantic Ocean? the Connecticut rising, as Pownall states, "in 45° 10′, at the height of land between Kennebaeg and Chaudière," and the Kennebec and Penobscot having their heads, as he also states, in the same height of land.

Page 24. No. 14. It is not true then, as has heretofore been stated, that the Royal Proclamation of 1763 is silent as to that part of the country intervening between the highlands, where they confusedly divide the St. Francis and the Chaudière from the Connecticut, the Kennebec, and the Penobscot, and the further continuation of those highlands, in the direction of the Bay of Chaleurs; for it distinctly speaks of the highlands as dividing the rivers that empty themselves into the St. Lawrence from those which fall into the sea; and we have not shown that the Penobscot, which is admitted to fall into the sea, actually extends nearly across the whole southern front of the disputed territory, having its most eastern source distant more than one hundred miles from its most western source, and the whole of its branches being thrown down by highlands, which we shall hereafter show to be a continuation of the highlands which divide it from the Chaudière.

Page 25. No. 15. The Proclamation of 1763 states also, that the line of boundary of the Government of Quebec, is to pass along the "North coast of the Bay of Chaleurs;" it does not state, as has been erroneously asserted, that the line passes along the highlands, which are on the north coast, so as to place the whole of that part of the country, down to the water's edge of the bay, within the jurisdiction of Quebec. And it is a fact, which will hereafter be shown, that the highlands do extend from the eastern sources of the Penobscot, to the Bay of Chaleurs, forming a perfect continuity of highlands from that bay to the heads of the Chaudière.

No. 16. The propriety of including all the settlements accustomed to be governed by French law, and professing, as the Canadians of those settlements did, the Roman Catholic religion, was manifestly one of the motives for extending the jurisdiction of Quebec, wherever the settlements were French. This is evident, both from the language of the Proclamation of 1763, where the boundary line is directed to go "also along the north coast of the Bay of Chaleurs," because various fishing settlements were there; and from the recital of the same boundary in the Act 14, Geo. III., 1774, commonly called the Quebec Act, where the southern boundary is thus described:—"All the territories, islands, and countries, in North America, belonging to the Crown of Great Britain, bounded on the south by a line from the Bay of Chaleurs, along the highlands which divide the rivers that empty themselves into the St. Lawrence, from those which fall into the sea, to a point forty-five degrees of northern latitude, on the eastern bank of the River Connecticut."

On a review of the preceding pages, it will be seen that we have shown:—

1st. That the colony of Massachusetts Bay acquired at no time any title to lands lying north of the ancient limits of Acadia, which extended only to the forty-sixth degree of north latitude.

2nd. That the height of land described by Evans and Pownall in 1755, extended to the eastern branches of the Penobscot.

3rd. That the description of the southern boundary of the province of Quebec, in the Royal Proclamation of 1763, was derived from the information published by Evans, the highlands there spoken of being identical with the height of land laid down in Evans' map.

4th. That the boundary description contained in the Commission of Governor Wilmot, and other Governors; in the Quebec Act of 1774; in the Resolutions of the Congress in the Secret Journals; in the Royal Proclamation of 1763; and in the Treaty of 1783, are well identical with each other; and—

Lastly. That this was admitted to be so by the State of Massachusetts, by their public acts in 1792, and by their published maps in 1816.

It has before been shown by the Royal Proclamation of 1763, as by the subsequent Act of the 14th Geo. III., 1774, that the southern boundary of the colony of Quebec, was a line running from near the sources of the River Chaudière to the Bay of Chaleurs; the due north line, then mentioned in the three Commissions just alluded to, being directed to stop at the southern boundary of the colony of Quebec, in like manner as, by the 2nd Article of the Treaty of 1783, it is enjoined to stop at the highlands. It appears, therefore, manifest, that the southern boundary and the highlands are identical; and we think it equally so.

Page 32. No. 17. Submitting the reasonableness of our conclusions, most carefully made from one step of deduction to another, we desire to contrast them with the very irrational and intolerable inconsistencies that obtrude themselves, when considering the results that present themselves in a contrary sense.

Physical Geography of the Country.

Page 37. No. 18. There is no part of the surface of the globe where the tendency of the rock strata to run north-easterly and south-westerly in parallel ridges is more strongly marked than in North America.

Page 38. No. 19. By reference to the map, it will be seen that the southern edge of this section of elevated land, thus described, runs north-easterly, from about 43° 20′ to 46° north latitude; and that if it were further protracted easterly, it would continue along that elevated part of the country, where we, in the map, place the axis of maximum elevation of the whole country, to the Bay of Chaleurs.

Page 39. No. 20. The other two ridges being, one of them the line of highlands overlooking the St.

Lawrence, and claimed by the Americans to be the highlands of the Treaty of 1783, and the other the only line of highlands which manifestly fulfils the intentions of the treaty, and the character of which we shall now examine more in detail.

No. 21. These two ridges, as will be apparent from an examination of the map, are the main branches of a common stem which runs between the River Hudson of the state of New York and the Connecticut River, and which divides into two branches on reaching the forty-fourth degree of north latitude.

No. 22. The southern branch (*vide* map A), holding its course north-easterly, throws down from its south-east flank the head streams of the Connecticut River, those of the Androscoggin, and those of the Dead River (a branch of the Kennebec River), a little to the north of the forty-fifth degree of north latitude; whilst on the opposite, or north-west flank, the most southern head streams of the Chaudière River take their rise. Continuing its north-easterly course, it separates the Du Loup, another branch of the Chaudière, from the most western sources of the Penobscot River, which discharges itself into the Atlantic Ocean. This ridge is the one which Pownall describes, and which the Royal Proclamation of 1763 fixes as the southern boundary of the government of Quebec, viz.:— Page 39.

"The said line, crossing the River St. Lawrence and the Lake Champlain in forty-five degrees of north latitude, passes along the highlands which divide the rivers that empty themselves into the said River St. Lawrence from those which fall into the sea."

No. 23. Having separated the Du Loup from the western sources of the Penobscot, the ridge now tends more to the eastward, but always in a bold continuous manner, until it reaches west longitude 69° 40′, when the peaks become separated occasionally by wide gaps, the portions connecting the peaks being nevertheless very elevated. As it passes further to the east its continuity becomes more interrupted; it assumes a character of much less elevation than it maintains west of seventy degrees of west longitude, so that when it reaches 68° 32′ west longitude, it takes a subordinate character, although it still continues to form a part of the axis of maximum elevation. Thence, passing north-easterly, and intersected at times by the Roostuc River, west of the tributary stream called St. Croix, this ridge throws down the eastern branches of Penobscot to the south, and keeping its course by a well-defined elevation south of the Roostuc, it strikes the valley of the River St. John, nearly opposite to the mouth of the Tobique River. From that point eastward the country again rises rapidly in elevation, and presents the same character in a continuous elevated range, interrupted only by a few slight depressions, until it approaches the shores of the Bay of Chaleurs. Page 39.

No. 24. The section of elevations which we have placed on the left margin of the map, taken between the extreme points, viz., the Bay of Chaleurs and the sources of the St. John, with the barometrical height in English feet, will give a just view of the elevation of the country along the whole line. We have not been able, for want of room, to place upon this section all the barometrical elevations we have taken betwixt the River St. John and the Bay of Chaleurs, neither do all the elevations taken by us appear on the map, the scale upon which it is projected not admitting of their being all placed on their respective localities. That part of the section nearest to the Bay of Chaleurs only represents the height of the land on the northern face of that portion of the axis of maximum elevation which runs between the points above spoken of. A line running westerly from Bathurst and a little to the south of Middle River, gives a series of elevations in English feet above the sea, from east to west, as far as Nictor Lake, where the line joins the series of elevations of the northern face as follows; 236, 278, 550, 714, 815, 779, 802, 873, 1,049, 1,078, 850, 1,367, 1,934, 1,261, 819, 1845, 2,110, 1,583, 1,846, 2,110. The distance upon which these elevations are distributed is about 56 miles. A few of these were taken down upon conspicuous peaks, but the intervals between them are continuously of a lofty character. The general aspect of the whole line corresponds with its height, and is mountainous. The Mepisiquit River, which flows to the east and which empties itself into the Bay of Chaleurs at Bathurst, takes its rise, together with its northern branches, in this chain, as likewise does the Upsalquitch, which flows to the north to join the Restigouche. From Nictor Lake the axis continues to the River St. John in a south-westerly direction, trending between the Tobique River and the Salmon River in a bold continuous ridge, varying from 750 to 1,000 feet. On the west side of the St. John it reappears on the south bank of the Roostuc, near the falls of this river, where it has an elevation of 710 feet. From thence the section, with the heights expressed in English feet, exhibits the elevation of the country to the sources of the St. John. We have not continued it any further to the south-west, as the ridge from thence preserves a continuous lofty character to the head waters of the Connecticut River, with an average height of about 2,000 feet. We thought it unnecessary to extend the section to so great a distance, nor could we have done it conveniently upon the proper scale. Page 39.

No. 25. We therefore present this axis of maximum elevation of the whole country as the true highlands intended by the 2nd article of the Treaty of 1783, uniting to the character of highlands, as contra-distinguished from lowlands, the condition required by the Treaty of dividing the "rivers that empty themselves into the St. Lawrence from those which flow into the Atlantic Ocean to the north-westernmost head of the Connecticut River. It will be seen hereafter that this is the only part of the disputed territory where highlands of a similar character are to be found. Page 40.

No. 26. By reference to the map A, your Lordship will observe that no chain or ridge is found extending from the most southern source of the Ouelle to the easternmost sources of the Metjarmette, yet it is along a line extending between those two points that the American surveyor protracted his fictitious hills. As the verification or disproval of this ridge was a matter of vital importance in the controversy about the boundary, we were very careful to Page 45.

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examine that part of the country, in order that our report might effectually dispose of the matter one way or the other, consistently with the truth. We therefore, after a careful examination of all that part of the country between the mouth of the Mittaywawquam, where that river joins the River St. John and the eastern sources of the Etchemin River, unhesitatingly declare that the ridge inserted in the American map is entirely fictitious, and that there is no foundation in the natural appearance of the country for such an invention. Had anything of the kind been there, we must unavoidably have seen it, and have crossed it on our way from the mouth of the Mittaywawquam to Lake Etchemin, the source of that fictitious ridge, as represented in the American map, lying six or seven miles east of the sources of the Mittaywawquam, and about ten miles east of Lake Etchemin. And it is singular enough that precisely at the point where the pretended ridge crosses the Mittaywawquam, and for many miles around, the country is a long flat swamp, the streams issuing from which have such a sluggish course that there is scarcely a perceptible current, or one sufficiently established to give visible motion to a feather. Over no part of the country which we traversed from the St. John to Lake Etchemin does the elevation exceed 50 feet, nor is there any visible elevation at any point of the course. It is only west of Lake Etchemin that the highlands claimed by the Americans as the highlands of the Treaty of 1783 are found. These are visible from a distance of several miles, and are a portion of the highlands which we have spoken of at p. 41 as the northern branch.

No. 27. EXTRACT of the Compendium of the Argument of the Honourable Ward Chipman, Agent of Her Britannic Majesty, before the Commissioners under the 5th Article of the Treaty of Ghent in 1821.

Under the provisions of the 5th Article of the said Treaty of Ghent, to ascertain and determine the north-west angle of Nova Scotia, and the north-westernmost head of the Connecticut River, in conformity with the provisions of the Treaty of 1783, it is set forth that the British claim places the north-west angle of Nova Scotia at or near Mars Hill, a point on the said north line distant about 40 miles from the source of the St. Croix, and 37 miles south of the River St. John.

That the first line of the angle being a due north line, the angle is formed by a line running from the north-westernmost head of the Connecticut River, the second point in the boundary, along the well-known height of land in that quarter in such a manner as to leave the whole of the Androscoggin, Kennebec, and Penobscot falling into the Atlantic Ocean within the United States, and the Chaudière and Du Loup emptying into the St. Lawrence within Her Majesty's territories until it meets the due north line at or near Mars Hill, which is the first highlands intersected by the due north line.

That this line of boundary along the highlands dividing those rivers fully satisfies the words of the Treaty, and corresponds with its obvious spirit and intention, and moreover accords with the description of the southern boundary of Quebec originally designated in the Proclamation of 1763, afterwards the Act of Parliament of 1774.

On board the Ringdove, October 26, 1839.

No. 28. Mr. Featherstonhaugh presents his compliments to Mr. Bouchette, and thanks him for the sketch of the Metis county, which he received.

Mr. Featherstonhaugh hopes it will be convenient for Mr. Bouchette to transmit to him at an early day the other sketches promised by Mr. Bouchette, to wit, the point of bifurcation of that chain which comes up through the State of Vermont, and as exact a delineation as Mr. Bouchette can give of the separate continuity of each subordinate chain, the northern one, which passes by Lake Etchemin, and runs parallel with the St. Lawrence (with notes of the locality of the separate peaks, and of the extent of places which separate them), and the other, which tends north-easterly from the heads of the Connecticut to those of the Chaudière.

Mr. Featherstonhaugh is also very desirous of having a copy of Mr. Bouchette's map of the heads of the south-west branch of the St. John's, and the most westerly branch of the Penobscot, with the waters of the Mittaywawquam, or Daaquam, as it is sometimes called. Mr. Featherstonhaugh possesses the original field-notes of that reconnoisance made by directions of Lord Dalhousie. If Mr. Bouchette has visited that part of the country a second time, any corrections will probably be noted. Mr. Featherstonhaugh will be happy to receive any information from Mr. Bouchette connected with the object alluded to in this note, and requests the map and information may be addressed to him at Sir John Harvey's, Fredericton, New Brunswick, and forwarded from Quebec not later than November 4.

(B.)

To Joseph Bouchette, Esq., His Majesty's Surveyor-General of Lower Canada, &c. &c.

SIR,

THAT branch of the public service to explore the country between the head of the Metgermette River and the point of Mr. Weir's departure having devolved upon me, conformably to the 5th Article of the Instructions of His Excellency the Governor-in-Chief, dated the 8th March last, conveyed by the Honourable A. W. Cochran, Esq., Civil Secretary, a copy of which is annexed to yours of the 10th, for my better guidance.

In pursuance thereto I proceeded to the mouth of the River Metgermette, discharging into River du Loup, which falls into the Chaudière, lat. by observation 46° 0′ 36″, and thence did trace up this river and its branches to their sources.

The north-west branch, after traversing a very flat country, is finally lost at its source in a

cedar tamarack and spruce swamp, whence, from the tops of trees can be discovered, with the exception of some hills on the south-east and south, between two and three miles distance, the same features of country.

The main branch, until it reaches the Metgermette Hills at about eleven miles from its mouth, generally preserves the same character of country as its north-westerly branch. Here I diverged northward to the summits of the hills, which extend parallel with the general course of the river, and from position A observed the bold mountain in a southern direction, as likewise the whole space of country south-eastward, lying at the base of several conspicuous heights or peaks, which I have since ascertained to be the Guespempsitook Mountains, and on the east also a few very distant headlands of great height, bearing in Mars Hill direction (see sketch No. 1).

I then ascended to position B on the north side of the mountain, and then observed the whole space of country from N.N.E. ¼ to W.N.W. in a distance of upwards of fifty miles: the conspicuous objects are the great mountains A, B, C, D, the distance and heights of which I ascertained with the utmost care; the mountain A, situated at the sources of the rivers Du Sud and Etchemin, appears to have considerable heights near it—whereas B, C, and D are unconnected with any ridge or mountains whatsoever, unless a few hills of inferior height between B and C. There I found I was 800 to 900 feet above the level of a lake, which was subsequently ascertained to be the waters of River Lafamine, bearing N. 2° 20′ E., 16½ miles distance, lying in a vast plain of level country, stretching from the base of the Metgermette Hills to four or five miles north of the lake, and but few patches of hard woodland diversify the general sameness in the appearance of the timber—for spruce, cedar, tamarack, and balsam seem to be the prevailing quality in this low tract of country. After this survey I returned to the Metgermette.

This river takes its sources in two lakes, the westerly one, by much the greater, is over three-fourths of a mile long, and of very irregular figure. No features about it denote a mountainous country, although there is a broken and rugged appearance in the dwarf hills that lie in the north-easterly part of it. The inlet of this lake takes its source in the same valley with the Penobscot waters formed by these hills and Moose Mountains. The height of land C is however observable between the Metgermette lakes and two small lakes at the head of the west branch of Penobscot River, which runs to the south and south-east. The principal elevation about the head of these rivers is Moose Mountain D, which lies between the east and west branches of Penobscot River. From it I observed the great mountains A, B, C, D, and likewise the same low flat country I had seen from Metgermette.

The inlet to the lake of the east branch, which lies at the base of Moose Mountain, takes its source to the north-west of it in a spruce and cedar swamp, and the same description of country as at the source of the north-west branch of Metgermette. Following the height of land on the north-east of the lake, a mountain (E G) of nearly equal elevation with Moose Mountain, running east-north-easterly, divides the Penobscot waters from those of the river St. John, which rises in a small lake of about two-and-a-half miles circumference; its inlet, coming from the west, takes its source in the same spruce and cedar swamp with the Penobscot.

The land on the east, south, and south-east of Lake St. John is mountainous; the mountains F G appear to take a general direction east-north-easterly. To the west and south-west an extensive level tract lies open to view the Metgermette Hills; on the north-west and north a cedar and tamarack swamp (savanne) extends from the margin of the lake a considerable distance, until it reaches a swell of hard woodland (or coteau), which runs parallel with and at about a mile from the River St. John, as does also a coteau on the north-east side, but of a bolder aspect than the former.

I would beg leave here to make an observation relative to the copy of a plan of the Commissioners of the boundary line, accompanying your Instructions for my guidance. In every respect I have found it to differ with the actual locality of the country it would represent, and deviates so widely in respect to the situation, manner, and distance at which I expected to find the River St. John, that without the great research I made to ascertain whether these were the waters, I must have been led into serous error, detrimental to the public service.

Having found no lands in these parts which divide the waters falling into the River St. John from those flowing into the River St. Lawrence that can fairly be designated highlands, as those I had hitherto followed is the chain of mountains lying at the head of the Penobscot waters, and dividing them from the waters flowing into the St. Lawrence on the west and on the north-east from the head or source of the main River St. John, I reached the lake or head waters of a branch of the St. John's, where this fact is further confirmed.

It is about a mile long by one-third wide, and around it are to be seen six or seven detached hills, the highest of which (O) lies on the eastern bank of the River St. John, while the northern extremity of the coteau before mentioned is observed at upwards of two miles to the south-east.

One prevailing feature of low level country, commonly called "Savanne" or "Tamarack" plains, characterizes the land in its vicinity which it bears out to Lake Lafamine, the head waters of a branch of the south-east arm of that river, which falls into the Chaudière. The hunters have cut a very good portage road through the swamp between the two lakes, the distance being but five hundred and fifty yards.

On the north and north-east side of the lake the land is low and swampy, while on the south and south-east the hill approaches its borders to the eastward; the chain of hills (O) on the eastern bank of the River St. John is distinctly observed stretching north-easterly.

There are still no highlands and fewer hills at the source of another branch of the St. John, which I traced up from the main river into a cedar, spruce, and tamarack swamp, where it is finally lost. At half a mile northward of the source a rising ground, of about 80 to 100 feet, affords a view of the whole expanse of country for several miles round, which is low and swampy, and slopes to the west and north-west.

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In this distance can be seen southward the Metgermette Hills, on the west the settlements on the western bank of the Chaudière, and northward the mountains along the north-east outline of the township of Ware. From this elevation I penetrated into the interior in search of the opposite waters, but travelled in various directions for several miles to no other effect than to convince me, beyond a question of doubt, that there are no highlands dividing the waters of the St. John's from those flowing into the St. Lawrence, but on the reverse, a vast extent of low, flat country, which spreads its characteristic feature to the main river St. John's, and into which its tributary streams take their source, as do the waters of the river Lafamine or St. Lawrence.

The river Wawetemmantetook reaches its source after traversing from its mouth in the river St. John's several of these extensive plains or savannas, wherein it generally spreads into shallow ponds. On approaching its source the stream divides into two brooks, the one taking a direction to the north-east of a rising ground into one of these plains of several miles extent, and the other north-westerly, into a small lake or pond, which forms its source. On the west a rising ground of 70 to 80 feet in height, divides the St. John's waters from a small brook, the waters of the river Lafamine running south-westerly. Further to the westward, in a tamarack plain, are two small lakes, the source or waters of the river Daaquam, a great arm of the river St. John, from which, at about three-quarters of a mile south, in the same plain or swamp, lies the fore-mentioned branch of the river Lafamine.

Here there are two considerable branches of the river St. John divided from a branch of the north-east arm of the river Lafamine by a few swells of hard woodland, not one hundred feet above the surrounding country, from which I discovered the extensive flat land observed from Metgermette.

The middle branch of the river Daaquam takes likewise its source in low tamarack and cedar swamps, with the source of a branch of the river Lafamine, which itself lies in a valley formed by the mountains along the Standon and Ware lines, and the mountain in the seventh mile of the road marked in the field by Mr. Ware, D.P.S., in 1825. The north-easterly branch of the river Daaquam crosses that road line, and heads among the mountains at the north angle of Ware.

From a conspicuous elevation at the angle K, in the seventh mile of the road, latitude, by observation, 46° 25′ 28″, I observed a range of very high mountains, bearing between south by east to east south-east, distant 40 and 50 miles, the height of which I determined trigonometrically: the Bald Mountains, 48 miles distant, are very distinguishable, and likewise the Metgermette Hills and Moose Mountains to the eastward. A very remarkable mountain, Y, bears S. 48° 50′ E., distant about 42¼ miles, and corresponds with Quacumgamook Mountain, as likewise does another mountain, Z, bearing S. 66° E., about 50 miles with Banjahquahen Mountain, which was observed from Moose Mountain.

This ridge is higher by some hundred feet than the mountains A, B, C, D, observed from Metgermette, and from which the lands receding northward diminish in height in manner of parallel lays of country, which I imagine form the beds of the great branches of the River St. John. Having reached the point of Mr. Ware's departure, and thus accomplished the nature and substance of my instructions, I determined on taking the Daaquam in my route homeward, and ascend the largest branch I might meet nearest its estuary into the River St. John, which I supposed might correspond with the River Eseganetsogook.

Omitting particulars which my journal contains, I will only notice such parts as particularly attracted my attention in the course of my route, which was generally north-north-westerly.

At Lake Eseganetsogook I recognised the mountain C, D, observed from Metgermette, forming the bed of the inlet to the lake, which is here a wide stream. From the heights the great mountain, B, is seen bearing N.N.W., about 800 feet above the adjacent country. To the eastward it is connected with a ridge of very inferior heights, extending about three or four miles east-north-easterly, to the northward of which runs the river Eseganetsogook, coming from the W.S.W., thereby, nearly enclosing the principal heights or headlands in all this portion of country.

After passing to the northward of the river, the land rises into gentle swells, and becomes, to the northward of the small branch of that river, quite level, into which some of the waters of the St. John's take their source. From an eminence between the river and its branch I observed the mountain B, bearing S.S.E., 500 feet above the level of the surrounding country. I did not perceive any material ascent from thence to this plain, which, I venture to say, is from 300 to 400 feet under the level of summit of mountain B.

Extensive savannas or tamarack and cedar swamps cover this plain to the border of a remarkable descent, from which is observed a rugged ridge of hills extending east-north-easterly, above which, however, is seen the Bay St. Paul, the Capes Tourment and Maillard, and the settlements on the north shore of the river St. Lawrence.

At the foot of this hill a stream or branch of River du Sud runs W.N.W. towards a chasm observed on the opposite hills. North of these the country resumes its level aspect for seven or eight miles, till after passing a small lake and branch running to the north-west, the lands become again rugged and broken, ascending for a while the height of land, from whence are observed the nearer settlements along the St. Lawrence, and the church of L'Islet bearing N.N.W. Thence the lands descend steeply by several ridges to the Bras St. Nicholas, on which are several great falls, one, in particular, I estimated at 70 or 80 feet, until it reaches the settlements in the level country at the base of the hills. Having reached the settlements of the parish of L'Islet I returned to Quebec.

All which is most respectfully submitted, this 18th day of May, 1828.

(Signed) Joseph Bouchette, jun., D.P.S.

(C.)

To JOSEPH BOUCHETTE, Esq., Surveyor-General for the Province of Lower Canada, &c. &c.

SIR, Quebec, April 25, 1828.

I HAVE the honour to acknowledge the receipt of your letter of this day, desiring me to give my opinion, for the information of His Majesty's Government, on the copies of the plans of the British and American Commissioners, under the fifth Article of the Treaty of Ghent, as far as my knowledge of the country in general, and more particularly that part lately by me explored, may enable me to do so.

After mature and strict examination of these copies, I have the honour to inform you, that within the extent of my knowledge of the country, almost every one of the rivers seems to be laid down merely to show that such a river exists about such a place, but that there is not the least similarity whatever in their courses; and a number of branches of rivers, as well of those falling into the St. Lawrence as of those falling into the St. John's river, are not laid down at all thereon.

I cannot conceive how it can be possible to form a judgment by such documents, as very few of the rivers seem to have been placed on these plans by actual surveys, but rather from information and from memory.

The mountains and hills, also, are there very differently represented from what they actually are: so that it is impossible, in doing anything by these plans, to avoid falling into the most serious errors.

I have, &c.,
FREDK. WYSS,
Surveyor of Lands.

(D.)

SIR, Quebec, April 25, 1828.

I HAVE the honour to acknowledge the receipt of your letter of this day's date, referring me to copies of the plans of the British and American Surveyors, employed by the Commissioners, under the fifth Article of the Treaty of Ghent, to examine the said plans, and state to you, for the information of His Majesty's Government, whether any and what difference exists in the general features of the country, courses of rivers and their sources, by me recently explored.

I beg leave to state that I have, in conformity with your letter, carefully examined the plans of the said Commissioners in your office. The most palpable error in the American Commissioners' plan which came within my knowledge, is a chain of mountains which he represents as separating the waters of the St. Lawrence from those of the St. John, while, in point of fact, with the exception of a cluster of mountains, in which the River Etchemin and a branch of the Du Sud take their rise, together with an inferior ridge near the line between Standon and Ware the waters are not separated by mountains or high lands, but both take their rise in the same plain. As regards the courses of rivers and their sources, the most conspicuous error that I discovered, and which relates to the British as well as to the American Commissioners' plan, is, that the whole course of the rivers Du Sud and Etchemin are so inaccurately laid down as to bear no resemblance to the truth.

I have, &c.,
W. WARE, D.P.S.

Joseph Bouchette, Esq.,
Surveyor-General, Quebec.

No. 29. EXTRACT from the REPORT of GEOLOGICAL SURVEY of CANADA for the year 1844, by W. E. LOGAN, Esq., Provincial Geologist.

ALL these heights given between the two extreme summits are the links of a chain standing on the north side of the longitudinal valleys which have been mentioned, and while they constitute the most elevated serrated ridge, none of them are much more than a mile from the northern base of the whole belt. The five miles which compose the remainder of its breadth present summits of more moderate height, and one of the most elevated of these which stand conspicuously protruded into the gorge on its east side, and was named the South Mountain, we found to be 2,413 feet. The whole of these, as well as the northern crest, are abrupt on the north side, and in general more sloping on the south, in the probable direction of the dip of the strata: and these, as indicated by the ridges, have a strike which, in this part of the range, may be considered, E.N.E. and W.S.W., magnetic. Page 11.

From the highest summit we visited, the panorama displayed was of the grandest description. In the northern half of the circle, the waters of the St. Lawrence, dotted with its ships and fishing boats, spread out to the right and to the left as far as the eye could reach. Page 12.

On its northern shore, immediately in front, unaided vision could plainly distinguish the lighthouse of the Pointe des Monts some fifty miles off, from which the granite hills rising immediately behind it in the interior, gradually sunk below the horizon as they receded from us, following them down the expanding gulph to a point where we thought we could discern the Island of Anticosta, one hundred miles away in the mist of the distance, while at our feet were arranged in parallel lines the ridges and valleys of the lower land between us and the river. To the eastward a confusion of mountains and ravines belonging to the Notre Dame range filled up several degrees of the circle; and one summit, which exhibited a patch of snow, we supposed might be higher than the point we stood upon. Many of the peaks were bare, and as they retired one behind another, and occupied a smaller angle in the perspective,

CANADA.

it became difficult to distinguish those of the Notre Dame from such as appertained to other ranges. Turning southward, a sea of parallel undulating ridges occupied the picture, the more distant of which we conceived might present a table land, with a few marked points rising in cones and domes; and through one gap, which probably was the valley of some south-flowing river, we distinguished a faint blue horizontal line, which we fancied might be in New Brunswick. Prominent points became still fewer, veering westward, until the horizon was again interrupted in that direction by a well-defined outline of a not very distant part of the range from which we looked.

No. 31. EXTRACT from the REPORT of ALEXANDER MURRAY, Esq., Assistant Provincial Geologist, addressed to W. E. LOGAN, Esq., Provincial Geologist, 1845.

Page 60. ON the west side of the Great Cascapedia the unconformable conglomerate again makes its appearance. It is seen in a conspicuous hill, in which the strata gradually rise from Indian Point, attaining an elevation of 378 feet on Mr. M'Kay's land. It composes not only the hill, but the flat valley beyond, which holds a very thriving settlement upon it, much incommoded by the want of road, and comes out on the river higher up. From Indian Point its stretch up the river may be four miles, and reaching the base of the mountains which present a flank running for the peak of Tracadigash, it skirts the bay up to the dividing line between the townships of Maria and Carleton, with the breadth of a mile and upwards, though it is not seen on the coast, being there covered over from Indian Point with the tertiary deposit.

Page 60. No. 32. Judging from the journeys made across the Gaspé and Bonaventure peninsula by the Chat and Cascapedia, and back again by the Matapedia, the mountain flank alluded to, which continues up the bay as far as my examination extended, is the southern boundary of what may be considered a table-land extending across to the St. Lawrence, on which the mountains of Notre Dame are a conspicuous range of highlands, while the river courses are deep and narrow excavations cut out of the block. That part of the flank which reaches from the Cascapedia to the Peak of Tracadigash, appears to be composed of a coarse silicious conglomerate standing in a vertical attitude, and to run south-west in the strike of the measures which present several remarkable precipices. But between it and the upper or flat calcareous conglomerate in front, there stand a few successive isolated trap hills with conical summits, occasionally half resting on the flank, and the breadth these occupy indicates that the trap range, with which they are connected, is of some importance.

Page 61. No. 33. From Tracadigash Peak the border of the table-land changes its direction, running parallel with the coast a little to the north of west, and makes a partial section obliquely across the measures, exhibiting in succession dark-coloured slates, several masses of trap, and finally a great calcareous deposit, which seems to run inland to the north of the silicious conglomerate. It is probable, however, that the strike and the mountain flank again coincide further on, for there is trap at the root of it associated with limestone beds at Nouvelle Bridge, five miles up from its mouth; and, finally, trap comes upon the Restigouche on the land of Mr. John Adams, at the junction of the Little River with the main stream, from which stream it is separated between the Scaumenac and the Little River, by a margin of silicious conglomerate very like that of Tracadigash, seen in vertical or highly-tilted south-dipping strata below Mungo's Brook, at Point La Garde and at Point Bordeau.

No. 34. EXTRACT from the REPORT of ALEXANDER MURRAY, Esq., Assistant Provincial Geologist, addressed to W. E. LOGAN, Esq., Provincial Geologist, 1846.

Page 101. THE Matan River falls into the St. Lawrence in lat. 48° 51′ N., long. 67° 33′ W., according to Capt. Bayfield's chart, about 60 miles below Bic Island, and 35 miles above Cape Chat.

Page 102. Taking its rise in the country to the north of the Notre Dame Mountains, where the uppermost of the three lakes is situated, the main branch of the Matan flows south, cutting a deep gorge through the range, which is occupied by part of the middle and the whole of the lower lakes, with their connecting stream. It then runs westerly, between the southern base of the mountains and an escarpment of limestone, to the Trout River branch, which discharges into it a large body of water. Thence sweeping around the western extremity of the range, nearly opposite to the Tawagadee branch, it afterwards pursues a northerly course to the junction with the St. Lawrence. With its tributaries, the river probably drains an area of country extending over about 800 square miles.

Page 103. No. 35. One of the most remarkable features of the Gaspé peninsula is the chain of the Notre Dame Mountains. Its western extremity comes to within two miles of the eastern bank of the Matan, bearing from the mouth of that river S. 25° E., at a distance in a straight line of about 21½ miles. Its breadth does not here exceed two miles, while the summit heights are on an average about 2,000 feet above the level of the sea. The mountain range runs nearly due E. and W. magnetic, and it increases between the Matan and Ste. Anne in width and elevation, advancing eastward. At the Lakes of Matan it occupies a width of four miles, and the highest summits are about 2,700 feet, while at the Chat, where this river intersects the range at the Old Man and South Mountains, as ascertained the previous season, there is a breadth of six miles, the most elevated peaks rising to upwards of 3,500 feet. From this until striking the Ste. Anne the highest summits on the northern crest maintain a pretty uniform elevation, and still bear directly east; but beyond that point the range appears to split, and after the valley of the river takes its upward turn S. of E., the highest summits on its south side recede from it three or four miles, while a range commencing on the north makes

rather to the N. of E. for the lake at the head of Marten River, and appears to run ultimately to Mont Louis on the coast.

No. 36. From the highest point on the south-western extreme we had a commanding prospect of nearly the whole western range of the mountains, among which the lofty summits of Flag-staff Peak and Mount Bayfield, were distinctly recognisable. The valleys of the upper branches of the Chat and Cascapedia lay to the west and south of us; and while many of the mountains of Gaspé and Bonaventure were presented to us on the south-east, the panorama was bounded on the north-east by the range separating the waters of the Ste. Anne and Magdalen. From the north-eastern station, the same Ste. Anne and Magdalen mountains bounded our view eastward, and the same peaks in Gaspé and Bonaventure were seen south-east; many of the same mountains to the westward; but northward of west the St. Lawrence to its northern shore was spread out, and the valley of the Ste. Anne could be traced extensively, while immediately below us, we could here and there distinguish its rapid torrent rushing along among the rocky cliffs. Page 104.

No. 37. The country generally to the north of the great mountain range consists of a series of ridges running parallel to it and to one another, which decrease in elevation as they advance to the westward, and as they approach the shores of the St. Lawrence. These ridges are entirely covered with a dense forest consisting of balsam, fir, spruce, white, black, and yellow birch-trees, white pine, and white cedar; maple, elm, and ash likewise occur, but are comparatively rare. Pine-trees of good size, and many groves of fine spruce occur upon the hills, near the banks of the Ste. Anne and Chat, but on the main branch of the Matan such timber, although not altogether absent, is rare. This is the more to be regretted as it affords facilities for driving far superior to any other river on the south coast of this part of the St. Lawrence, being easily accessible to the highest of its lakes. Page 106.

Except on the flats, and on the low lands near the shores, the soil appears to be of a very light description, and holds out but few inducements for agricultural improvement; on them the quality is frequently very favourable, and of this the settlements at Matan, Ste. Anne, and Cape Chat are examples. South of the mountain range, on the Matan, the size and the character of the forest growth indicate a better description of soil than on the north; and the country being less broken or mountainous than that to the eastward, might, were it less remotely situated, be cleared and cultivated. Hitherto it has been but rarely visited, except by Indians or hunters in pursuit of fish or furs. Game abounds through the whole of these forests, and the rivers are amply supplied during the summer season with fish and water-fowl. The Chat and Ste. Anne abound with the finest description of salmon and sea-trout; but since the erection of the saw-mill, being unable to get over the dam, they have entirely disappeared from the waters of the Matan, where they are said to have formerly been more numerous than in any other river on the coast.

River Sections.

No. 38. The rivers on the north coast of the peninsula, running for a considerable portion of their course, directly transverse to the general strike of the stratification, afford the best, if not the only, means of obtaining exposed sections of the older rocks in the interior; the whole country, elsewhere, except on the summits of the highest mountains, being clothed with a dense forest; but as even on the rivers the exposures are but partial, their banks being frequently, for long distances, composed of drifted material or overgrown with shrubs and trees, it is a matter of the greatest difficulty to establish a regular order of super-position; and there is to be added to the perplexing embarrassment, resulting from the nature of the surface, the usual difficulty incident to a geological examination of a highly disturbed and altered region. Page 111.

No. 39. The character of the range of the Notre Dame mountains, from the Matan to Mount Albert on the Ste. Anne, exactly corresponds with the description given in last year's report of the mountains of the Chat. The colour of the rocks is invariably more or less green, resembling the green of epidote. In some instances they are of a pale-yellowish green, striped or mottled over with red jaspery patches, and are very hard, compact, and silicious. At other times they are found of an olive-green colour, as a fibrous splintery slate, and occasionally they possess a character allied to mica shist. Talc and steatite were sometimes observed among loose fragments on the surface. Wherever the inclination could be determined, it was invariably found to dip to the southward at a very high angle, or to be quite vertical. Page 113.

EXTRACTS from the Geographical and Statistical Dictionary, by J. R. McCulloch, Esq.

Article, "Canada."

No. 40. The aspect of the south shore of the estuary of St. Lawrence, between longitude 69° 30′ and 72°, though bold and hilly, is not mountainous as on the opposite shore; and the hill ranges are interspersed with valleys and even plains of some extent, many of which, from the encouragement afforded, by the contiguous markets of the capital, have been brought into very tolerable cultivation. East of Kamouraska the country is diversified by more abrupt eminences, while population and culture become more limited; and in the district of Gaspé, the mountains rise into two chains of considerable elevation, enclosing between them a lofty table-land or central valley. The most southerly of these chains bounds on its south side the valley of the Restigouche and St. John's rivers. The upper part of the basin of the St. John forms a region at least 600 or 700 feet above the level of the sea, covered with forests, lakes,

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and rivers, and, according to Mr. McGregor and other authorities, equal in point of fertility to any part of America: enclosed by mountain ranges on the north, south, and west, and divided into two nearly equal parts by the St. John river, running from west to east.

Treaty of Amity, 1794.

No. 41. By Thomas Barclay, David Howell, and Egbert Benson, Commissioners appointed in pursuance of the fifth Article of the Treaty of Amity, commerce and navigation between His Britannic Majesty and the United States of America, finally to decide the question, "What river was truly intended, under the name of the river St. Croix, mentioned in the Treaty of Peace between His Majesty and the United States of America, and forming a part of the boundary therein described."

Declaration.

No. 42. We, the said Commissioners, having been sworn "impartially to examine and decide the said question according to such evidence as should respectively be laid before us on the part of the British Government and of the United States," and having heard the evidence which hath been laid before us by the agent of His Majesty and the agent of the United States respectively appointed and authorized to manage the business on behalf of the respective Governments, have decided, and hereby do decide:—The river hereinafter particularly described and mentioned to be the river truly intended under the name of the river St. Croix in the said Treaty of Peace, and forming a part of the boundary therein described, that is to say,—the mouth of the said river is in Passamaquaddy Bay, at a point of land called Ive's Point, about one mile northward from the northern part of St. Andrew's Island, and in the latitude of 45° 5′ and 5″ north, and in the longitude of 67° 12′ and 30″ west, from the Royal Observatory at Greenwich in Great Britain, and 3° 50′ and 15″ east from Howard College in the University of Cambridge, in the state of Massachusetts. And the course of the said river up from its source is northerly to a point of land called The Devil's Head, thence turning the said point, is westerly to where it divides into two streams, the one coming from the westward and the other from the northward, having the Indian name Chiputnatecook, or Chipnitcook, as the same may be variously spelt, then up the said stream, so coming from the northward to its source, which is at a stake near a yellow birch-tree, hooped with iron, marked "S. T. and J. H., 1797," by Samuel Titcomb and John Harris, the surveyors employed to survey the above-mentioned stream coming from the northward. And the said river is designated on the map hereunto annexed and hereby referred to as further descriptive of it by the letters A, B, C, D, E, F, G, H, I, K, and L, the letter A being at its said mouth, and the letter L being at its said source. And the course and distance of the said source from the island at the confluence of the above-mentioned two streams is as laid down on the said map, north 5° and about 15′ west by the magnet: about 48 miles and one quarter.

In testimony whereof we have hereunto set our hands and seals at Providence, in the State of Rhode Island, the 25th day of October, in the year 1798.

(Signed) Thos. Barclay, (L.S.)
David Howell, (L.S.)
Egbert Benson, (L.S.)

Witness,
(Signed) Ed. Winslow,
Secretary to the Commissioners.

A true Copy.
(Signed) Ed. Winslow.

No. 43.

Sir, Government House, Fredericton, August 4, 1836.

I have the honour to acknowledge the receipt of your letter of the 29th ultimo, reporting your arrival at Madawaska, by order of his Excellency the Earl of Gosford, for the purpose of examining the depredations reported by me as having been committed within the limits of the disputed territory.

That these depredations have been carried on to a very great extent, I have but too much reason to believe, and this I have no doubt you will find to be the case in the course of your investigation.

To afford you early information on this subject, I have directed J. A. M'Lauchlan, Esq., the warden of the disputed territory, to join you without delay: he is well acquainted with every step already taken in regard to the question under discussion, as well as the matter that I now wish particularly to be followed; and I trust that your united exertions will lead to the conviction of all the parties concerned in the crime of having daringly and lawlessly cut great quantities of timber on Crown lands, whether in the jurisdiction of Canada or New Brunswick, of course equally culpable.

Great efforts will, I doubt not, be made by the parties accused to make it appear that a proportion of the said timber was cut on granted lands, but of that you will be able to satisfy yourselves by personal inspection on the spot.

I have, &c.,
(Signed) Arch. Campbell,
Lieutenant-Governor.

J. Bouchette, Esq., D. S. General,
&c. &c. &c.

No. 44. CANADA.

DEAR SIR, Joseph Herbert's, Wednesday, 7 o'clock, Evening.

I LEFT the Great Falls this morning, in hopes with meeting you at the entrance of the Little Madawaska, or at Trout River; but I find from Capt. Herbert, who has just come from the latter, that you had left for the upper part of the Lake Temisquata, and and would not return here again within Sunday or Monday.

I received letters by the post to-day from the Governor, embracing instructions for both of us, and yours I now enclose. His Excellency will be at the Great Falls to-morrow evening, and I shall have to meet him. His stay there will probably be about a day, then he returns to Fredericton; and Sir John Caldwell and myself will be here on Sunday evening, or early on Monday morning.

I remain, &c.,

To Jos. Bouchette, Esq., D. S. General,
Agent on the part of Lower Canada.

JOHN MCLAUCHLAN,
Agent for New Brunswick.

(No. 11.) No. 19. No. 19.

COPY of a DESPATCH from Lieut-Governor Sir EDMUND HEAD, Bart. to Earl GREY.

Government House, Fredericton,
March 19, 1850.
(Received April 2, 1850.)

(Answered June 27, 1850, No. 198, p. 131.)

MY LORD,

HAVING received from Lord Elgin an extract from a Report made by a Committee of the Executive Council of Canada, approved by his Excellency the Governor-General in Council, on the 23rd of July last, together with a copy of a Report from the Crown Land Department in Canada, relating to the disputed boundary of this province, I took immediate steps for laying the same before my Executive Council.

The Governor-General informs me that he intends to forward to your Lordship copies of the Minute and Report in question, and I therefore think it necessary to trouble your Lordship with a minute of the Executive Council of New Brunswick, of which a copy is enclosed.

The whole of the papers therefore relating to this long-pending dispute will now be in the hands of Her Majesty's Government. I will only add, that I myself fully concur in the view expressed in this last minute of my Council, and express my hope that the question may be speedily settled.

I have, &c.,

The Right Hon. Earl Grey,
&c. &c. &c.

EDMUND HEAD.

Enclosure in No. 19. Encl. in No. 19.

READ a copy of an Extract from a Report of a Committee of the Executive Council of Canada, approved by his Excellency the Governor-General in Council, February 23, 1850, reference being also had to the copies of the Report of J. H. Price, Esq., of the Crown Land Department of Canada, and to the Report of Her Majesty's Commissioners on the boundary between this province and Canada, with the maps and documents appended.

Resolved on the part of the Executive Council of New Brunswick,—

1. With reference to the arguments in the Report of Mr. Price drawn from the old French maps, and from grants by the Crown of France previous to the Proclamation of 1763. It appears a sufficient answer to all such arguments to cite the following extracts from the Report of Her Majesty's Commissioners:—

"It seems proper, in consequence of arguments that have been advanced in the course of the controversy, to offer the preliminary observation that the object of the investigation being to ascertain the boundaries appointed to the provinces, after they came under the dominion of Great Britain; the question is not controlled by any previously existing extent of territory or jurisdiction.

"Whatever line shall be found substantially to answer the description these documents (*i. e.* the Quebec Act, the Proclamations and Commission of 1763) give of the boundaries of the provinces, must control the legal claims of Canada and New Brunswick. Whether a boundary of that character actually existed was a question demanding for its solution, exploration and scientific research."

This last passage appears to express the real object of appointing the Royal Commission, and the Council do not believe that the Proclamation of 1763, or the Quebec Act, can be

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treated as subsidiary to, or dependent upon, the limits assigned to seigniories or jurisdictions granted by the Crown of France.

The Council apprehend that the "spirit" of an English Act of Parliament, or an English Proclamation, is in the first place to be sought in the fair and obvious inference from the words of those documents.

2. All the classes of arguments connected with the settlement of the American boundary line and the Treaty of 1783 are disposed of, as it appears to the Council, by the Commissioners, who state,—

"As the Treaty was not designed to alter, and had not force to alter, the colonial boundaries (which remained to be ascertained after the Treaty by the same distinctive features as before), if in fact the line of highlands claimed by Great Britain as the boundary with the United States was not the ancient provincial boundary, a mistaken assumption on that point could not affect the latter boundary."

It is perfectly clear, that from 1763 to 1783, the provincial boundary, whatever it was, existed by virtue of the Royal Proclamation as confirmed by the Quebec Act: what it was could not be affected by a treaty concluded 20 years afterwards, with a power not in existence when the boundary was established. Moreover, as the Commissioners observe, the very fact that this last Commission was appointed by Her Most Gracious Majesty, to explore the territory, and ascertain, if possible, the strict legal claims of the two provinces, is sufficient to prove that Her Majesty's Government did not consider the question concluded by the Treaty of 1783, or by anything which had taken place under it.

3. The appointment of the Commissioners was made, as the Council presume, in order to obtain, after inspection of the ground, a fair and impartial finding on the facts of the case by persons at once competent and unbiassed by any local interest. These persons distinctly lay down an essential requisite for fulfilling to the letter and the spirit of the Quebec Act and the Proclamation of 1783, viz., that the line of highlands to be taken as the basis of the northern boundary of New Brunswick is to be a line from which the streams flow into the River St. Lawrence.

It may be observed that this condition expressly negatives the assumption as the boundary of any line of highlands south of the river of Restigouche.

At the same time, this condition is most distinctly laid down in the documents which form the groundwork of the legal rights of both provinces, so distinctly, indeed, that the Council believe it will not admit of being shaken by mere presumptions or inferences from French grants anterior to the exercise of the authority of the British Crown.

The question at issue really is, "In what manner that authority was exercised when it came into existence?"

Her Majesty's Commissioners have thus returned their finding on the facts, and the Council feel perfect confidence in the equity of the decision at which Her Majesty will be advised to arrive.

4. Assuming, therefore, that the essential conditions attaching to the line of highlands have been determined by Her Majesty's Commissioners, it remains only to advert to the conventional lines proposed respectively by Her Majesty's Commissioners and by the Canadian Crown Land Office. With regard to the former, the Executive Council of New Brunswick have already expressed their belief that it would readily be acceded to by the Legislature of this province, although, according to the views of the Commissioners, it involves the cession by New Brunswick of a considerable portion of territory.

With regard to the line now proposed in Mr. Price's Report, the Executive Council can only say that it would cut off the whole right bank of the Madawaska River; and by a line run north-east to the Petam Kedgewick, would moreover cede a large tract on the left bank of the former river, to which New Brunswick, according to the Commissioners' Report, and the fair construction of the Quebec Act and Royal Proclamation, has an undoubted legal claim. Over both of these tracts, too, New Brunswick has exercised jurisdiction since the year 1783.

It is difficult to see what sort of compensation this latter proposition offers for the cession of the rights implied by the necessity of adopting as the basis of the boundary a watershed of which the northern slope descends to the St. Lawrence.

There is of course no tribunal before which the legal rights of these provinces can be litigated except that of Her Most Gracious Majesty, by whose express commands the evidence has been now collected, and in whose hands the Executive Council of New Brunswick are contented to leave the care of their own province, with perfect confidence in the justice of Her Majesty's decision.

That a copy of this minute be transmitted by the Lieut.-Governor to Her Majesty's Secretary of State for the Colonies, and to His Excellency the Governor-General.

(No. 483.) No. 20.

No. 20. COPY of a DESPATCH from Earl GREY to Governor-General the Earl of ELGIN AND KINCARDINE.

MY LORD, Downing-street, April 11, 1850.

Page 104. I HAVE the honour to acknowledge the receipt of your Despatch, No. 159, of the 9thMarch, transmitting the copy of an approved Minute of your Executive Councilon the report made to your Lordship by the Commissioner of Crown Lands in Canada, commenting on that made by the Commissioners

appointed by Her Majesty's Government to inquire into the respective claims of Canada and New Brunswick, to the territory awarded to Great Britain in the Treaty of Washington.

The papers with which your Lordship has now furnished me on this important subject, will not fail to receive the early and serious consideration of Her Majesty's Government ; but, adverting to the closing observation in the Minute of Council, I must express my opinion that, in the present state of the question, it would be highly inexpedient to bring the difference entertained between the two provinces under discussion in the Canadian Legislature.

I have, &c.,
(Signed) GREY.

The Earl of Elgin and Kincardine,
&c. &c. &c.

(No. 198.) No. 21. No. 21.

COPY of a DESPATCH from Earl GREY to Lieut.-Governor Sir EDMUND HEAD, Bart.

SIR, Downing-street, June 27, 1850.

I HAVE now to acknowledge your Despatch, No. 11, of March 19th last, Page 129. on the subject of the disputed boundary between Canada and New Brunswick.

2. I greatly regret the delays which have impeded the settlement of this question, feeling very strongly the force of the observations which you have from time to time addressed to me on the partial inconveniences which result to New Brunswick from its present undecided state.

3. But, notwithstanding the importance of these considerations, I have been anxious to make every effort for the final arrangement of the dispute by mutual accommodation, rather than by the positive interference of Her Majesty's Government; and I now transmit to you the copy of a Despatch which I have addressed by the same mail to Lord Elgin, containing the outlines of a proposal which I trust may still lead to this result. Page 1.

You will, therefore, on receipt of this Despatch, proceed to place yourself in communication with Lord Elgin on this subject, unless you consider it indispensable to make any previous observations direct to myself. If it appear to Lord Elgin and to yourself that your personally conferring with him upon this subject would facilitate an adjustment of the question at issue between the two provinces, you will consider yourself as authorized to proceed to Toronto for that purpose; and should you do so it will probably be convenient that you should be accompanied by one of the members of your Executive Council to assist you in the discussions that may take place.

I have, &c.,
(Signed) GREY.

Lieut.-Governor Sir Edmund Head, Bart.,
&c. &c. &c.

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