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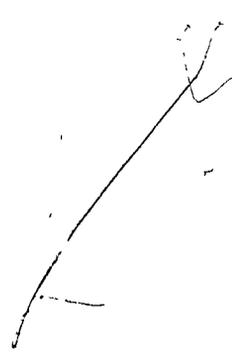
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PROCEEDINGS AND CORRESPONDENCE

RELATING TO

THE PRETENSIONS OF THE STATES OF

MAINE, MASSACHUSETTS

AND

NEW HAMPSHIRE,

AND TO THE QUESTION OF

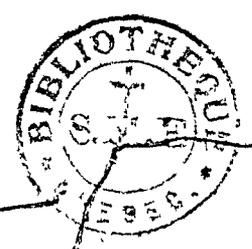
JURISDICTION

WITHIN THE

DISPUTED TERRITORY

FROM

1831 to 1837.



Presented to both Houses of Parliament by Command of Her Majesty,
1838.

LONDON:

PRINTED BY J. HARRISON AND SON.

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I

Proceedings of the Legislature of the State of Maine, on receiving the communication of the Award of the King of the Netherlands.—
March, 1831.

To the Senate and House of Representatives,

I HAVE received from the Secretary of State of the United States, under the direction of the President, a copy and translation of the award given by the King of the Netherlands in relation to the north-eastern boundary of the United States, upon the question submitted to him, and also a copy of the protest which the Minister of the United States at the Hague thought it his duty to make against the award referred to, together with extracts from his despatch to the Department of State, shewing the character of the protest, and the ground upon which it was made: and a copy of the correspondence between himself, and Sir Charles Bagot, the Ambassador of Great Britain at the same court, upon the subject.

Copies of these Documents, and also of the accompanying letter of the Secretary of State of the United States, will herewith be laid before you. The President, through the Secretary of State, has expressed his desire, that while this matter is under deliberation, no steps may be taken by the State of Maine, with regard to the disputed territory, which might be calculated to interrupt or embarrass the action of the Executive Board of the Government of the United States upon this subject. The importance of this suggestion will be duly appreciated by the Legislature. And while we adopt such measures as shall be judged proper and expedient to make our rights and claims known to the Government of the United States, it will doubtless be considered that we must, under the provisions of the Federal Constitution, rely with confidence upon that Government for the enforcement of our claims against the power of Great Britain.

(Signed) SAMUEL E. SMITH.

Council Chamber, March 25, 1831.

I.
Proceedings of the Legislature of Maine, on the result of the Arbitration.

Department of State of the United States.

Washington, March 18, 1831.

To His Excellency Samuel E. Smith, Governor of the State of Maine.

Sir,—By the President's direction, I have the honor to transmit, herewith, to your Excellency, a copy and translation of the award given in relation to the north-eastern boundary of the United States, upon the question which was submitted to the King of the Netherlands, by this Government and that of Great Britain concerning that boundary; which award was officially delivered to the Minister of the United States at the Hague on the 10th day of January last, and by him forwarded to this Department, where it was received on the 16th instant. With a view of making your Excellency acquainted with the state of this transaction, as received here; I also transmit herewith a copy of the protest which the Minister of the United States at the Hague thought it his duty, without instructions to that effect from the President, to address to the Minister of Foreign Affairs of the Government to which he is accredited, against the award referred to;—together with extracts from his despatch to this department, showing the character of his protest, and the ground upon which it was made; and a copy of the correspondence between himself and Sir Charles Bagot, the Ambassador of Great Britain at the same court, upon the subject.

Mr. Preble has asked leave of absence, for the purpose of visiting the United States, which will be forthwith granted, and has expressed an earnest wish that he may be further heard upon the subject, before any measures in regard to it are adopted by the President.

I have the honor, likewise, by direction of the President, to repeat the assurance which I made to your Excellency, in his behalf, in my letter of the 9th instant, that the subject of this award will receive all the attention and consideration to which its great importance, and the interests of the State of Maine, so materially involved therein, especially entitle it, in the Councils of the Executive of the United States; and to add that no time will be lost in communicating to your Excellency, the result of his deliberations upon it, as soon as he shall have determined upon the course which a sense of his high and responsible duties may suggest as proper on the occasion.

Under these circumstances, the President will rely with confidence upon the candour and liberality of your Excellency and the other constituted authorities of Maine, in appre-

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ciating the motives which may influence that course on his part, and in a correspondent interpretation of them to your constituents, in whose patriotism and discretion he has equal confidence.

In making this communication to your Excellency, I am instructed by the President to express his desire that, while the matter is under deliberation, no steps may be taken by the State of Maine, with regard to the disputed territory, which might be calculated to interrupt or embarrass the action of the Executive branch of this Government upon the subject.

I have the honor to be, &c.

(Signed) M. VAN BUREN.

STATE OF MAINE.

THE Joint Select Committee of the Legislature, consisting of four on the part of the Senate, and seven on the part of the House, to whom was referred the Governor's special message of the 25th March, 1831, with accompanying documents, consisting of a copy of the award made by the King of the Netherlands in relation to the north-eastern boundary of the United States, upon the question submitted to him by the Government of the United States and Great Britain; also a copy of the protest which the Minister of the United States at the Hague thought it is duty to make against the award of the King; also extracts from the despatch of the Minister, shewing the character of the protest, and the ground upon which it was made; and also the correspondence between the Minister of the United States, and Sir Charles Bagot, the Ambassador of Great Britain, at the Court of the King aforesaid, upon the same subject; have examined and considered the same message and documents, and

REPORT.

The Legislature of this State, having on former occasions, discussed the question of title and jurisdiction of this State to the territory to which they considered the British Government had made an unjust claim, a claim contrary to a fair and impartial interpretation of their own acts and admissions, and also the right of the Government of the United States, under the Constitution, to interfere with the rights of territory and of sovereignty of an independent State, so far as to either, directly or indirectly, cede or transfer any portion thereof to any State, either domestic or foreign; the committee do not deem it important on this occasion, to discuss these subjects further, and content themselves by simply referring to the documents which have proceeded heretofore from the Legislative and Executive Departments of the State Governments.

The documents to which your committee would respectfully solicit the attention of the Government of the United States, are the message of Enoch Lincoln, Esq., Governor of the State of Maine, delivered before both branches of the Legislature in January, 1827; the subsequent report of the committee on so much of the Governor's message as related to the north-eastern boundary; the subsequent correspondence of the Governor with the Secretary of State of the United States; the Governor's Message delivered before both branches of the Legislature in January, 1828; the report of the committee on so much of the Governor's Message as related to the north-eastern boundary; the subsequent acts and doings of the Legislature more especially; the measures adopted by this Legislature, a copy of which has already been forwarded to the President of the United States. The aforesaid documents your committee consider contain the the main facts in support of the title of the State, to soil and sovereignty, as well as some of the grounds of her rights under the Constitution of the United States. An examination of those documents, for any present purpose, will sufficiently indicate, not only the views heretofore entertained by the State, but the course which she will feel it her duty to pursue in furtherance of her rights.

Here it may be proper to remark, that the State authorities have not any disposition to embarrass the Government of the United States, in any of their negotiations with foreign nations, when they pursue the authority given them by the Constitution, and it ought also to be understood that the Legislature of the State, while exercising their powers under the Constitution of the State, and as guardians of the rights and interests of the people, cannot and ought not to compromise the rights of the State by any direct act of their own, or by any acquiescence in the exercise of powers by any other State or sovereignty, contrary to the will of the people as expressed and delegated in their compacts and constitutions. There are rights which a free people cannot yield, and there are encroachments upon such rights which ought to be resisted and prevented, or the people have no assurance for the continuance of their liberties.

We make these remarks without intending any disparagement to the Government of the United States, and also with the entire confidence and conviction, that on a just and careful revision of the measures that have so far taken place, that there will be found to exist no substantial impediment to giving final effect to the perfect constitutional obligations, to protect and preserve the original and independent rights of the people of this State.

The most important document referred to your committee is the one which emanated from the King of the Netherlands, the Arbitrator, selected by Great Britain and the United States, by virtue of the Convention of September 29, 1827—to decide upon the points of difference which had arisen between the Governments under the fifth article of the Treaty of Ghent. The Legislature have, on a former occasion, briefly expressed their views on the subject of the Convention of 1827—that it did not necessarily and directly violate, but that prospectively, it might produce a violation of their constitutional rights; and it may properly be added, that the question raised by the British, and which was recognized by that Convention, did not grow out of a legitimate interpretation of the Treaty of Ghent,

but was artfully introduced by the British agents, and was incautiously admitted, or not sufficiently opposed and resisted by the agents of the United States. This State has never admitted the authority of the Convention, and cannot consider her rights compromised by any decision under it.

The King, or Sovereign Power of the Netherlands, derived its authority of Arbiter, from the Convention of September 29, 1827. His authority to decide the question submitted is indicated in the first article, which is as follows: "It is agreed that the points of difference which have arisen in the settlement of the Boundary between the American and British dominions, as described in the fifth article of the Treaty of Ghent, shall be referred to some *friendly Sovereign or State*, who shall be invited to investigate, and make a decision upon such points of difference."

The first question which naturally arises in this case, is: Did the Arbiter to whom the points of difference between the Governments was submitted, decide them, or advise the manner of settling them?

From the language used, it seems to have been the intention both of Great Britain and the United States, to submit the decision of the difference which had arisen, not to an individual, but to the Sovereign Power of an Independent State or Kingdom, hence the propriety of the language they used to express their intention, "*some friendly Sovereign or State.*" To fulfil the intention of the parties it was not only necessary that the Sovereign Power selected, should have been at the time of its selection in the full and undisturbed enjoyment of its power, and equally dependent upon, and independent of, the parties, but that the power should have thus continued to the time of its delivering its opinions upon the questions submitted. At the time of the selection of the King of the Netherlands, or the Sovereign to arbitrate and settle the differences, he, and his Government were exercising, and were in the full and uncontrolled possession of the sovereign power of Holland and Belgium, formerly the United Provinces and the Netherlands. Subsequent events, and events, which occurred many months before the subject had been considered, and any sort of decision was made and delivered to the parties, separated Belgium from his dominions and from the sovereign power of his Government. Losing Belgium, deprived the King of nearly three-fifths of his subjects, and of course of three-fifths of his power and consequence, and he ceased to be the King of the Netherlands.

The loss of Belgium arose from the prevalence of liberal opinions and the desire of the people to secure their rights. The revolution from the course the British pursued, naturally produced feelings of attachment to, and dependence upon them for aid and protection, and as naturally excited feelings against the institutions of the United States. But we go still further: the course of events did not simply increase his dependence upon the British, but compelled him to call upon them for assistance to enable him to sustain his power as King even in Holland. The British were, long before the decision, his privy counsellors, if not the managers and regulators of his public concerns and negotiations, upon which the existence and continuance of his power depended. He was within their power and control. Having then lost the character possessed at the time of the selection, the King or Sovereign power of the Netherlands ceased to be the Arbiter to whom the differences had been submitted. A decision after such a change of character and interest cannot, for any purpose, be considered as having any obligatory force or effect, it can be considered only a mere nullity.

The next question which arises is, has the Arbiter decided the points of difference which had arisen between the two Governments?

The Arbiter, in stating the authority of rules of decision, says, "The points submitted ought to be decided according to the Treaties, Acts, and Conventions concluded between the two powers; that is to say, the Treaty of Peace of 1783, the Treaty of Friendship, Commerce and Navigation of 1794, the declaration in relation to the River St. Croix in 1798, the Treaty of Peace, signed at Ghent in 1814, and Mitchell's map and the map A. referred to in the Convention."

The first point the Arbiter was called upon to decide, was, "Which is the place designated in the Treaties as the north-west angle of Nova Scotia, and what are the highlands dividing the rivers emptying themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, along which is to be drawn the line of boundary from that angle to the north-westernmost head of Connecticut River." The United States claimed a range of highlands which limit the streams falling into the River St. Lawrence, and separate them from streams flowing from the same range in all other directions, and through all other channels, falling ultimately into the Atlantic Ocean. The British claimed a range of land, which in a part of its course separated the waters of the St. John from the waters of the Kennebecot, and in another part of its course separated only the waters of one tributary of the St. John from another tributary of the same river. These ranges of land were indicated on the map A. according to the claims set up by the parties respectively. The north-west angle of Nova Scotia, according to the claims of both parties, was at the point where a line due north from the source of the River St. Croix intersected the range of highlands, with only this difference, according to the claims of the United States, it would intersect the range, and according to the claims of Great Britain it would touch the eastern extremity of the line, and only intersect if it continued north-westerly.

To avoid any misrepresentation of the meaning of the Arbiter, we will quote from the document. He says, "The arguments adduced on either side, and the documents exhibited in support of them, cannot be considered as sufficiently preponderating to determine any preference in favor of one of the lines respectively claimed by the high interested parties as

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boundaries of their possessions from the source of the River St. Croix to the northwesternmost head of Connecticut River, and that the nature of the difference, and the vague and not sufficiently determinate stipulations of the Treaty of 1783, do not permit to adjudge either of these lines to one of the said parties, without wounding the principles of law and equity with regard to the other."

And again, "the question results itself into a selection to be made of a *ground dividing* the rivers that empty themselves into the River St. Lawrence from those that fall into the Atlantic Ocean: that the high interested parties are agreed with regard to the courses of the stream delineated by common accord on the map A. and affording the only basis of a decision; and that therefore the circumstances upon which such a decision could not be further elucidated by fresh topographical investigation, nor by the productions of additional documents." Then follows—

"We are of opinion, that it will be *suitable* to adopt as the boundary of the two States, a line drawn due north from the source of the river St. Croix to the point where it intersects the middle of the deepest channel of the river St. John, thence the middle of the deepest channel of that river ascending, &c." This is the language of recommendation or advice to the parties, of the course to be adopted by them, rather than a decision of the point submitted; whether the meaning is to be ascertained from the language used, or from the preceding arguments the conclusion is the same, the Arbiter did not pretend to decide, and declared he could not decide the point in controversy between the parties, but only intended to suggest a mode, by which, in his opinion, it might be decided. The Arbiter seems to have been impressed with the limitation of his powers, and that he had no authority to decide contrary to the question submitted, and that he was bound to decide, if he decided at all, in favor of one, of the two lines claimed by the parties.

If the deductions from the afore-recited arguments of the Arbiter need any further elucidation, it will be found in an examination of the second point submitted to him, and his decision upon it. The second point of difference is, "Which is the north-westernmost head of Connecticut River?"—One party claimed one branch, and the other party another, and after the examination of the evidence and arguments adduced by both parties, the Arbiter, instead of using the same language and form of expression, says, "We are of opinion that the stream situated farthest to the north-west among those which fall into the northernmost of the three lakes, the last of which bears the name of Connecticut, must be considered as the northwesternmost head of Connecticut River." This seems to be, from the arguments which precede, and the language employed by the Arbiter, the only point decided of the three submitted.

The Government of the United States cannot feel themselves bound to adopt or be governed by the advice of the Arbiter, particularly when his advice was not sought or asked by them, and was given at a time when his situation gave him peculiar inducements for favoring Great Britain.

If it were to be considered that the Arbiter had made a decision with an intention of deciding the first point of difference between the parties, the question arises, has the Arbiter decided in pursuance of the authority given him?

The authority under which he acted has been before stated, and here it will be only necessary to repeat, if he has not decided the points of difference which had risen in the settlement of the boundary between the American and British Dominions, as described in the fifth Article of the Treaty of Ghent, according to the Treaties and Conventions appertaining to the same subject, the Government of the United States will have no hesitation in rejecting the decision. If the Arbiter has not performed his duties in good faith, or has violated or transcended the powers given him; it does appear to your committee impossible that the Government of the United States will consider their faith pledged as far as to consider themselves bound by the decision.

It is proper to examine the subject of dispute. The Arbiter in stating the claims made by the parties in relation to the first point in dispute, says, "The high interested parties respectively claim that line of boundary at the *south* and at the *north* of the river St. John, and have each indicated upon the map A. the line which they claim." The line indicated on the map by Great Britain south of the St. John, extended from the sources of that river, and between it and its tributaries, and the Penobscot River and its tributaries in a part of its course, and in the residue of its course between tributaries of the St. Johns to Mars-hill. The line indicated by the United States on the north of the St. John, extending along the ridge of land which limit the sources of the streams which fall into the River St. Lawrence to the point upon that ridge, which terminates a due north line from the source of the River St. Croix. It is very manifest the Arbiter fully understood the respective claim and differences of the parties.

Great Britain and the United States equally contended that the boundary was on the land, a boundary of highlands, which divided waters; they could not have contended for any other, because the Treaty of 1783, describes no other than one on the "highlands which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, nor did the Proclamation of 1763, the Quebec Act of 1774, the Commissions to the Governors of the Province of Quebec, or the Commissions to the Governors of Nova Scotia or New Brunswick describe any other boundary than a boundary on the land, and as it was ascribed to the Treaty.

From an examination of the Treaty and documents above named, one fact appears clear and manifest: they all divide the streams and rivers into two, and but two classes for any purpose connected with the boundaries, to wit: the river St. Lawrence, and all the

rivers and streams emptying into it from the highlands, which limit their sources, are placed in one class, and in opposition to all other streams or rivers, flowing from the same highlands in other directions, and through all other channels into the sea or Atlantic Ocean; which constitute the other class. Commencing with the proclamation of 1763, the British became particular and gave exact and well-described boundaries to these Provinces, so much so, that it is now difficult to perceive how any general descriptions could be more clear.

The Treaty of 1783, adopted the boundaries of the provinces as they had been at various times clearly and distinctly described by the British.

The question submitted to the Arbiter was not a question of *law* or *equity*, it was barely a question of fact, and he only had authority to decide the fact under the Treaties and the claims which had been set up under them by Great Britain and the United States. His authority was limited to deciding whether the line claimed by Great Britain on the south, or the line claimed by the United States on the north, of the St. John, was the line intended and described in the Treaty of Peace of 1783. The authority of drawing or recommending a new line, however much it was for his interest to do it, or for the interest of the British that it should be done, was not conferred by the Convention.

The Arbiter not having pursued the authority conferred on him by him by the "high interested parties" in his decision, but having drawn a new line, not on the land, but in the beds of rivers in a considerable part of its course, in direct violation of the terms of the Treaties and Convention, and the claims of the respective parties, from which all his authority was derived, it necessarily follows that his decision is null and void, and ought not to be regarded by the United States as having any force or effect.

If the Arbiter had decided in favor of the line claimed by the British on the south of the St. John, there might have been a slight appearance of plausibility in the decision, inasmuch as the boundary would have been on the land, and according to the claim made by one of the parties. But the Arbiter despatched the British claim very briefly, and to use his language "at all events if it were deemed proper to place it (the north-west angle of Nova Scotia) nearer to the source of the river St. Croix, and look for it at Mars-hill, for instance, it would be so much more possible that the boundary of New Brunswick drawn thence *northeastwardly* would give to that province several *north-west* angles, situated further *north* and *east* according to their greater remoteness from Mars-hill." The British probably did not wish the Arbiter to decide in favour of their claim, because if he gave them so much, they no doubt believed the flagrant injustice of the act, would arouse such a state of feeling in the United States as would prevent their holding any part, and that they should not be able to secure to themselves a direct communication between *Fredericton* and *Quebec*.

The Arbiter seems not to have dispatched the claim and argument of the United States with equal facility. He felt the difficulty of reconciling the decision—which circumstances compelled him to make, to the evidence, and wished no doubt to satisfy the United States by giving them Rouse's Point in exchange for two or three millions of acres of land in Maine.

The Arbiter supposes, that, because the line was drawn through the Western Lakes, without a strict regard to the ancient lines of provinces, and because Mitchell's map was used by the negotiators of the Treaty of 1783, upon which the lines of Provinces were not previously drawn, and because Great Britain at first claimed the Piscataqua River as the eastern boundary of the United States, and because the Treaty of Ghent stipulated for a new examination on the spot, which would not be applicable to an *historical* or *administrative* boundary, that the ancient delimitation of the provinces does not afford the basis of a decision." If he had intended to have come fairly and impartially to a conclusion, it is a little difficult to conceive the reason of his having made only a partial selection of the facts, or of his assuming the existence of difficulties which would not have been found in practice.

It does by no means follow that if the negotiators did not intend to adopt the ancient lines of provinces where the lakes formed a boundary, or if the British wished in the early stage of the negotiation to limit the United States to the Piscataqua River, that it was not finally agreed to adopt the ancient lines between the Provinces as the boundary of the United States in that part of it which came within the cognizance of the Arbiter.

From the history of the negotiation of the Treaty of 1783, it appears that the line was drawn through the middle of the lakes as the most certain and convenient boundary in that quarter. That the British did indeed in the first instance propose the Piscataqua River as the eastern boundary of the United States, in the second instance the Kennebec, and in the third instance the Penobscot. The Americans proposed the River St. John as the boundary. Neither proposition was adopted, but if either had been, a new boundary differing from the ancient boundaries of provinces would have been established. The negotiators agreed to adopt, and did adopt, after all their discussions, the ancient boundaries of the provinces as they had long before been established by the British Government between Nova Scotia and Canada on the one hand, and Massachusetts, New Hampshire, Vermont and New York to the River St. Lawrence, on the other. The fact appears from the declaration of a majority of the negotiators, and the language used, which is nearly a transcript of the description of the boundaries of the provinces as established by the British. Of these points the Arbiter was not ignorant, for the evidence of them had appeared in the discussion of the subject of boundary, and no doubt, was in his possession. That the facts derived from documents in relation to the boundary may appear as they exist, we have deemed it proper to collate them as follows.

I.

Proceedings of the Legislature of Maine, on the result of the Arbitration.

I.

Proceedings of the Legislature of Maine, on the result of the Arbitration.

Boundaries in the Treaty of 1783.

"From the north-west angle of Nova Scotia, to wit: that angle which is formed by a line drawn due north from the source of the St. Croix River to the highlands, along the highlands which divide the rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean to the northwesternmost head of Connecticut river, thence down along the middle of that river to the forty-fifth degree of north latitude, from thence by a line due west in said latitude, until it strikes the River Iroquois or Cateraguy.

"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 those rivers that fall into the Atlantic Ocean from those which fall into the River Saint Lawrence."

Boundaries in the Proclamation of October 7, 1763.

"The said line crossing the St. Lawrence, and Lake Champlain in forty-five degrees of north latitude passes along the highlands which divide the rivers that empty themselves into the said St. Lawrence from those which fall into the sea, and also along the coast of the Bay des Chaleurs and the coast of the gulph of St. Lawrence to Cape Rosieres." The same boundary is found in the commissions to Governors Murray and Carleton, which are dated on November 21, 1763, the other April 21, 1767.

Boundaries in the Quebec Act, 1774.

"South by a line from 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 the forty-fifth degree of north latitude on the eastern branch of the River Connecticut, keeping the same latitude directly west through Lake Champlain, until in the same latitude it meets the St. Lawrence."

The same boundary is also found in the commission to Governor Haldimand, dated September 18, 1777. In the commission to Governor Carleton, dated April 22, 1786, is found the following:—

"Bounded on the south by a line from the Bay of Chaleurs, 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 northwesternmost head of Connecticut River, thence down along the middle of that river to the forty-fifth degree of north latitude, from thence by a line due west on same latitude, until it strikes the River Iroquois or Cateraguy."

In the commission to Governor Wilmot, Governor of Nova Scotia, dated November 21, 1763, is found the following boundary:—

"Westward by a line drawn from Cape Sable across the entrance of the Bay of Fundy, to the mouth of the River St. Croix to 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 same boundary, as far as the western extremity of the 'Bay des Chaleurs.'"

The same boundary is also found in the commissions to the Governors of Nova Scotia in 1765, 1773, and in the commissions to Governor Parr, dated July 29, 1782, who was the Governor at the time of the Treaty in 1783.

In the commission to Governor Carleton, the first Governor of New Brunswick, dated August 16, 1784, is found the following boundary:—

"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."

It is not a little difficult to conceive how so plain a language and explicit description of boundary could by any sound and honest mind be so totally misconstrued, and should have

been considered as not affording any basis of a decision in relation to the points submitted. If the facts in relation to Mitchell's map are considered, the conclusion of the Arbitrer is not warranted. That a map of North America published while the British and French were contending for empire in North America, from the means furnished by the office of the Board of Trade and Plantations in England, and while also the question, which had arisen under the Treaty of Utrecht, by which the French ceded Nova Scotia or Acadie to the British, as to the limits of Nova Scotia, was unsettled. It was not therefore the policy of the British Government to designate the boundaries of the provinces on her maps, which the compiler very well understood, and therefore the boundaries were not drawn. It is not true as supposed by the Arbitrer, that Mitchell's map regulated the boundaries, but the negotiators regulated the boundaries by pencil-marks upon the map, according to their agreement of adopting the boundaries of the province, as they were, and had been established before the Revolution.

Another of the reasons urged as not affording a basis of a decision is, "that the Treaty of Ghent stipulated for a new examination on the spot, which could not be made applicable to an historical or administrative boundary." This, like the other instances, is begging the question. Facts are better than hypothesis. The fifth Article of the Treaty of Ghent provides—"Whereas neither the 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, has yet been ascertained; and whereas that part of the boundary line between the two Powers which extends from the source of the River St. Croix directly north to the abovementioned north-west angle of Nova Scotia, thence 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 north-westernmost head of Connecticut River, thence down along the middle of that river to the forty-fifth degree of north latitude, thence by a line due west on said latitude, until it strikes the River Iroquois or Cateraguy *has not yet been surveyed.*" If the statement of the Arbitrer has any meaning, it appears to us to mean, that inasmuch as the monument had not been erected at the angle, the stipulation of the parties in the Treaty afforded him no means of deciding where the angle should be. This avoids the very object of the Treaty, which was to have the lines surveyed, and the angle marked. If the lines had been surveyed and marked, the parties would have had no occasion for his services. If the plain objects, clearly set forth in the Article, could not furnish to the mind of the Arbitrer any basis for a decision, we cannot conceive what could. He has in this, as in other instances, shown more of ingenuity than of soundness of judgment. No surveyor who had a competent knowledge of his business, would with such rules as the Treaties furnish, find any difficulty in ascertaining the lines and the angles. The Arbitrer says, the first instructions of Congress, at the time of the negotiations which resulted in the Treaty of 1783, locate the said angle at the source of the River St. John. We are aware that this may be a British argument, but we are not aware that the instructions said any thing about, or had any allusion to, the north-west angle of Nova Scotia. The design of the instructions was to form a new boundary, not conforming to the ancient line of the provinces, but as another and different line was adopted by the Treaty, the instructions have nothing to do with the boundaries. If the St. John had been adopted as the boundary, an inspection of the map shows that Nova Scotia would not have had a north-west, but a south-west angle, if it had retained the territory to the head of the river, on the left bank of it. We are aware the British had made as much as they could of the fact, which had ceased to have any bearing on the question of boundary, after the adoption of the Treaty of 1783. But yet this argument has been adopted by the Arbitrer.

He again, in a subsequent part of his argument, recurs to the instructions and says, "that if by adopting the line claimed as the north of the River St. John, Great Britain cannot be considered as obtaining a territory of less value, than if she had accepted in 1783 the River St. John as her frontier, taking into view the situation of the country situated between the River St. John and St. Croix in the vicinity of the sea, and the possession of both banks of the River St. John in the lower part of its course, said equivalent would nevertheless be destroyed by the interruption of the communication between *Lower Canada* and *New Brunswick*, especially between *Quebec* and *Fredericton*: and one would vainly seek to discover what motives could have determined the Court of London to consent to such an interpretation."

We are aware it has been admitted by the British within a few years past, that the country was included within the limits of the Treaty, but they have said they never intended to give it up. The reason of their giving it up by the stipulations in the Treaty of 1783, is a plain one—they had struggled, but in vain, to hold the people of the United States in subjection to their power, and had been compelled to acknowledge their independence, and had failed in limiting the United States to the Piscataqua, or Kennebec, or Penobscot Rivers, and to settle the dispute agreed to adopt the ancient boundaries of the provinces. This being a part of the territory which belonged to one of the States whose independence she acknowledged, she could not in justice withhold from the State any part of it.

The Arbitrer has seen fit to introduce a class of geographical and grammatical arguments. These, like other arguments, are not original with him, but are of British manufacture. A full and sufficient answer to all his *immediate* and *mediate* divisions of waters, and his supposition that the verb "divide" requires the contiguity of the objects to be divided, as used

I.

Proceedings of
the Legislature of
Maine, on the re-
sult of the Arbitra-
tion.

I.

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tion.

in the Treaty, is the Treaties, the Proclamation of 1763, the Quebec Act of 1774, and all the commissions to the Governors, to divide all the waters connected with the boundary into two and only two classes, to wit: those which flow into the River St. Lawrence, on the one hand, and those which through all other channels by whatever name they may be called, ultimately fall into the sea or Atlantic Ocean, on the other.

It cannot be pretended that the Proclamation of 1763, the Quebec Act of 1774, and the commissions to the Governors of the Province of Quebec, gave to that province, any other or greater territory, from the Bay of Chaleur to the head of Connecticut River, than the territory limited by the range of highlands which limit the waters that flow into the River St. Lawrence. Nor can it be pretended that the commissions to the Governors of Nova Scotia and New Brunswick gave them any territory west of the meridian drawn north from the source of the river St. Croix to the boundary of the province of Quebec, the highlands which limit the tributary streams of the River St. Lawrence.

The leading object of the Arbiter, in all his arguments, appears to have been, to avoid deciding in favour of either line, because if he decided in favour of either, he could find no excuse for deciding against the line claimed by the United States, which he could expect would have even the appearance of plausibility to the world, and thus the chance of securing Great Britain a passage between "Lower Canada and New Brunswick, especially between *Quebec and Fredericton*," would be for ever lost.

It is with much satisfaction the committee have seen the prompt and able manner in which the minister of the United States at the Hague has met the subject in his protest addressed to the King's Minister of Foreign Affairs, to which protest for the further elucidation of their views, they respectfully ask the attention of the Legislature.

In conclusion, your committee deem it to be their duty to the Legislature and to the State to declare that, in their opinion, in whatever light the document which emanated from the Arbiter may be considered, whether as emanating from an individual, and not from that *friendly Sovereign Power or State* to whom the points in dispute were submitted by the parties, because he had long before the decision ceased to be such Sovereign; or whether it be considered as advice on two of the points submitted, and a decision on the other; or whether it be considered a decision on all the three points submitted; inasmuch as the decision is not warranted by his situation and the authority which was given him, nor a decision of the questions submitted to him by the parties, the United States will not consider themselves bound on any principle whatever to adopt it. And, further, should the United States adopt the document as a decision, it will be in violation of the constitutional rights of the State of Maine, which she cannot yield.

All which is respectfully submitted.

(Signed) JOHN G. DEANE, per order of the Committee.

House of Representatives, March 30th, 1831.

House of Representatives, March 31, 1831.

Read and accepted. Sent up for concurrence,

(Signed) BENJAMIN WHITE, Speaker.

STATE OF MAINE.

In Senate, March 31, 1831.

Read and accepted, in concurrence.

(Signed) ROBERT P. DUNLAP, President.

STATE OF MAINE.

Resolved in relation to the Report of the Governor's Message, of March 25th, 1831.

Resolved,—That the Governor, with the advice of Council, be, and is hereby requested to transmit a copy of the Report of the Select Committee of the Legislature, on the Governor's message, of the 25th of March, 1831, communicating the advice and opinion of the late King of the Netherlands, who at one period was the Arbiter, to whom was submitted "the points of difference which had arisen in the settlement of the boundary between the American and British Dominions, as described in the fifth article of the Treaty of Ghent," with other documents, with the doings of the Legislators thereon, to the President of the United States, in such way and manner as may be considered to be most for the interest of the State.

Resolved,—That the Governor be, and hereby is, requested to transmit a copy of the report of the select committee of the Legislature on the Governor's message, delivered on the 25th day of March, in the year of our Lord 1831, communicating the advice and opinion of the late King of the Netherlands, who at one period was the Arbiter to whom was submitted, "the points of difference which had arisen in the settlement of the boundary between the American and British Dominions, as described in the fifth article of the Treaty of Ghent," with the other documents and the doings of the Legislature thereon, to the several Governors of the several States composing the United States.

In the House of Representatives, March 31, 1831—Read and passed.

(Signed) BENJ. WHITE, Speaker.

In Senate, March 31, 1831—Read and passed.

ROBERT P. DUNLAP, President.

April 1, 1831—Approved.

(Signed) SAMUEL E. SMITH.

II.

Attempt of the Authorities of the State of Maine, to exercise Jurisdiction within the Disputed Territory. October and November, 1831.

No. 1.—*Charles Bankhead, Esq. to Viscount Palmerston.*—(Received October 28.)

II.

(Extract.)

Washington, October 4, 1831.

Attempt of Maine to exercise jurisdiction in the disputed Territory.

ON the 1st instant, I received a despatch from Sir Archibald Campbell, His Majesty's Lieutenant-Governor of New Brunswick, inclosing several documents forwarded to his Excellency by Lieutenant Maclauchlan, who is stationed on the disputed territory, in support of a complaint against the authorities of the State of Maine, for having endeavoured to exercise jurisdiction over part of the above-named territory:

As this proceeding was so much at variance with the spirit of forbearance inculcated by the President in his despatch to the Governor of Maine, at the period of the receipt of the decision of the King of the Netherlands, in this country, and one so likely to produce unfriendly feelings between the respective parties, I lost no time in submitting the complaint of General Campbell to the Government of the United States; and, I trust, that such a communication will be made to the authorities of Maine as shall prevent the recurrence of such irregularities until the period when the question of disputed territory shall be finally settled.

The General Government is most anxious to avoid the slightest collision between the State of Maine and His Majesty's provincial officers; and Mr. Livingston expressed his regret that any occasion had been afforded by the State of Maine to embarrass the harmony and goodwill subsisting between the two countries.

I have the honour to transmit to your Lordship copies of Sir Archibald Campbell's letter and inclosures, and of my note, to the Government of the United States.

I have the honour to be, &c.

Viscount Palmerston,
&c. &c. &c.

(Signed) CHARLES BANKHEAD.

Inclosure 1 in No. 1.

Sir A. Campbell to Charles Bankhead, Esq.

Sir,

Fredericton, New Brunswick, September 13, 1831.

I HAVE the honour to inclose, for your information, some documents from Lieut. Maclauchlan, at present in charge of the boundary line between the United States and this province, by which you will perceive that the authorities of the State of Maine have actually taken possession of part of the territory now in dispute between the British and American Governments.

I cannot believe for a moment that these proceedings, so lamentably calculated to interrupt and destroy the peace and harmony existing between the two countries, can be sanctioned or approved of by the American Government; and I am sure you will therefore feel it to be your duty to call at once upon the American Government to put a stop to measures of so dangerous a tendency; measures, which, if persevered in, must infallibly lead to consequences the most prejudicial and injurious to both countries.

I have the honour to be, &c.

Charles Bankhead, Esq.,
&c. &c. &c.

(Signed) ARCHIBALD CAMPBELL,
Lieut.-Governor.

Inclosure 2 in No. 1.

NOTICE.

BY a warrant to me, directed from W. D. Williamson, Esq., one of the Justices of the Peace for the county of Penobscot, and State of Maine. This is to notify and warn the inhabitants of the town of Madawaska qualified to vote in town affairs, to assemble at the dwelling-house of Mr. Peter Lizotte, on Saturday the 20th August, 1831, at one of the clock in the afternoon, to act on the following Articles; viz.—

- 1st. To choose a Moderator.
- 2nd. To choose a Clerk of the Town.
- 3d. To choose Select Men.
- 4th. To choose Constables.

(Signed)

WALTER POWERS,
By order of the said Justice.

Madawaska, August 19, 1831

True copy.

(Signed) J. A. MACLAUHLAN, Warden of the Disputed Territory.

II.

Attempt of Maine
to exercise jurisdic-
tion in the disputed
Territory.

STATE OF MAINE.

To Walter Powers, of Madawaska, in said county, greeting.

YOU are hereby required, in the name of the State of Maine, to notify and warn the inhabitants of said Madawaska, qualified to vote in town affairs, to meet at Mr. Peter Lizotte's dwelling-house, in said town, on Saturday the 20th day of August, 1831, then and there to act on the following articles, and to transact such other business as may come before them.

- 1st. To choose a Moderator.
- 2nd. To choose a Town Clerk.
- 3d. To choose Select Men.
- 4th. To choose Constables, and all other Town Officers.

And you are hereby further required, in the name of the State of Maine, to make a return of this warrant, with your doings therein, at the said meeting, at which you will preside until a moderator be chosen.

Given under my hand and seal at Bangor, in said county, 11th July, 1831.

(Signed) WILLIAM D. WILLIAMSON,
Justice of the Peace.

True Copy.

(Signed) J. A. MACLAUHLAN, Madawaska, August 20, 1831.
Warden, &c.

The officers as referred to in the above instrument were actually chosen in by American residents in the upper part of the Madawaska settlement, and that the several officers were sworn in to perform the duties required of them.

(Signed) J. A. MACLAUHLAN.

STATE OF MAINE.

In council, April 2, 1831.

Present.—The GOVERNOR.

Messrs. LANE.	Messrs. EMERSON.
HOWARD.	COBB.
PRINCE.	SMITH.
JOHNSON.	

JOHN E. DEAN of Ellsworth, in the county of Hancock, and Edward Kavanagh, of Newcastle, in the county of Lincoln, Esquires, are, by the Governor, with the advice of the Council, appointed to ascertain the number of persons settled on the public lands north of the line running west from the monument, the manner in which they respectively hold the same, &c. under a resolve of the Legislature, passed March 31, 1831.

By the Governor.

(Signed) ROSCOE E. GREENE,
Secretary of State.

STATE OF MAINE.

Resolve,—In relation to persons settled on the public lands without title.

Resolved,—That the Governor, with the advice of the Council, be, and hereby is requested, to appoint some suitable person or persons to ascertain the number of persons settled on the public lands, north of the line running west from the monument, the manner in which they respectively hold the same, and to report all the facts which will be for the interest of the state, to enable them to adopt some mode of quieting the settlers in their possessions.

Resolved,—That the land agent be, and hereby is requested to give specific instructions to the person or persons appointed as aforesaid for their rule and government in fulfilling the requirements of this resolve.

In the House of Representatives, March 30, 1831. Read and passed.

(Signed) BENJAMIN WHITE, Speaker.

In Senate, March 31, 1831. Read and passed.

(Signed) ROBERT P. DUNLAP, President.

March 31, 1831. Approved.

(Signed) SAMUEL E. SMITH.

Inclosure 3 in No. 1.

Charles Bankhead, Esq. to the Hon. Edward Livingston.

Washington, October 1, 1831.

THE Undersigned, &c., has the honour to acquaint Mr. Livingston, &c. that he has received a communication from His Majesty's Lieutenant-Governor of New Brunswick, stating, that the authorities of Maine have endeavoured to exercise a jurisdiction over part of the territory at present in dispute between His Majesty and the United States, and further that an order has been issued by a justice of the peace for the county of Penobscot to the inhabitants of the town of Madawaska, to assemble for the purpose of choosing municipal officers.

The Undersigned regrets sincerely, that these irregular proceedings should have been had recourse to during the period when the question of boundary is in a course of settlement, and in opposition to the desire expressed by the President, that pending the discussion of that question, the State of Maine should refrain from committing any acts which could be construed into a violation of the neighbouring territory.

The Undersigned begs leave to submit to the Secretary of State, several documents which he has received from Sir Archibald Campbell, in support of his complaint, of a violation of territory, and the Undersigned entertains a confident hope that such measures will be adopted as shall prevent a recurrence of acts on the part of the authorities of the State of Maine, which are productive of so much inconvenience, and which tend to disturb that harmony and goodwill so necessary to be preserved between the two countries.

II.

Attempt of Maine to exercise jurisdiction in the disputed Territory.

The Undersigned, &c.
The Hon. Edward Livingston, (Signed) CHARLES BANKHEAD.
 &c. &c. &c.

No. 2.—*Charles Bankhead, Esq. to Viscount Palmerston.*—(Received November 21.)

(Extract.)

Washington, October 21, 1831.)

ON the 19th instant I received from His Majesty's Lieutenant-Governor of New Brunswick, a communication, a copy of which I have the honour to enclose, upon the subject of the disputed territory. His Excellency acquaints me, that in addition to the violation of territory committed by some persons, in attempting to elect municipal Officers in the township of Madawaska, a second and more serious irregularity has since taken place there, in an attempt to choose a Representative for the Legislature of Maine, thereby incorporating the territory in dispute in the county of Penobscot.

This last measure prompted his Excellency to take immediate steps for maintaining the sovereignty of the territory in question, and several of the individuals concerned in the affair were arrested and lodged in the jail of Fredericton.

On the evening of the same day on which the Lieutenant-Governor's despatch reached me, I received a note from the Secretary of State of the United States, a copy of which, together with its enclosure, I have the honour to transmit. This note is an answer to my first representation to the American Government, founded upon a former letter from Sir Archibald Campbell; copies of which correspondence I had the honour to enclose in my despatch of October 4.

I have great satisfaction in acquainting your Lordship, that the language held by the General Government, upon this subject, has been of the most friendly nature, and the determination of the President is again expressed to cause the authorities of Maine to observe the strictest forbearance with reference to the disputed territory, until the question of boundary shall be finally settled between the two countries.

In compliance with the desire manifested by Mr. Livingston, I have addressed a letter to Sir Archibald Campbell, recapitulating the sentiments of the President; and, without presuming to dictate to his Excellency any line of conduct with reference to the exercise of his prerogative, I have ventured to submit to his early consideration the motives which the American Secretary of State brings forward in favour of the release of the persons at present in custody at Fredericton.

I have the honour to submit to your Lordship a copy of my letter to Sir Archibald Campbell, together with a copy of my note to the Secretary of State of the United States, acknowledging his communication. I venture to hope that my conduct upon this occasion will not be disapproved of by His Majesty's Government.

Inclosure 1 in No. 2.

Sir A. Campbell to Charles Bankhead, Esq.

(Extract.)

Fredericton, October 4, 1831.

SINCE I had the honour of addressing you on the 13th ult., relative to the extraordinary proceedings of certain agents of the State of Maine in that part of the disputed territory called Madawaska, further and more serious aggressions than those therein mentioned have taken place, for the avowed purpose of usurping the sovereignty of a large portion of His Majesty's dominions on "both" sides of the River St. John.

The inclosed documents will clearly shew the alarming extent of these aggressions on our territory by the presumed agents of the neighbouring State; together with the legal measures which we have, in consequence, been compelled to adopt, in order to make the jurisdiction of our laws be respected by all classes throughout this province.

The conduct of the persons now in custody, accused of certain high crimes and misdemeanours, as set forth in the enclosed depositions, verified on oath, will be submitted to the decisions of the Supreme Court of this province in the course of the ensuing week; and I beg to assure you that no time shall be lost in making you acquainted with the result.

In the meantime, I trust to your making such a representation to the General Government of the Republic, as the case may seem to you to require, in order to prevent the mischief which must inevitably arise from any further perseverance on the part of Maine, in a line of conduct lamentably calculated to endanger the best interests of both nations.

I have, &c.
Charles Bankhead, Esq. (Signed) ARCHIBALD CAMPBELL,
 &c. &c. &c. Lieut.-Governor.

Inclosure 2 in No. 2.

II.

C. T. Peters, Esq. to Sir A. Campbell.

Attempt of Maine
to exercise jurisdic-
tion in the disputed
Territory.

May it please your Excellency,

Madawaska, September 24, 1831.

BY command of your Excellency, pursuant to a resolution of your Excellency, and His Majesty's Council, I was directed "to proceed to this place, and adopt such legal measures as appear to be expedient and necessary for preventing aggressions, and maintaining the jurisdiction of the Government."

I have the honour to lay before your Excellency copies of statements, under oath, which I have been enabled to collect, of the proceedings of a number of the inhabitants of this settlement, tending to disturb the peace of the place, calculated to estrange the French inhabitants from their allegiance, induce them to acknowledge themselves citizens and subjects of the United States of America, and transfer the possession of this district of the province to that Government, and constituting a high and serious offence against the law, in open contempt of the King and his Government.

The conduct of the persons who have been concerned in these transactions is the more aggravating, as they evidently appear to be the instruments and agents of the State of Maine; with a view entertained by that Government through their instrumentality to obtain possession of the tract of country at present in dispute between Great Britain and the United States, which both those Governments have solemnly pledged themselves by the Convention entered into between them, that nothing shall be done by the one or the other pending the proceedings for settling the dispute which may alter the relative situations of either party.

The proceedings of these persons, aided by the conduct of certain other agents from the Government of Maine, who, by the papers which I now have the honour to lay before your Excellency, will appear to have been secretly passing through the settlement and intermixing with the French inhabitants (of which the great majority consist) has, I regret to say, evidently had an effect of unsettling the minds of a great number, if not almost seduce them from their allegiance to His Majesty's person and Government. And in a recent instance at an illegal meeting, under the denomination of a town meeting, assembled at the instigation of those instruments and agents of the State of Maine, several of those hitherto loyal, though ignorant, persons were prevailed on to join and give their votes for a Representative to the Legislature of that State; they not being aware of the nature of the offence they were induced to commit.

As the object of my being sent here is to adopt measures to prevent further aggression and maintain the jurisdiction of His Majesty's Government, I beg leave to observe that from what has taken place at the two illegal meetings which have recently been holden, and from what I can discover to be the state of the minds of the inhabitants, it becomes a measure of indispensable necessity, if the possession of this part of the country is to be maintained in His Majesty—that all the persons who have been in any manner concerned in these disturbances be immediately prosecuted, and that warrants be issued to apprehend and compel their appearance to answer in court for the very serious offences of which they have been guilty.

His Excellency Sir A. Campbell,
&c. &c. &c.

I have, &c.
(Signed) CHARLES T. PETERS,
Attorney-General.

May it please your Excellency,

Fredericton, October 2, 1831.

IN addition to the foregoing report made to your Excellency from Madawaska, I have the honour to state for the further information of your Excellency, that immediately thereafter warrants were issued by Mr. Justice Maclauchlan and Mr. Justice Rice, to apprehend the several offenders therein alluded to, and the same were placed in the hands of the High Sheriff of the county, to proceed forthwith to execute the same; but, I regret to add, he was not successful in apprehending more than four of the persons who were principally concerned in originating the disturbances, the others having retired from their different places of residence and secreted themselves in the woods to avoid the arrest.

The names of the persons who have been taken, are

Barnabas Hannawell, the elected moderator—Daniel Savage, one of the select men so called—Jesse Wheelock, the town-clerk—and a person of the name of Daniel Bean, all of whom have been committed to the jail in Fredericton, to answer at the Supreme Court there to be holden the next week, to what may be objected against them. Their commitment became necessary as they refused to give bail for their appearance.

Warrants are still in the hands of officers against those persons who have taken themselves out of the way, and will be continued until such time as they can be arrested.

The Frenchmen who were over persuaded to join them have also been apprehended—but they all gave bail for their appearance at the court, and therefore were not committed.

I have, &c.
(Signed) CHARLES T. PETERS,
Attorney-General.

Inclosure 3 in No. 2.
Deposition of Peter Lizette.

Madawaska, Parish of Kent, York County.

II.

Peter Lizette, of the parish of Kent, in the county of York, Esquire, and captain of militia in the said county, being duly sworn, deposeth and saith, that some time about the 1st August last past, he was visited by an American of the name of John E. Deane, accompanied by a person also an American, named Edward Kavanagh, who stated that he, the said John E. Dean, came into Madawaska for the purpose of taking an account of the number of the inhabitants, and the quantity of the lands occupied by each. That they remained with this deponent two nights and two days; that the said Dean was very particular in making inquiry of this deponent as to his, this deponent's, age, the number in his family, the size of his house, the number of his cattle, the quantity of acres of which his farm consisted; that he, this deponent, observed to the said Dean that he did not understand what he wanted; that he, this deponent, had always been and was a British subject, satisfied and contented with Government; and that it might bring him, this deponent, into difficulty if he complied with his, the said Dean's, request, and desired to know whether he, the said Dean, had any authority for what he was doing; to which the said Dean replied that he had, from the State of Maine, and produced a paper, saying that it was a commission giving him the authority; but he, this deponent, being illiterate and unable to read, was compelled to rely on his, the said Dean's, assertion as to its contents: that when this deponent mentioned his fears of acting wrong and in opposition to his allegiance, the said Dean replied he need be under no apprehension on that subject, as he, this deponent, was now a citizen of the State of Maine: that the said Dean then went on further to say to this deponent, that he, this deponent, would make a good representative for the district of Madawaska to the State of Maine Legislature, and advised this deponent to offer himself and to become one, saying that the deponent as such representative would get three-pence per mile travelling expences going and returning from the Legislature, and ten shillings for each day of his attendance, and twenty shillings for each day he might wait before the Legislature assembled. Whereupon this deponent observed, he had been born, and always heretofore lived, a British subject, and should die such. This reply appeared to disconcert the said Dean, and he walked backward and forward across the room for some time. The said Dean also told this deponent, as well as many others, that if he did not give to him, the said Dean, the number of the acres of his land, when the surveyor from Maine came, which would be before the time of planting the next spring, his name would not be found on the list, and he, this deponent, as well as all others who declined, would lose their lands, and that those who gave an account of their lands would have titles given to them, free of all expences, excepting the sum of five dollars to the Surveyor-General for laying them out, and those who always had grants would have them free of expence, and that all inhabitants who at present were not in possession of lands would have each one hundred acres given to them by the State of Maine, free of expence. That the said Dean and the said Edward Kavanagh both endeavoured to persuade and prevail upon this deponent to become and acknowledge himself as belonging to the State of Maine, and consider himself as a citizen thereof, stating to him that there was no danger of injury to himself, by his, this deponent's, so doing.

Attempt of Maine
to exercise jurisdiction
in the disputed
Territory.

(Signed) PETER LIZETTE.

Sworn this 23d day of September, 1831, before me,

CHARLES PETERS.

Also, J. MACLAUHLAN.
J. RICE.

A True Copy.

(Signed) A. CAMPBELL.

Inclosure 4 in No. 2.

Deposition of L. R. Coombes.

Madawaska, Parish of Kent, York County.

Leonard R. Coombes, of the said parish of Kent, Esquire, maketh oath and saith, that about the middle of August last past, the deponent was informed by a person from the upper part of the settlement, that John Baker had put up a written notification at the house of one Romain Micheau, an inhabitant of the settlement, calling on the inhabitants of Madawaska to assemble on the 20th day of the month, at the house of Peter Lizette, for the purpose of electing town and parish officers as citizens of the State of Maine, under an Act of the Legislature of the said State, authorizing the same. That this deponent being confirmed in the truth of the information from other sources, and having also obtained a copy of the notification which had been put up on the said 20th day of August, proceeded to the house of the said Peter Lizette, to witness what might take place; that the persons assembled at the said meeting consisted of John Baker, Walter Powers, Jesse Wheelock, Daniel Savage, Randal Harford, John Harford, Barnabas Hannawell, Nathaniel Bartlet, Augustin Webster, and Amos Mattocks, all residents and inhabitants of the settlement of Madawaska, and about twenty of the French settlers; also, Francis Rice, Esquire, one of His Majesty's Justices of the Peace, in and for the said county of York, who attended to witness what might take place, which meeting being thus assembled, the before-named Walter Powers, assumed the direction of the proceedings, and stated that he was empowered by a warrant, under the authority of the State of Maine, to call the said meeting

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The party was adjourned from the house into the open field, (which adjournment was occasioned, as this deponent understood, in consequence of the refusal of the said Peter Lizette to permit the business to proceed in a room in the house), that on assembling in the field, the before-named persons formed themselves about a cart, and the said Walter Powers opened the object of the meeting, and was proceeding to read, or cause to be read, what purported to be an Act of the Legislature of the said State of Maine, incorporating the whole of the Madawaska Settlement; and, as this deponent was given to understand, the whole territory lying to the west of the north line from the monument, to the extent of the American claim up to the highlands, so called. That this deponent viewing the said proceedings as a high-handed illegal step, addressed himself to the said Walter Powers, and demanded from him to see the warrant, under which he pretended to act, and observed to the said Powers, that he would not quietly witness any thing further to be done, unless such authority was produced; that the said Walter Powers, after a consultation with the other persons, by whom he appeared to be supported, to wit, the said persons herein-before named, produced what appeared to this deponent to be an original paper, and purported to be a warrant, under the hand and seal of a person by the name of William D. Williamson, a Justice of the Peace in the said State of Maine, addressed to the said Walter Powers;—that this deponent, on casting his eyes on the said warrant, observed that the names of the said Walter Powers and Peter Lizette, and the date and day of the meeting were in a different hand writing from either the signature or body of the warrant, and was coarse bad writing; on discovering which, the deponent mentioned to the persons standing near, that the blanks must have been filled up after the signature of the said warrant, and in this place, that the said warrant was also read by the said Francis Rice, after which the said Walter Powers read the Act of the Legislature of the State of Maine, which was to the effect as herein-before mentioned; that they, the said persons herein-before named, proceeded to elect and choose certain officers as follows, to wit:—

Constables	Randal Harford. Barnabas Hannawell.
Moderator	Barnabas Hannawell.
Town Clerk	Jesse Wheelock.
Select Men	Daniel Savage. John Harford, senior. Amos Mattocks.

The mode of choosing was, by writing the name of the person the elector voted for on a slip of paper, which slips were folded up, placed in a hat, and then taken out and read, and the persons having the greatest number of votes or names was declared by the said Walter Powers to be duly elected.

That so soon as the election was over, the said moderator proceeded to swear in the eldest men, the form of which oath was contained in, and read from a book, and was to the following effect:—You shall well and truly do the duty of honest men, for the town of Madawaska, county of Penobscot, and State of Maine. That the said persons first herein-mentioned, endeavoured to persuade and induce the French inhabitants, then and there present, to join them, and give their votes likewise, which they one and all declined to do; that Paul Jier, one of the French inhabitants, was chosen one of the select men, and Romain Micheau, one of the constables; that both refused to act, and others were chosen in their place.

And this deponent further saith, the Justice Rice and himself both solemnly protested against the proceedings, and warned the parties as to the consequences; and on this, deponent's expostulating with some other persons who had been elected to office, and advising them to have nothing to do with the business; the answer they gave him was, that they were and would be protected by their Government, "under which they acted," Meaning, as the deponent understood, the Government of the State of Maine. The meeting was then dismissed.

(Signed) L. R. COOMBES.

Sworn 24th September, 1831, before CHARLES J. PETERS.

J. MACLAUHLAN, J.P.

Madawaska, Parish of Kent, County of York.

Oliver P. Murphy, of the said parish of Kent, yeoman, maketh oath, that he accompanied the within-named Leonard R. Coombes, to the meeting of the persons named in his deposition, to the house of Peter Lizette, to witness what might take place, and that the statement made by the said Leonard R. Coombes, in the within affidavit, of what did take place at the said meeting, is in all respects true.

(Signed) OLIVER P. MURPHY.

Sworn, &c. as above.

A true copy.—(Signed)

A. CAMPBELL.

Inclosure 5 in No. 2.

Deposition of Francis Rice.

Madawaska, Parish of Kent, York County.

Francis Rice, of Madawaska, in the parish of Kent, in the county of York, Esquire, one of His Majesty's Justices of the Peace, in for the said county, deposeseth and saith, that some time previous to the 20th day of August last past, this deponent was informed by one Simon Hebert, Jun., that notices had been put up at two or three different places in the

settlement, calling on the inhabitants to attend a town meeting. This deponent proceeded therefore to make enquiry, and shortly afterwards found one of the notices posted up in the house of one Jean Bte. Jousse, which he the said Jousse stated had been given to him by John Baker, an inhabitant of Madawaska to put up; that this deponent obtained a copy, the substance of which was, calling on the inhabitants of Madawaska, to elect and choose town and parish officers for that district, as part of the county of Penobscot, in the state of Maine, and requesting them to meet for that purpose at the house of Peter Lizette, on the 20th August, and signed by one Walter Powers. That on the day appointed for the said meeting, this deponent viewing the same to be a very high-handed illegal proceeding, attended to witness what might take place, to remonstrate and protest against it, and use his influence to prevent the French inhabitants or any of them from being led astray thereby. That there were collected the following persons, viz.:—John Baker, Walter Powers, Jesse Wheelock, Daniel Savage, Randel Harford, John Harford, Barnabas Hannawell, Nathaniel Bartlet, Augustin Webster, and Amos Matlocks, together with about twenty of the French inhabitants. That Peter Lysette, at whose house the meeting had assembled, requested this deponent's opinion, whether there would be any harm in allowing it to be held in a room in his, the said Lysette's, house; to which this deponent replied, that he, this deponent, as a British subject, would not suffer a thing of the kind in his own house, but that he, Captain Lizette, as master, must judge for himself. That shortly afterwards, the persons collected were adjourned to a field where they assembled around a cart and proceeded to business. That the business was conducted by the said Walter Powers, who after a demand made of him by Captain Leonard Coombes, to know by what authority he the said Powers was acting, stated that he was impowred by a warrant from one William D. Williamson, a Justice of the Peace, for the State of Maine, and eventually produced the same, which appeared to be a warrant under the hand and seal of a person who signed himself William D. Williamson; it was directed to the said Walter Powers, which required the said Walter Powers, in the name of the State of Maine, to call the said meeting, and to make returns of what should be done under it; that after reading the said warrant, this deponent demanded a copy, which at first was refused, but in consequence of this deponent's persevering to insist on having a copy, and declaring he would keep the original if not allowed one, he was permitted to take a copy; that this deponent shortly afterward, considering the proceedings high-handed, illegal and imperfect, protested solemnly against them and left the place, first warning and advising the French inhabitants to have nothing to do with them.

And this deponent further saith, that about the 7th or 8th day of September inst., he was informed that another town meeting was advertised, to be held at the house of one Raphael Martin, in the upper part of the settlement, on the 12th, at which this deponent also attended, where he found assembled about fifty or sixty of the inhabitants, among whom were all the persons here before first named. That shortly after the arrival of this deponent the business of the meeting was opened, the said Barnabas Hannawell presiding as moderator, and the said Jesse Wheelock acting as clerk, who declared the object of the meeting to be, as citizens of the State of Maine, to elect and make choice of a person to represent the town of Madawaska, in the legislature in the State of Maine. That this deponent then and there in the King's name, protested against the proceedings. The moderator, Barnabas Hannawell, then arose and made a speech to the persons assembled, and among other things said, "That their proceedings were a privilege their fathers had dearly bought, and that their descendants would defend it with their blood," or words to that effect; and further, (alluding to this deponent as the King's justice,) "as to any order coming from that quarter I bid it defiance;" after which the meeting was adjourned for one hour, for the purpose, as this deponent understood, of a private consultation between the active leaders, as to the expediency of putting this deponent away, and preventing his longer presence at the election. The business of the meeting was afterwards again proceeded in, and a scene of much irregularity and confusion ensued, and after taking the ballot three different times, it appeared, on the select men counting the number of votes, that Peter Lysette had a majority and was returned; and this deponent saw the return which was prepared and made out to Roscoe E. Green, Secretary of the said State of Maine. That during the adjournment for one hour, John Baker, one of the active conductors of the business came up to this deponent and said, that he was surprised that he, this deponent, should have the assurance to protest against such a high and respectable meeting; and this deponent further saith, that the following are the names of the French settlers present at the said meeting who gave in their votes: Raphael Martin, Jean Baptiste d'Aigle, Joseph Peltier, Joseph Peltier the 2nd, Christopher Martin, Hebert Carron, Pierre Marquis, Joseph Marquis, Thomas Micheau, Joseph Legresse, Elois Legresse, Ferdinand Billet, Bapstiste Bouchette, Bapstiste Lossée, Lawrence d'Aigle; and the names of the other persons who voted were; John Baker, Walter Powers, Jesse Wheelock, Daniel Savage, Randal Harford, Barnabas Hannawell, Nathaniel Bartlet, Augustin Webster, Amos Matlock, Isaac Youngton, Abraham Chamberlain, John Harford, Jun., Joseph Leeld, ——— Porkes; that the names of the candidates proposed were the said Peter Lizette and John Baker.

That the number of votes for the said Peter Lizette were twenty-one, and for the said John Baker five, that is to say at the third ballot, after which the deponent came away.

(Signed) FRANCIS RICE.

Sworn 22nd September, before CHARLES PETERS,

and J. A. MACLAUCHLAN, J. P.

ii.
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to exercise jurisdic-
tion in the disputed
Territory.

II.

Deposition of Michael Tighe.

Attempt of Maine
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Madawaska, Parish of Kent, York County.

Michael Tighe, of the parish of Kent, in the county of York, yeoman, maketh oath and saith, that he went with and attended Francis Rice, Esquire, named in the foregoing affidavit, to the meetings of which he has spoken in the said affidavit, and that he witnessed and particularly observed all that took place, and all the several facts which, in the said affidavit, are stated by the said Francis Rice to have taken place, are correct and true; and this deponent further saith that, during the said adjournment of the second meeting for an hour, he overheard a conversation between the said Barnabas Hannawell, the moderator, and several of the active partizans, in which it was proposed, that the said Francis Rice should be turned out of the meeting, and which this deponent from what he did hear, considered resolved on, and he has reason to believe the resolution was not persevered in and carried into effect, in consequence of Raphael Martin, the landlord of the house, refusing his consent thereto.

(Signed) MICH. TIGHE.

Sworn this 24th day of September, 1831, before Charles T. Peters.

J. A. MACLAUGHLAN, J. P.

True Copy. (Signed) A. CAMPBELL.

Inclosure 6 in No. 2.

The Hon. Edward Livingston to Charles Bankhead, Esq.

Sir,

Department of State, Washington, October 17, 1831

IMMEDIATELY after receiving your note of the 1st instant, I wrote to the Governor of the State of Maine for information on the subject of it. I have just received his answer of which I have the honour to inclose two extracts. By the first you will perceive that the election of town officers in the settlement of Madawaska, of which complaint was made, in the papers inclosed in your letter, were made under colour of a general law, which was not intended by either the executive or legislative authority of that State to be executed in that settlement, and that the whole was the work of inconsiderate individuals.

By the second extract it will appear that the individuals said to have been most prominent in setting up the authority of the State, have been arrested by order of the Lieutenant-Governor of the Province of New Brunswick, and were on their way to be imprisoned at Frederickton.

The innovation on the existing state of things in the disputed territory being distinctly disavowed by the executive authority of the State, no act of authority or exercise of jurisdiction having followed the election, I would respectfully suggest the propriety of your recommending to the Lieutenant-Governor of New Brunswick the release of the prisoners who were arrested for exercising this act of authority in the territory mutually claimed by the two nations, contrary to the understanding between their Governments. It is their avowed object to avoid any collision, until the intention of both parties in relation to the award, shall be fully known. All subjects calculated to produce irritation, therefore, ought evidently to be avoided. The arrest of the persons concerned in the election must produce that feeling in a high degree; a conviction cannot take place without eliciting a decision from the bench, declaratory of, and enforcing, the jurisdiction over the territory in dispute, which it is the present policy of both powers to avoid, at least for the short time that must elapse before the question can be finally settled. If punishment should follow conviction, the passions that would be excited must inevitably be hostile to that spirit of conciliation, so necessary where sacrifices of national feeling and individual interest are required for the common good. It would be absurd here to enter into the question of title; both parties claim it; no act that either can do, is necessary to assert its right, while there is hope of an amicable arrangement; and it was with this view of the subject that a mutual understanding has been had, to leave things in the state in which they are until the question of the award is settled.

On the part of the Americans, some individuals in contravention of this understanding, have proceeded to do acts which, if followed out, would change the political state of part of the disputed land; but it has not been so followed out, it is disavowed by the powers whose assent is necessary to carry it into execution. It is therefore of no avail, and can have no more effect than if the same number of men had met at Madawaska, and declared themselves duly elected members of the British Parliament. The Act interferes with no right, it comes in actual collision with no established power—not so the punishment of the individuals concerned. This is at once a practical decision of the question, may lead to retaliatory legal measures, or what is worse, to illegal violence; for if the Lieutenant-Governor of New Brunswick feels himself obliged, as he says he does, to enforce the authority of the laws within what he thinks the boundaries of his province, will not the same feeling excite the Governor of Maine, under the same sense of duty, to pursue the like measures? And thus the fruits of moderation and mutual forbearance during so long a period, will be lost for the want of a perseverance in them, for the short time that is now wanting to bring the controversy to an amicable close. It is therefore, Sir, that I invite your interposition with His Excellency the Lieutenant-Governor of New Brunswick to induce him to set at liberty the persons arrested, on their engagement to make no change in the state of things until the business shall be finally decided between the two Governments. On our part, the desire of the General Government to avoid any measures tending to a change in the existing state of things on our north-eastern boundary has been fully, and as it is believed, efficaciously

expressed to the executive of the State of Maine, so that the actual relation of the State with the neighbouring Province, will not, in future, suffer any change.

I have the honour, &c.
(Signed)

EDW. LIVINGSTON.

II.

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tion in the disputed
Territory.

Charles Bankhead, Esq.
&c. &c. &c.

Sub-Inclosure.

(Extract.)

Portland, October 12, 1831.

AN Act was passed by the Legislature of this State at their last Session, to incorporate the town of Madawaska, which is bounded in part by the line of the State. By this act and by some others I considered that it was intended by the Legislature to assert the claim of this State to jurisdiction over that portion of territory which they knew to be within the limits of Maine, and that it was not to be carried into effect until circumstances should render it proper and expedient. The measure that is said to have been adopted by the inhabitants of that territory of voluntarily organizing themselves into a corporation, was unexpected by me, and done without my knowledge. The only information received at this department in relation to this last mentioned transaction, is contained in a letter purporting to be signed by Jesse Wheelock and Daniel Savage, who are personally unknown to me, but as their statement is also corroborated by a letter from a gentleman at Houlton, it is believed to be substantially correct.

(Second Extract.)

A copy of this letter from Messrs. Wheelock and Savage is herewith transmitted by which it further appears that they, together with several other citizens of this State, have been arrested by the British authorities, and transported towards Fredericton for the purpose of being there imprisoned. They were arrested within the territory of this State and of the United States, and as citizens of the United States now claim the aid and protection of their Government and country.

Inclosure 7 in No. 2.

Charles Bankhead Esq. to Sir A. Campbell.

Sir,

Washington, October 20, 1831.

I HAD yesterday the honour of receiving your Excellency's letter of the 4th instant, inclosing certain documents in reference to a transaction which has occurred in the disputed territory, and which has therein placed your Excellency under the necessity of enforcing the jurisdiction of His Majesty.

Upon the receipt of your Excellency's letter of the 13th September, I lost no time in laying before the Secretary of State of the United States, the representation which your Excellency made of a gross violation of territory committed on the part of certain persons in choosing municipal officers in the township of Madawaska, and thus annexing the territory to the State of Maine, in contravention of the agreement entered into between Great Britain and the United States, that the state of things should remain as they are, until the two powers should declare their opinion upon the decision of the King of the Netherlands.

I received last night a note from the Secretary of State, of which I beg leave to inclose to your Excellency a copy.

It affords me great pleasure to be enabled thus to assure your Excellency of the friendly and conciliatory spirit which pervades this communication, and of the desire manifested by the President of the United States, that all interruption to the harmony which has subsisted upon the frontier, since the reference to the King of the Netherlands, until the present transaction, should now be carefully avoided.

In this spirit, and under the conviction that your Excellency entertains one of a similar nature, I beg leave to submit the note of the American Secretary of State to your early and serious consideration.

It would be presumptuous in me to dictate any line of conduct to your Excellency upon this occasion; but I trust that I shall be pardoned when I remark, that if all other considerations connected with the arrest of these persons, for the violation of territory, could, in your Excellency's opinion, permit the exercise of prerogative in their favour, the sentiments of goodwill which abound in the American Secretary of State's note, the discountenance which is given to all the acts of these persons, and the absolute condition that is offered for their release, of not offending on any future occasion; the fulfilment of the request made by Mr. Livingston for their liberation would be viewed by the President and the general Government of this country as a signal proof of your Excellency's desire to calm all animosities, and thus to induce the inhabitants of the neighbouring State to preserve a spirit of forbearance towards His Majesty's dominion, until the question of boundary shall be set at rest.

I have, &c.

(Signed)

CHARLES BANKHEAD.

Sir A. Campbell,
&c. &c. &c.

Inclosure 8 in No. 2.

Charles Bankhead to the Hon. Edward Livingston.

Washington, October 20, 1831.

II.

Attempt of Maine
to exercise jurisdic-
tion in the disputed
Territory.

THE Undersigned, &c. has the honour to acknowledge the receipt of Mr. Livingston's note of the 19th instant, in answer to a representation which the Undersigned thought it his duty to make to the Government of the United States, upon a violation committed upon the territory at present in dispute between the two countries.

The friendly tone assumed by the Secretary of State in this communication—the dis-
countenance, on the part of the General Government of the proceedings which were
complained of—and the determination of the President to cause the strictest forbearance to
be maintained, until the question of boundary shall be settled, have been received by the
Undersigned with great satisfaction; and it is in the same spirit of harmony that he has
addressed a letter to His Majesty's Lieutenant-Governor of New Brunswick, enclosing a
copy of Mr. Livingston's note, for His Excellency's serious consideration.

The Undersigned, &c.
The Hon. Edward Livingston,
&c. &c. &c.

(Signed) CHARLES BANKHEAD.

No. 3.—*Charles Bankhead, Esq. to Viscount Palmerston.*—(Received Nov. 28.)

My Lord,

Washington, October 28, 1831.

ON the 19th instant I received a communication from His Majesty's Lieutenant-
Governor of New Brunswick, complaining of an inroad which was made into the territory
of His Majesty by a party of men from Houlton in the State of Maine.

It appears that in consequence of a quarrel which took place upon the military road
now forming between Bangor and Houlton, an Irishman was apprehended and committed
to jail, as one of the most refractory of the combatants. His brother, who lived at Wood-
stock in New Brunswick, went, without delay, across the lines to Houlton, for the purpose
of procuring his release. His application proved ineffectual; and, in a paroxysm of rage
and revenge, he fired a musket, loaded with slugs, into the room where the magistrates were
sitting, but, fortunately, without effect. He then fled. The next night a party of thirty
men came from Houlton, in Maine, to Woodstock, broke into a person's house in which it
was supposed this Irishman was concealed, conducted themselves in a riotous manner, and
declared their intention of seeking the miscreant, and of taking him over the lines for the
purpose of inflicting a punishment merited by his brutal assault upon the magistrates.

Sir Archibald Campbell expresses his abhorrence at the crime, and declares his willing-
ness to punish the offender with the utmost rigour of the law; but he protests against the
conduct of the persons who forcibly endeavoured to interfere with the jurisdiction of His
Majesty's courts, in the manner I have above related.

I have the honour to transmit to your Lordship copies of Sir Archibald Campbell's
letter and its inclosure, together with a copy of a note which I addressed to the Secretary
of State of the United States thereupon.

Viscount Palmerston,
&c. &c. &c.

I have the honour to be, &c.
(Signed) CHARLES BANKHEAD.

Inclosure 1 in No. 3.

Sir A. Campbell to Charles Bankhead, Esq.

Sir,

Fredericton, October 3, 1831.

I REGRET the necessity I am under of bringing to your notice a most unwarrantable
inroad on the territory of this province, by an American party from Houlton Town, as set
forth in the inclosed deposition, in search of an Irishman residing in the parish of Wood-
stock. The cause of this proceeding arose, I believe, as follows.

A brother of the said Irishman had, it appears, been working on the new line of
military road from Bangor to Houlton, when a serious fray took place between the Irish and
Americans employed on the road, in consequence of which this person, probably with
others, was committed to jail. The brother, our subject, went to Houlton in the hope
of procuring his release, in failure of which he most atrociously, from motives of revenge,
discharged a fowling-piece or musket, loaded with slugs, into the room where the magistrate
of the place was sitting, happily without effect, though no doubt intending to destroy
him.

The villain who was guilty of this deed of atrocity has fled the country. His conduct
cannot be too strongly reprobated, and no punishment would be too great for his offence.
Still I am certain that you will agree with me in thinking that no act of this, or any other,
miscreant, could, under any circumstances, justify the American Authorities in the viola-
tion of our territories, and attempted interference with the jurisdiction of our laws.

Charles Bankhead, Esq
&c. &c. &c.

I have, &c.
(Signed) ARCHIBALD CAMPBELL,
Lieut.-Governor.

Inclosure 2 in No. 3.

Deposition of James McGee.

York, New Brunswick.

PERSONALLY appeared on the 24th day of September, 1831, before me, John Bedell, Esquire, one of His Majesty's Justices of the Peace, for the county of York aforesaid, James M'Gee, of the parish of Woodstock, in the aforesaid county of York, who, being duly sworn upon the holy evangelists of Almighty God, deposed and saith, that on Friday night, the 16th of this instant, September, about eleven or twelve o'clock at night, a number of armed men from the settlement of Houlton, in the State of Maine, and in the United States of America, came to his, the deponent's house, and knocked at the door, when he asked what they wanted, the answer was, they wanted Campbell; he told them, at their peril and in the King's name not to attempt to come in, upon which they damned him and the King, and immediately proceeded to breaking the door, when they rushed into the room, to the number of fifteen or sixteen men (a number more being around the house) when they immediately began searching the house, breaking up every thing that would conceal a man, using threats to shoot any man that should make resistance; he, the deponent, then desired they would not break up and destroy the room, saying, that if they would desist he would give them a bond for fifty pounds as security, that Campbell should be next day given up to the magistrates of the county, that if guilty of any crime he might be punished, but to this they paid no regard. His daughter, a young woman about nineteen years of age, at the same time being, through fright, thrown into fits, and they refused to let him send for a neighbour for assistance; the mother likewise, from fright and ill usage she received from the party, being unable to render her daughter any assistance.

Four of the party, viz.: Elwyn Packwood, John Tinny, John Bassford, William Jones, the three former being peace officers, were known to be of the number.

(Signed) JAMES MCGEE.

William Gray and Hugh Russel, being likewise duly sworn, deposed to all the facts above stated, they being present in the house.

(Signed) WILLIAM GRAY.
HUGH RUSSEL.

JOHN BEDELL, Justice of the Peace.

True copy.—(Signed)

ARCHIBALD CAMPBELL.

Inclosure 3 in No. 3.

Charles Bankhead, Esq. to the Hon. Edward Livingston.

Washington, October 22, 1831.

THE Undersigned, &c. has the honour to transmit to the Secretary of State of the United States, the copy of a letter from His Majesty's Lieutenant-Governor of New Brunswick, inclosing a deposition made before a Justice of the Peace of that Province, in support of a charge against certain inhabitants of Houlton, in the State of Maine, for having made a forcible inroad on the territory of His Majesty, in search of an Irishman, an inhabitant of Woodstock, New Brunswick, who committed a violent outrage against the constituted authorities at Houlton.

The Lieutenant-Governor deprecates, in the strongest manner, the infamous conduct of the individual in question, and is perfectly ready to exert the utmost rigour of the law against him but, at the same time, his Excellency protests against the conduct of those persons who have thus attempted to interfere with the jurisdiction of the laws in His Majesty's possessions.

Under these circumstances, the Undersigned has to request that Mr. Livingston will be good enough to cause the necessary enquiries to be instituted into this transaction, and upon the charges being clearly proved, that he will make such a representation to the authorities of the State of Maine, as shall prevent the recurrence of a similar irregularity in future.

The Undersigned, &c.

The Hon. Edward Livingston,
&c. &c. &c.

(Signed) CHARLES BANKHEAD.

No. 4.—*Charles Bankhead, Esq. to Viscount Palmerston.*—(Received December 3.)

My Lord,

Washington, November 5, 1831.

I HAVE the honour to acquaint your Lordship that Lieutenant-Colonel Snodgrass arrived at Washington the day before yesterday from Fredericton, and delivered to me a despatch from His Majesty's Lieutenant-Governor of New Brunswick, in which his Excellency informs me that the trial of those persons who committed a violation of territory in the township of Madawaska had taken place before the Supreme Court of the Province.

They were sentenced to be imprisoned for two months and to pay a fine of £50. This sentence was pronounced against the prisoners for an offence committed in attempting to choose municipal officers within the disputed territory, an account of which I had the honour of submitting to your Lordship in my despatch of October, 4.

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A second indictment was also presented by the grand jury against the same persons, together with others, for an attempt to elect in the settlement of Madawaska, an individual to represent them in the State Legislature of Maine. This latter trial, however, was not proceeded in, owing to the term having nearly expired.

No doubt is entertained by Sir Archibald Campbell, that these persons are but accessories in a very humble degree in the crime which has brought the punishment of the court upon them, and that the Legislature and municipal officers of the State of Maine, have been throughout the instigators in the attempt to subvert the jurisdiction of His Majesty over the disputed territory. However, I have great pleasure in acquainting your Lordship that the President and General Government of the United States have not only disavowed any participation in this transaction, but great regret has been expressed that the authorities of the State of Maine should have permitted the exercise of any irregularity of the nature complained of. Colonel Snodgrass has been directed by the President to assure Sir Archibald Campbell of his sincere desire to preserve the utmost harmony between the two countries, and their respective neighbouring territories, and his regret that any interruption of that good feeling should have taken place between New Brunswick and the State of Maine.

I have the honour to be, &c.

Viscount Palmerston,
 &c. &c. &c.

(Signed) CHARLES BANKHEAD.

No. 5.—Charles Bankhead, Esq. to Viscount Palmerston.—(Received December 17.)

(Extract.)

Washington, November 20, 1831.

I HAVE not yet received any answer from Sir Archibald Campbell to the communication which I thought it right to make to his Excellency, founded upon the wish of the President, and which I had the honour to report to your Lordship in my despatch of October 21, The Government of the United States are very anxious to receive some intelligence from New Brunswick upon the subject of the late disputes upon the north-eastern frontiers, and the proceedings which His Majesty's Lieutenant-Governor thought it necessary to adopt thereupon. The Council of the State of Maine, in their late extraordinary sitting, have forwarded to Washington a report, couched in very strong language, and orders have been given to the different brigades of militia on the frontier to hold themselves in readiness to support the views of the State with reference to the neighbouring province. Notwithstanding this threatening proceeding, I am happy to find that the Governor and Council have decided upon leaving the question with the General Government until the meeting of Congress, at the same time renewing their protest against the decision of the King of the Netherlands, and the power of the President to alienate the territory of the State.

I have the honour to transmit to your Lordship a printed copy of the proceedings of the Governor and Council of the State of Maine at their recent session.

Inclosure in No. 5.

STATE OF MAINE.

In Council, November 7, 1831.

Present.—The GOVERNOR.

Messrs. LANE.

Messrs. HOWARD.

PRINCE.

COBB.

SMITH.

JOHNSON.

THE Committee of the whole Council to which was referred the subject of the recent transactions at Madawaska, ask leave to report: That, in common with their fellow citizens, they view with feelings of just indignation, the unwarrantable and oppressive acts of the authorities of the British Province of New Brunswick in invading the territory of this State with a military force, and arresting a number of our peaceable citizens, compelling others to conceal themselves in the wilderness, and abandon their homes in order to escape the violence with which they were threatened.

In this violation of the sovereignty of the State, we perceive the continuation of that system of encroachment, which, by our forbearance, the Provincial Government have long been enabled to practice for the purpose of extending their possession, and afterwards relying on that possession as the only foundation of the extraordinary claim they still persevere in making to a considerable portion of the State.

In virtue of a warrant from a Magistrate of the county of Penobscot, the inhabitants of Madawaska, on the 20th day of August last, assembled at a place southward of the St. John River, on this side of the line, designated by the arbiter as in his opinion a suitable boundary between the two Governments, and proceeded peaceably to organize themselves, in pursuance of an Act of the Legislature of Maine incorporating the town of Madawaska.

On the 12th day of September last, they held a town meeting for the purpose of electing a representative, as required by the laws and constitution of this State.

For these acts, four of our citizens have been arrested by the authorities of New Brunswick, carried out of the State, and three of them, Barnabas Hunewell, Daniel Savage, and Jesse Wheelock, are now confined in jail at Fredericton, in execution of a sentence pronounced against them, after the form of a trial in a court of that province.

As these citizens were arrested by a foreign Power, at a place which is claimed and known to be within the limits of this State, and for the exercise of a privilege guaranteed to every citizen, we have no hesitation in coming to the conclusion, that the State is bound to adopt all proper and constitutional means within its power, to procure their release.

It appears by documents in the office of the Secretary of State of this State, that immediately on receiving information of these transactions, the facts were communicated by the Governor to Mr. Livingston, the Secretary of State of the United States, with an urgent request that the proper measures might be adopted by the General Government to procure the release of our citizens and protect our territory from invasion.

To this application, an answer was duly received from Mr. Livingston, under date of 21st October last, stating "the extreme desire of the Executive of the United States to conform with the scrupulous good faith to the arrangement made with the Minister of Great Britain for preserving the state of things as it then existed on both sides, until a final disposition could be made of the question, and it was distinctly understood that no exertion of the State authority in the parts of the disputed territory which were actually held by the British, should interfere with this arrangement." It further appears by the documents communicated, that although the proceedings of the inhabitants of Madawaska were supposed to be a violation of that agreement, yet prompt measures were adopted by the President through the interposition of the Representative of the British Government at Washington, to procure the release of the persons who had taken part in these transactions.

We have caused an examination to be made, but no copy of the arrangement referred to can be found among the archives of the State. And though allusion is made to such an agreement in the correspondence between Mr. Clay, former Secretary of State of the United States, and the late Governor Lincoln, it was at that time asserted to have been violated by the British authorities, and we are satisfied that in numerous instances, it has been totally disregarded by them.

In order to show the views of the General Government with regard to the measures to be adopted by this State, which are now the subject of our consideration, we refer to the following extracts from Mr. Livingston's letter before referred to. "The President desires me to reiterate to you, his anxious desire that you will use your authority and influence to prevent any further collision with the British authorities, in the firm persuasion that the wisdom of Congress will direct such ultimate measures, as will bring the controversy to a close, consistent with the interest and dignity of the United States, and particularly of the States interested in the question. He receives the strongest assurances from the Representative of the British Government, that no innovation will be countenanced on the part of its provincial functionaries; and on our part, good faith as well as the protection of the frontier, from unauthorized mutual inroads, require the same course of conduct."

In a previous letter to the Governor, dated October 5th, Mr. Livingston observes, "the President directs me to say, that he relies on your Excellency's prudence to avoid any unnecessary exertion of authority over the contested ground, and to repress, as far as lies in your power, all such acts as may endanger the quiet of the bordering territory." "Congress will meet in the course of a few weeks, and it will be a source of deep regret if the moderation and forbearance which have hitherto characterized the Government and people of Maine should cease to guide them, when its further continuance for so short a period, is of such consequence to the nation."

After a full consideration of all the facts and circumstances within our knowledge in relation to the subject submitted to us, we are of opinion, that every proper and constitutional measure at present in the power of the Executive of this State, to procure the release of our citizens confined at Fredericton, has been adopted. And if the committee have forbore to recommend more efficacious means for their immediate release, it is because they believe the State is not in possession of the constitutional power to execute them without the concurrence of the General Government.

Believing that Congress, which is soon to meet, will adopt the necessary measures to bring this controversy to a close, consistently with justice, the peace of the nation, and the constitutional rights of the State, which we believe will never be voluntarily surrendered, and from a desire to conform to the wishes of the General Government, we do not deem it expedient, at this time, to recommend measures which might lead to collision with the British authorities.

But, from the exposed situation of our frontier settlements, and the dangers to which they are subjected by encroachments from the neighbouring province, we recommend that the Governor be advised to issue a general order, requiring the militia of the State to hold themselves in readiness to meet such requisitions as the President may deem necessary, to protect our territory from invasion and our citizens from capture.

ISAAC LANE,

Per order in Council, November 7, 1831.

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This report, on being read, was accepted by the Council, and by the Governor approved.

Attest: R. G. GREENE, Secretary of State.
 A true Copy Attest: R. G. G. Secretary of State.

STATE OF MAINE.

Head Quarters, Portland, November 8, 1831.

GENERAL ORDER.

The security and defence of our rights as citizens of a free State, being dependent upon our military establishment, it is not less a duty than the privilege of the citizen soldier to be at all times prepared to repel the invasion of those rights, and afford his aid in the due execution of the laws of his country. The exposed situation of the frontier settlements of this State, and the dangers to which they are subjected by continual encroachments from a foreign Power, having, in the opinion of the Executive Council, rendered it necessary that the militia of the State should be reminded that events might occur which would require their services; the Commander-in-Chief therefore orders, that the several divisions of the militia be in readiness to meet such requisitions as circumstances and the laws of the State may require, and as the President of the United States may deem necessary, for the protection of our citizens and territory.

The Major-Generals will cause this order to be promulgated through their respective districts.

By the Commander-in-Chief,
 SAMUEL G. LADD, Adjutant-General.

No. 6.—*Charles Bankhead, Esq. to Viscount Palmerston.*—(Received December 23.)

My Lord,

Washington, November 28, 1831.

IN my despatch of October 21, I had the honour to transmit to your Lordship copies of a correspondence which took place between His Majesty's Lieutenant-Governor of New Brunswick, the Secretary of State of the United States and myself, respecting the arrest and trial of several persons for an attempt to exercise a jurisdiction on the part of the State of Maine over the territory at present in dispute between Great Britain and the United States.

The President, upon the receipt of this intelligence, having completely disavowed the proceedings of Maine, and at the same time called upon the Governor of that State to discountenance any attempt to exercise jurisdiction over the disputed territory, until the question of boundary, as decided by the King of the Netherlands, should be formally brought before the Senate of the United States, I thought it my duty so far to give effect to the pacific intentions of the President, as to solicit the early attention of Sir Archibald Campbell to the wishes of this Government, with respect to the persons who had been guilty of these irregularities, and who were in jail at Fredericton.

I have great satisfaction in acquainting your Lordship that General Campbell has deemed it proper to exercise his prerogative in favour of the prisoners, and they have accordingly been released from confinement, and their fines have been remitted. I have the honour to transmit to your Lordship copies of the Lieutenant-Governor's letter to me, together with the note which I addressed to the Secretary of State of the United States, and the answer which Mr. Livingston has returned to me thereupon.

I have great pleasure in thus being enabled to communicate to your Lordship the satisfaction which has been evinced by the President of the United States, in consequence of the very conciliatory spirit in which Sir Archibald Campbell has acceded to the wishes of the American Government in this transaction.

Viscount Palmerston,
 &c. &c. &c.

I have the honour to be, &c.
 (Signed) CHARLES BANKHEAD.

Inclosure 1 in No. 6.

Sir A. Campbell to Charles Bankhead, Esq.

Sir,

Fredericton, November 8, 1831.

I HAD this morning the honour to receive your letter of the 20th ultimo, which with its inclosures are in every respect so satisfactory that I did not lose a moment in giving effect to the wishes therein expressed, by exercising that prerogative so congenial to my own feelings, whether viewed in the extension of mercy, or in the gratifying anticipation of such a measure being received as an earnest of my most anxious desire, as far as rests with me, (consistent with my public duties) to preserve inviolate the harmony and good understanding, so happily existing between the two Governments; the prisoners Barnabas Hanawell, Jesse Wheelock and Daniel Savage are released; and I have taken it upon myself, knowing that such a measure will be fully sanctioned by my Government, to remit the fines imposed by the sentence of the Supreme Court of this Province, as already communicated to you by Lieut.-Colonel Snodgrass: an act that I trust will not fail of being duly appreciated, when

it is known that the above-mentioned individuals did, with several others, follow up their first proceedings, by acts of much more serious aggression, for which they stood charged under another (untried) indictment; however, every thing connected therewith is now cancelled.

You will see with what readiness and satisfaction I have received and adopted your kind advice; for which, accept of my sincere thanks.

I have, &c.

Charles Bankhead, Esq.
&c. &c. &c.

(Signed)

ARCHIBALD CAMPBELL,
Lieut.-Governor.

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Inclosure 2 in No. 6.

Charles Bankhead, Esq. to the Hon. Edward Livingston.

Washington, November 25, 1831.

THE Undersigned, &c., has the honour to refer the Secretary of State of the United States to the correspondence which took place in the month of October upon the subject of violations which had been committed by certain persons from the State of Maine, upon the territory at present in dispute between Great Britain and the United States, and the measures which His Majesty's Lieut.-Governor of New Brunswick deemed it expedient to adopt thereupon. The trial of these persons took place at Fredericton, and they were sentenced by the Supreme Court of the province to fine and imprisonment.

At the time the Undersigned communicated to the Government of the United States the decision which the authorities of New Brunswick had felt it necessary to adopt upon this occasion, he expressed the deep regret of the Governor of that Province, that the conduct of these individuals was such as to compel His Excellency to pursue a course so uncongenial to his own feelings, and at variance with the harmony which subsists between the Governments of Great Britain and the United States.

The Secretary of State upon receiving this communication, expressed to the Undersigned the earnest desire of the President, upon a total disavowal on the part of the General Government of the proceedings of the persons implicated in this transaction, that His Majesty's Lieutenant-Governor might consider himself authorized to exercise a prerogative in their favour, and to remit the sentence which had been pronounced against them.

No time was lost in submitting Mr. Livingston's note to the consideration of Sir A. Campbell; and the Undersigned has the greatest satisfaction in acquainting him that his Excellency fully acquiesces in the desire manifested by the President of the United States.

The Undersigned cannot better fulfil the wishes of Sir A. Campbell, which are so much in accordance with that spirit of good-will which happily subsists between the two countries and which characterises their relations with each other, than by transmitting to the Secretary of State, a copy of the despatch which he yesterday received from that officer, and which he feels assured will be received by the President as an earnest of his uninterrupted good feeling towards the Government and people of the United States.

The Undersigned, &c.

The Hon. Edward Livingston.
&c. &c. &c.

(Signed)

CHARLES BANKHEAD.

Inclosure 3 in No. 6.

The Hon. Edward Livingston to Charles Bankhead, Esq.

Department of State, Nov. 28, 1831.

THE Undersigned, &c., has the honour to acknowledge the receipt of a note from Mr. Bankhead, &c., under date of the 25th inst., accompanied by the copy of a letter from Sir A. Campbell, Lieut.-Governor of New Brunswick, by both of which the Secretary of State is informed that the citizens of the United States, lately under prosecution at Fredericton for acts done in the territory now possessed by Great Britain within the country claimed both by that Power and the United States, have been set at liberty, in accordance with the suggestions made in the former correspondence between Mr. Bankhead and the Secretary of State.

Mr. Bankhead's note with its inclosure have been laid before the President, who has instructed the Undersigned to express his satisfaction at the prompt manner in which his suggestions have been complied with; and to say, that he considers it as a proof of the disposition of His Britannic Majesty's officers to preserve the harmony that so happily subsists between the two Governments.

The Undersigned, &c.

Charles Bankhead, Esq.
&c. &c. &c.

(Signed)

EDWARD LIVINGSTON.

III.

Further interference of the Agents of the State of Maine, and of the State of Massachusetts within the Disputed Territory.—1833.

III.

No. 1.—*Sir C. R. Vaughan to Viscount Palmerston.*—(Received November 21.)

Further interference of Agents of Maine and Massachusetts in the disputed Territory.

My Lord,

Washington, October 28, 1833.

I HAVE the honour to inclose a copy of a letter, which I received from his Excellency, Sir Archibald Campbell, complaining of the conduct of certain land-agents of the States of Maine and Massachusetts, in the disputed territory, and a copy of the note, which I thought it my duty to present to the Secretary of State of the United States, in consequence of having received that communication.

The answer which I have received to my representation induces me to rely with confidence upon the effectual interposition of the General Government to put an end to the objectionable conduct of the land agents; and I have the honour to inclose a copy of Mr. McLane's note, and of my letter, transmitting it to His Majesty's Lieutenant-Governor of New Brunswick.

I have the honour to be, &c.

Viscount Palmerston, G.C.B.

(Signed) CHAS. R. VAUGHAN.

&c. &c. &c.

Inclosure 1 in No. 1.

Sir Archibald Campbell to Sir C. R. Vaughan.

Sir,

Fredericton, New Brunswick, October 3, 1833.

HEREWITH I have the honour to transmit a letter just received from Lieutenant J. A. McLauchlan, warden of the territory in dispute between the British Government and that of the United States, by which it will be seen that an infringement is reported to have been made on the understanding which at present exists between the two countries, by certain land agents of the States of Maine and Massachusetts.

Your Excellency will, I feel assured, take the necessary steps with the General Government to cause an immediate stop to be put to such proceedings, which cannot but prove highly prejudicial to the maintenance of that good feeling now so happily entertained between the respective Governments.

I have the honour, &c.

Sir C. R. Vaughan.

(Signed) ARCHIBALD CAMPBELL.

&c. &c. &c.

Sub-Inclosure in No. 1.

Mr. Maclauchlan to Sir A. Campbell.

Sir,

Restook, September 28, 1833.

I FEEL it my duty, as the officer in charge of the territory in dispute between the Government of His Britannic Majesty and that of the United States, to bring, under the early consideration of your Excellency, a subject which I am fearful may shortly lead to a misunderstanding between the two countries.

Since I had the honour of the appointment of warden of this territory I have endeavoured, as much as possible, to prevent trespasses being made by the cutting of pine timber, &c., and which, I am happy to say, has been generally effected, as it is well known there are now large quantities still standing, adjacent to the line from Mars Hill to the Great Falls, which would otherwise have been removed; and the only timber of any consequence that has been manufactured, was on the Restook River by persons settled there, without any intention of making a business of it, but each getting small quantities (and in many instances off land they held in possession) for the maintenance of their families, which were actually in want, owing to the crops of the last two years being destroyed by early frosts.

The subject to which I must now beg the honour to call the attention of your Excellency, is that of an infringement of the understanding between the Governments of Great Britain and the United States, during the settlement of the question of boundary, by the land agents of the States of Massachusetts and Maine, who are not only holding out inducements to the subjects of both countries to cut pine timber on the territory in my charge, by paying them a duty of two shillings and sixpence a ton, but have entered into contracts for opening two roads to intersect the Restook River, one fifty miles from its confluence with the St. John, and the other thirty miles, both of which are either to be completed this fall, or early in the next season.

It is unnecessary, and probably might be considered improper on my part, to animadvert on the conduct of these agents, but your Excellency must be well aware of the trouble it occasions in the performance of my duty; and certainly there does appear something exceedingly inconsistent that the land agents of these States should attempt to counteract the wishes, nay, I may almost say, the instructions of both Governments, to an officer who has been appointed to prevent collision between them.

I have the honour, &c.

(Signed)

J. A. MACLAUHLAN,
Warden of the disputed territory.

Sir Archibald Campbell,
&c. &c. &c.

III.

Further interference of Agents of Maine and Massachusetts in the disputed Territory.

Inclosure 2 in No. 1.

Sir C. R. Vaughan to the Hon. Louis McLane.

Washington, October 20, 1833.

THE Undersigned, &c. has the honour to lay before the Secretary of State of the United States, a copy of a letter which he has received from his Excellency Sir Archibald Campbell, His Majesty's Lieutenant-Governor of New Brunswick, and to call his attention to the conduct of certain land agents of the States of Maine and Massachusetts, in the territory in dispute between Great Britain and the United States.

It appears by the report contained in Sir Archibald Campbell's letter, that land agents of Maine and Massachusetts, have been holding out inducements to persons of both countries, to cut pine timber on the disputed territory, on condition of paying to them two shillings and sixpence the ton, and that they have entered into contracts for opening two roads, which will intersect the Restook River.

As it is the declared will and mutual interest of the Government of Great Britain and of the United States, to preserve the disputed territory in its present state, and to avoid all collision, pending the settlement of the boundary question, the Undersigned is convinced that it is sufficient to ensure the prompt interference of the Government of the United States to put a stop to the proceedings of these land agents, to state the conduct complained of.

I have the honour, &c.

(Signed)

CHAS. R. VAUGHAN.

The Hon. Louis McLane,
&c. &c. &c.

Inclosure 3 in No. 1.

The Hon. Louis McLane to Sir C. R. Vaughan.

Department of State, Washington, October 23, 1833.

The Undersigned Secretary of State of the United States, has the honor to acknowledge the receipt of the note of Sir Charles R. Vaughan, &c., of the 20th instant, accompanied by a copy of a letter from Sir Archibald Campbell, Lieutenant Governor of New Brunswick, to Sir Charles R. Vaughan, and also of a letter from J. A. Maclauchlan to the Lieutenant-Governor of New Brunswick, complaining of the "conduct of certain land agents of the States of Maine and Massachusetts in the territory in dispute between the United States and Great Britain."

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Further interference of Agents of Maine and Massachusetts in the disputed Territory.

The Undersigned is instructed to state that it would be a source of regret to the President, should this complaint prove to be well-founded; and that he has caused a copy of Sir Charles's note, and of the accompanying papers, promptly to be communicated to the Governors of Maine and Massachusetts, in order that the necessary steps may be taken to enforce a due observance of the terms of the existing arrangement between the Government of the United States and that of Great Britain, in regard to the disputed territory.

The Undersigned, &c.

Sir C. R. Vaughan.

(Signed)

LOUIS McLANE.

&c. &c. &c.

Inclosure 4 in No. 1.

Sir C. R. Vaughan to Sir A. Campbell.

Sir,

Washington, October 24, 1833.

I HAD the honour to receive your Excellency's letter, dated the 3rd October, on the 18th instant, and I immediately stated in a note (a copy of which is inclosed) to the Secretary of State of the United States the objectionable conduct of certain land agents from the States of Massachusetts and Maine in the disputed territory. I have received assurances that the Governors of those States will be called upon to explain the proceedings of those land agents, and I have no doubt from the note which I have received in answer to my representation, and a copy of which I have the honor to inclose, that the President is sincere in his desire to put a stop to conduct, which, if persevered in, must lead to a serious misunderstanding.

The boundary question still awaits the decision of His Majesty's Government about acceding to the proposal made by the American Government, of the nature of which I had the honor to inform your Excellency long since.

I have the honor to be, &c.

Sir A. Campbell,

(Signed)

CHAS. R. VAUGHAN.

&c. &c. &c.

No. 2.—*Sir C. R. Vaughan to Viscount Palmerston.*—(Received Jan. 22, 1834.)

(Extract.)

Washington, December 28, 1833.

IN my Dispatch of Oct. 28, I had the honor to inclose copies of a representation which I had received from the Lieutenant Governor of New Brunswick, of certain objectionable proceedings of the States of Massachusetts and Maine, in the disputed territory on the frontier of the latter, and a copy of a note which I thought it adviseable, in consequence, to address to the American Secretary of State.

A second representation of similar proceedings, received from Sir Archibald Campbell, (a copy of which is inclosed) rendered it necessary to address a second note on the subject to this Government on the 17th December, a copy of which is also inclosed; and I have now the honor to transmit to your Lordship, a copy of the answer which I have received from Mr. McLane, a copy of the observations which I thought it right to make upon that answer, when I acknowledged the receipt of it, and also a copy of my Letter to Sir Archibald Campbell, to whom I have forwarded it.

The vexatious proceedings of Maine and Massachusetts, I consider as a renewed attempt to assume, in some shape or other, a futile possession of some part of the disputed territory which has so long remained in abeyance between the two Governments. While the arbitration was pending, and until very lately, the decided expression of the President's desire to repress all such proceedings, had caused a complete suspension of them. The Executive department of the State of Massachusetts, in a letter to the Secretary of State, inclosed in his note of the 21st instant, declares "That the unsettled state of the question of boundary, is daily becoming more and more embarrassing to the exercise of the unquestionable rights of property with us," (Massachusetts). "The most desirable improvements of country are repressed, and the settlement and cultivation of an extensive and valuable territory altogether prevented. A spirit of dissatisfaction and irritation is increasing between the border inhabitants of the State and Province respectively, and there is reason to apprehend, that the Governments of Massachusetts and Maine will find it as difficult to forego much longer jurisdiction over the property, as to deny to their citizens their urgent demand for its occupation and enjoyment."

The Secretary of State, in his note, attributes the acts which have given rise to remonstrance to the unsettled state of the boundary question, and he is convinced that they furnish increased reason for its adjustment. He adds, that the President looks with great solicitude for the answer which is daily expected from the British Government to the proposition submitted on the part of the United States, in the hope that it may soon set all those differences at rest.

I must observe, that in the whole course of the repeated attempts to ascertain the boundary from 1783 to the present time, Great Britain has not shewn the least reluctance

to make any reasonable concession, or to embrace any means which have been offered to terminate the controversy. Great Britain was ready to acquiesce in the line of boundary, manifestly disadvantageous to her interests, which was offered by the King of the Netherlands. The United States rejected it, and I think it my duty, in my communications with this Government, to maintain that the sacrifice of interests then offered, in the true spirit of conciliation, ought not to encourage any expectation that it is the measure of concession to which Great Britain will, after a prolonged negotiation, ever consent.

I wish particularly to call your Lordship's attention to the impatience manifested by Massachusetts in the extract which I have already given from the communication of the Executive of that State to the Secretary of State. I have perfect confidence in the disposition of the President to exert the influence of the General Government to control that impatience. I know that the Secretary of State has endeavoured to impress upon the several Members of Congress from Maine and Massachusetts now assembled here, the necessity of those States abstaining from proceedings which can give rise to remonstrance from the Governor of New Brunswick.

III.
Further interference of Agents of Maine and Massachusetts in the disputed Territory.

Inclosure 1 in No. 2.

Sir A. Campbell to Sir C. R. Vaughan.

Sir, *Fredericton, New Brunswick, November 30, 1833.*
I HAVE the honour to transmit to your Excellency another report from the Warden of the disputed territory, which must satisfy the American Government that we have not been deceived with respect to the designs of the Government of Maine upon the country under notice.

It appears unnecessary that I should offer any lengthened observations upon the decisive and menacing measure, which the authorities of Maine have at length unfortunately resorted to, in opening a road beyond the conventional frontier of the two countries, with the avowed intention of carrying it forward to the banks of the St. John.

Your Excellency is aware that the territory thus virtually invaded, although often claimed as American, has never ceased to be under the recognized jurisdiction of Great Britain, and the Provincial Government would be scarcely justified in continuing to look tamely on at this systematic, and unprovoked violation of our rights; but however disposed to carry forbearance to its utmost limit, it will, I fear, be utterly impossible, if this road, be persevered in, to prevent collisions of the most serious nature from taking place between the American labourers and the people of New Brunswick.

Under these circumstances it is not difficult to foresee that nothing short of some vigorous exercise of authority on the part of the General Government can save both countries from the evils with which we are threatened, from the reckless endeavours of our neighbours to hurry on a crisis which it has ever been my constant and earnest study to avert.

I have the honour, &c.

Sir C. R. Vaughan,
&c. &c. &c.

(Signed)

ARCHIBALD CAMPBELL.

Inclosure 2 in No. 2.

Mr. Maclauchlan to Sir A Campbell.

Sir, *Restook, November 22, 1833.*

WITH reference to my letter of 28th September last, I have now the honor to acquaint your Excellency that the upper road alluded to in my communication has been opened by the Americans as far as the Restook River, about fifty-two miles from its confluence with the St. John, and consequently passing through fifteen miles of the territory in dispute.

This line of road, which no doubt is intended to intersect the St. John River in the Madawaska settlement, and in my opinion will be completed early next season, unless early steps are taken by the Government to prevent it, is now opened sixty-two miles, and unites with the military communication leading from Bangor to the garrison at Houlton, at the fork of the Madawampke River.

It has been cut out two rods or thirty-three feet in width, with twelve feet levelled, at an expence of thirty pounds a mile, and under the direction of Messrs. Coffin and Rose, land-agents for the States of Massachusetts and Maine.

I beg leave further to state to your Excellency the land on this road has been surveyed for settlement, and settlers are already within twenty miles of the Restook.

I have, &c.

Sir A. Campbell,
&c. &c. &c.

(Signed)

J. A. MACLAUHLAN,
Warden of the Disputed Territory.

Inclosure 3 in No. 2.

*Sir C. R. Vaughan to the Hon. Louis McLane.**Washington, December 17, 1833.*

III.

Further interference of Agents of Maine and Massachusetts in the disputed Territory.

THE Undersigned, &c. &c. regrets that a letter received from His Majesty's Lieut.-Governor of New Brunswick, should again require him to ask the intervention of the General Government of the United States, to put a stop to certain proceedings of the State of Maine, in the territory still in dispute between Great Britain and the United States.

The inclosed letter, with the report which accompanies it, shows that the State of Maine has opened a road beyond the conventional frontier, with the avowed intention of carrying it to the bank of the St. John River.

The Undersigned is convinced that the Secretary of State of the United States will agree with him, that the State of Maine must not be allowed to take upon herself the right to define the meaning of the Treaty of 1783, and by aggressions, such as those, against which the Undersigned is called upon to remonstrate, to take possession, without reference to the General Government of the United States, of territory which has been so long in abeyance between the two Governments. Such conduct is calculated to lead to collisions of a distressing nature between the subjects of His Britannic Majesty and the citizens of the United States, employed to assert a futile and hazardous possession, which so entirely depends upon the arrangements in progress between the two Governments.

The Undersigned trusts that the representation made in this note, will be received by the Secretary of State in the same spirit of goodwill and conciliation which has hitherto characterized the conduct of the Government of the United States, in all occurrences of a similar nature.

The Hon. Louis McLane,
&c. &c. &c.

The Undersigned, &c.
(Signed) CHAS. R. VAUGHAN.

Inclosure 4 in No. 2.

*The Hon. Louis McLane to Sir C. R. Vaughan.**Department of State, Washington, December 21, 1833.*

THE Undersigned, &c. has the honor to acknowledge the receipt of the note addressed to him on the 17th instant, by Sir C. R. Vaughan, &c., requesting the intervention of the Government of the United States to put a stop to certain proceedings of the State of Maine in the territory still in dispute between Great Britain and the United States.

The proceedings referred to, appear by the letter of the Lieut.-Governor of New Brunswick, and the report of the officer acting on the part of Great Britain as warden of the disputed territory, copies of which accompanied Sir C. R. Vaughan's note, to be the construction of a road to the Restook River, passing, as is alleged, through fifteen miles of the disputed territory, and supposed by the Warden to be intended to intersect the St. John River in the Madawaska settlement.

The Undersigned is happy to have it in his power to afford at once such explanations upon this subject as he trusts will be satisfactory. By a communication received from the Governor of Maine, in answer to a representation recently made by Sir C. R. Vaughan, concerning other alleged encroachments on the disputed territory, it will be seen that no part of the road now constructing by that State is believed to be within the territory of which the British Government has ever been in the actual possession since the Treaty of 1783, and that it is not designed to extend the road beyond the Aroostook. The apprehensions entertained of its being extended to the St. John's River in the Madawaska settlement appear therefore to be groundless, and if the views of the Governor of Maine as to the locality of the road be correct, it would seem that its construction can afford no just cause of complaint, as it is not supposed that such improvements made by either party within that part of the territory, which has been in its possession, or so considered, since the Treaty of 1783, are contrary to the spirit of the existing understanding between the two Governments. It will be seen, moreover, as well by the communication from the Governor of Maine as by one received from the Governor of Massachusetts on the same occasion, that a conciliatory and forbearing disposition prevails on their part, and that no measure will be taken or any acts authorized by them, which may justly be considered as a violation of the understanding in regard to the disputed territory.

The Undersigned has, nevertheless, been directed by the President to transmit copies of Sir C. R. Vaughan's note, and its inclosures, to the Governors of Maine and Massachusetts, and to repeat to their Excellencies his earnest desire that, as far as depends on them, no departure from the understanding between the two Governments may be permitted.

In regard to the complaint heretofore made by Sir C. R. Vaughan upon the representations of the Lieut.-Governor of New Brunswick, and the Warden of the disputed territory, as to the cutting and sale of timber under the authority of the land agents of Maine and Massachusetts, the Undersigned begs leave to refer to the communications from the Governors of those States, already mentioned, copies of which are now transmitted, by which it appears that the conduct of those agents has furnished no just cause of dissatisfaction, but that, on the contrary, it is alleged that His Britannic Majesty's officers of the province

of New Brunswick, by the seizure and sale of timber cut by trespassers on the Aroostook, and afterwards in the rightful custody of the agent of the State of Massachusetts, have been the first to violate the existing understanding on this subject.

These complaints on both sides arising, as the Undersigned believes, from acts which do not on either side indicate an intention to disregard the existing understanding, but are attributable to the unsettled state of the boundary question, and which should therefore be viewed with mutual forbearance, furnish increased reason for a speedy adjustment of that interesting matter; and the President looks with great solicitude for the answer which is daily expected from the British Government to the proposition submitted on the part of the United States, in the hope that it may soon set all those difficulties at rest.

Sir C. R. Vaughan,
&c. &c. &c.

The Undersigned, &c.
(Signed) LOUIS McLANE.

III.

Further interference of Agents of Maine and Massachusetts in the disputed Territory.

Inclosure 5 in No. 2.

Mr. Smith to the Hon. Louis McLane.

Sir, Executive Department of Maine Augusta, November 23, 1833.

I HAVE the honour to acknowledge the receipt of your letter of the 23d of October last, communicating a copy of a note from Sir Charles R. Vaughan, accompanied with a copy of a letter from Sir Archibald Campbell, Lieut-Governor of New Brunswick, to Sir Charles R. Vaughan, and also of a letter from Lieut. J. A. Maclauchlan to Sir Archibald Campbell, complaining of the conduct of the land agents of the States of Maine and Massachusetts, in the territory in dispute between the United States and Great Britain.

In compliance with your request to be furnished with information in relation to this subject, I reply, that by a resolve of the legislature of this State, passed March 30, 1831, "the land agent of this State, in conjunction with the land agent of the commonwealth of Massachusetts, is authorised and empowered to survey, lay out, and make a suitable winter road, or cause the same to be made, from the mouth of the Metawankeag, a branch of the Penobscot River, in a northerly direction, so as to strike the Aroostook River, on, or near the line, dividing the sixth and seventh ranges of townships." The same resolve authorizes the land agents to lay out and make, or cause to be made, a winter road, from the village of Houlton, in a westerly direction, to intersect the road to the Aroostook River at some point most convenient for travelling, and most for the interest of the State. By a subsequent resolve, passed March 8, 1832, the authority given to the land agents was enlarged; so as to authorize them "to locate and survey the Aroostook Road, so that it may strike the Aroostook River at any place between the west line of the third range, and the east line of the sixth range of townships, west of the east line of the State." The first of those roads has been surveyed and located, and much the greater part of it lies within the undisputed limits of this State, south of the sources of the Penobscot River; and it is believed that no part of it lies within territory of which the British Government has ever been in the actual possession since the Treaty of 1783. A portion of this road only has yet been opened, and I have no information that any part of it has been opened over territory claimed by the British, although it is contemplated to extend it to the Aroostook, when it can be done consistently with the public interest. The second road described in the resolve of March 30, 1831, is wholly within the undisputed limits of the State.

A report of the recent proceedings of the land agent, in making these roads and disposing of the timber on the lands of the State, has not been received; and his late sickness and death has rendered it impossible at this time to obtain a detailed statement of all that has been done in his official capacity. But it cannot be presumed that he has, in any particular, exceeded his instructions, copies of which are herewith transmitted; or, in the discharge of his official duties, taken any measures, or authorized any acts to be done which could justly be considered as a violation of any known provision of the existing arrangement between the Governments of the United States and Great Britain, in regard to the disputed territory.

The Hon. Louis McLane,
&c. &c. &c.

I have the honor, &c.
(Signed) SAMUEL E. SMITH.

STATE OF MAINE.

In Council, March 9, 1833.

Present—The GOVERNOR.

MESSRS. DUNLAP,
PIERCE,
SAWYER,
HODGDON,

MESSRS. CLARK,
HODGMAN,
DANA.

The Committee of the whole council, to which was referred the subject of the State Lands, having taken that subject into consideration, report:—That in their opinion the

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land agent is better able than any other person to determine what towns should be explored, and what lines should be run anew the ensuing season. They would, therefore, recommend that said agent be authorized to cause such explorations to be made, and such lines to be run, as he may think the interest of the State requires. They would further recommend that said agent be authorized, if he deem it expedient, to cause to be lotted and offered for sale to actual settlers, the township numbered three in the fourth range, and numbers six and eight in the fifth range; but they wish to give the subject further consideration, before they authorize the said agent to lot out any other towns, or make sale of any timber. Your committee further report, that the public good does not require that the lands and timber belonging to the State and the Commonwealth of Massachusetts should at this time be put into the market; but that the interest of this State does require, that the sale of such lands and timber should be suspended for the present.

They therefore recommend that the Governor should be advised to suspend the authority of the land agent of this State to sell any such lands and timber until the meeting of the next Legislature, agreeably to the resolve relating to said lands, passed March 9th, A.D. 1832.

All which is respectfully submitted.

(Signed) JUDAH DANA, per Order.

In Council, March 9, 1833.

This report, on being read, was accepted by the Council, and by the Governor approved.

Attest. (Signed) R. G. GREENE, Secretary of State.

STATE OF MAINE.

In Council, June 26, 1833.

Present—The GOVERNOR,

Messrs. DUNLAP,
 PIERCE,
 SAWYER,
 HODGDON,

Messrs. CLARK,
 HODGMAN,
 DANA.

THE Committee of the Council, to which was referred a communication from Daniel Rose, Esq., land agent, report:—That the land agent be instructed to sell at public auction the timber of the following townships belonging to the State: to wit—No 8, seventh range; No. 2, ninth range; and No. 7, sixth range. Your committee would further report, that the land agent be instructed to cause to be explored and surveyed into sections, the present year, townships numbered two and three in the eleventh range.

(Signed) R. P. DUNLAP, per Order.

In Council, June 26, 1833.

This report on being read, was accepted by the Council, and by the Governor approved.

Attest. (Signed) R. G. GREENE, Secretary of State.

Inclosure 6. in No. 2.

Mr. Levi Lincoln to the Hon. Louis McLane.

Executive Department of Massachusetts,

Worcester, November 15, 1833.

Sir,

I HAVE the honour to transmit herewith a copy of a letter from the land agent of this commonwealth, in answer to inquiries which I addressed to him on the subject of complaints, by His Britannic Majesty's Provincial Officers, of aggressions upon the territory in dispute between the two countries, in contravention of the understanding that no act of prejudice to the property should be permitted by the citizens or subjects of either, pending measures for the amicable settlement of the matter in controversy.

It will satisfactorily be perceived, as, I trust, from this communication, that no just occasion has been given, on the part of the Government of Massachusetts, for the representation transmitted to you by His Majesty's Minister; but, on the other hand, that there is cause to remark that His Majesty's Officers of the Province of New Brunswick, by the seizure and sale of timber cut by trespassers on the Aroostook, and afterwards in the rightful custody of the agent of this commonwealth, have been the first to violate the existing understanding on this subject. Indeed, Sir, the unsettled state of the question of boundary is daily becoming more and more embarrassing to the exercise of the unquestionable rights of property with us. The most desirable improvements of country are repressed, and the settlement and cultivation of an extensive and invaluable territory altogether prevented. A spirit of dissatisfaction and irritation is increasing between the border inhabitants of the State and Province respectively, and there is reason to apprehend that the Governments of Massachusetts and Maine will find it as difficult to forego much longer jurisdiction over the property, as to deny to their citizens their urgent demand for its occupation and enjoyment.

Whatever acts the land agent admits to have been done by his direction appear, to have been fully authorised by the legislature. The resolves to which he refers have heretofore been duly forwarded to your department, and in connexion with various documents which were made public, will afford, as I doubt not, every desirable explanation of the forbearing and conciliatory proceedings of the Government of the State.

I have the honour to be, &c.

The Hon. Louis McLane,
&c. &c. &c.

(Signed) LEVI LINCOLN.

111.
Further interference of Agents of Maine and Massachusetts in the disputed Territory.

Mr. G. W. Coffin to Levi Lincoln, Esq.

Commonwealth of Massachusetts, Land Office, Boston, November 8, 1833.

To His Excellency the Governor of the Commonwealth of Massachusetts.

May it please your Excellency,

I HAD the honour yesterday to receive your letter of the 4th instant, covering complaints from the authorities of His Britannic Majesty's Colony of New Brunswick, the same having been transmitted to you from the Secretary of State of the United States, of certain acts said to have been committed by the land agents of Maine and Massachusetts, touching the territory in dispute, &c.

It will be recollected by your Excellency, that a resolve passed the legislature of this Commonwealth, dated the 10th of March, 1827, suspending further proceedings on the part of this Commonwealth in relation to the road from Penobscot River to Fish River, and for surveying of lands and other acts of ownership, within the territory in dispute, on or near the north-eastern boundary of the State of Maine, until further orders of the general court. This resolve was accompanied by a report which distinctly shews what were the views of the legislature at that time in passing said resolve.

From the time said resolve passed I have forborne taking any measures that should conflict therewith, and have confined myself strictly to its provisions, reserving, however, the right to such a supervision of the territory as was necessary to secure the country from depredations, and when evidence appeared, I have reported from time to time to your Excellency such facts as were within my knowledge.

As to the charge of holding out inducements to the subjects of both countries to cut pine timber on the territory in dispute, so far as concerns my agency, it is certainly groundless. I have received repeated applications for permits to cut timber, and I have invariably answered that I would not grant any, until the disputes should be settled, and if any timber was cut I should order it to be seized; winter before last I caused some timber to be seized upon the Aroostook River, and a short time after the same timber was seized by the British, I think by the same person that prefers this complaint, as pursuant to his orders. The timber was afterwards sold, and the amount, whatever it may have been, went into the hands of the officers of the colony of New Brunswick. It is apparent, therefore, that our interest is to prevent timber being cut, rather than to induce the cutting.

The other charge relative to making roads, &c., if it applies to me at all, must be in consequence of the road from Metawampkeag River to the Aroostook River, and which is now about completed, and was made pursuant to the resolve passed 15th March, 1831, and 14th March, 1832. I have no knowledge of any other road, or any other measure which has been adopted that comes in contact with the territory in dispute. The whole country is full of reports and assertions, which, if they were at all to be credited, would furnish ample employment of my time in making complaints to your Excellency of the proceedings of Mr. MacLaughlan, but I have generally considered them as groundless exaggerations and pass them by as such.

The opening of the above-mentioned road has been of immense advantage to our public lands. If we are to wait improvements and wait till the controversy is settled, and the British have received the avails for all the timber in the territory in question, we may as well surrender our rights to it at once, and let the sufferings inhabitants of Madawaska look elsewhere for protection. I cannot conceive why the making of roads should be considered offensive, unless it may divert some of the trade from Fredericton to Bangor. We should be acting the part of extreme folly to let so fine a country remain a howling wilderness when it is capable of affording comfort and even affluence to millions.

I remain, &c.,

(Signed) GORGE W. COFFIN, Land-Agent.

Inclosure 7 in No. 2.

Sir C. R. Vaughan to the Hon. Louis McLane.

Washington, December 23, 1833.

THE Undersigned, &c., has the honor to acknowledge the receipt of the note of the Secretary of State of the United States in answer to the representation, which he was called upon to make, respecting proceedings in the States of Massachusetts and Maine in the disputed territory.

To understand correctly the bearings of the roads, which those States have resolved to construct, requires a more accurate knowledge of the topography of the country through

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which they are to pass, than the Undersigned possesses, but he will not fail to transmit a copy of Mr. McLane's note, together with its enclosures, to His Majesty's Lieutenant-Governor of New Brunswick. In the meantime the Undersigned begs leave to observe, that the letter from the Executive of Maine states that one of the roads surveyed and located, lies for the greater part of it within the undisputed limits of that State, "although it is contemplated "to extend it to the Aroostook River." The land agent of Massachusetts is aware that the road from the Matawamkeag River to the Aroostook, is the one that has given rise to complaint, and which, he observes, "is now nearly completed." As the Aroostook River from its source till it falls into the St. Johns, flows exclusively through the disputed territory, to reach it by a road from the State of Maine, must cause an encroachment, and be considered an attempt to assume a right of possession in territory, which has never yet been set apart from the original possession of Great Britain, on account of the difficulties of ascertaining the boundary according to the Treaty of 1783.

With regard to the cutting down and sale of timber, the justification of the land agent of Boston will be submitted to Sir Archibald Campbell, and the Undersigned is sure that the grievance complained of, taking away timber, which had been seized by the agent from Massachusetts, will be attended to.

The Undersigned receives with great satisfaction the assurance of Mr. McLane, that "a conciliatory and forbearing disposition prevails on the part of Massachusetts and Maine, "and that no measure will be taken, or any acts authorized by them, which may justly be "considered as a violation of the understanding in regard to the disputed Territory:"—and he cannot conclude without begging leave to acknowledge the readiness with which the President directed enquiries to be made, and the desire which he has shewn on this, and every similar occasion, to prevent any encroachment on the disputed territory, pending the settlement of the boundary now in progress between the two Governments.

The Hon. Louis McLane,
 &c. &c. &c.

The Undersigned, &c.,
 (Signed)

CHAS. R. VAUGHAN.

Inclosure 8 in No. 2.

Sir C. R. Vaughan to Sir A. Campbell.

Sir,

Washington, December 25, 1833.

ON the 24th October, I forwarded to your Excellency a copy of a note, which I addressed on the 20th of that month to the Secretary of State of the United States, in consequence of a communication from you, reporting objectionable proceedings in the disputed territory, on the part of land agents of the States of Massachusetts and Maine. I have now the honor to transmit to your Excellency a copy of a note, which I addressed to the Secretary of State on the 17th December, in consequence of having received from you another report of proceedings on the part of the State of Maine, in opening a road beyond the conventional frontier, with the avowed intention of carrying it to the bank of the St. Johns.

On the 21st December, I received an answer from Mr. McLane, inclosing the explanations given by the Governments of Maine and Massachusetts of the proceedings complained of in my first note of the 20th October last. I have the honour to transmit to your Excellency a copy of Mr. McLane's answer, and also a copy of a note, which I thought it advisable to send to him on the 23d instant, acknowledging the receipt of it.

Though Mr. McLane has ventured in his note, to consider the explanation he affords to be satisfactory, as the new road is not to be extended beyond the Aroostook, I have thought it necessary to point out to him, that the road cannot be carried to that river without encroaching on the disputed territory, through which exclusively the river flows from its source to the St. Johns.

Your Excellency will better understand, than I can, the course of the roads to be made according to the resolves of Maine and Massachusetts, by the description of lines of townships, of the position of which I am ignorant.

I beg leave to call your attention to the assertion contained in the letter of the land agent at Boston, that timber which he had seized, as illegally felled, was rescized by the agent of New Brunswick and sold by the latter.

The note of the Secretary of State declares, that a conciliatory and forbearing disposition prevails on the part of Maine and Massachusetts, which is at variance with the repeated attempts on their part to assert a futile possession, from time to time, of some part of the disputed territory. I can venture, however, to assure your Excellency, that the very best disposition to redress such conduct exists on the part of the President, but the direct controul which he can exercise over the State, separately, is not clearly defined, and it is almost always resisted. We may be assured that any just ground of complaint will meet with the best redress that the General Government can afford, considering its constitutional relations with each State, which considers itself sovereign and independent.

Sir Archibald Campbell,
 &c. &c. &c.

I have the honour, &c.

(Signed)

CHAS. R. VAUGHAN.

No. 3.—*Sir C. R. Vaughan to Viscount Palmerston.*—(Received April 21.)

My Lord,

Washington, March 12, 1834.

III.

IN a note which I received from the Secretary of State of the United States, dated 21st December last, a copy of which I had the honor to transmit to your Lordship in my despatch of Dec. 28, mention was made of the seizure of some timber which had been unlawfully felled upon the disputed territory in New Brunswick, by a land agent of the State of Massachusetts, and afterwards re-seized by an agent acting under the authority of the Government of New Brunswick.

Further interference of agents of Maine and Massachusetts in the disputed Territory.

Having transmitted a copy of Mr. McLane's note to Sir Archibald Campbell, I have received from His Excellency a satisfactory explanation of that transaction, which I have communicated to the American Government.

I have the honor to inclose a copy of the letter of Sir Archibald Campbell, of my note to Mr. McLane, and of the answer of the latter acknowledging the receipt.

The seizure of timber in the disputed territory of which Great Britain is in possession, until the boundary is settled, by a land agent of Massachusetts, could never be permitted, as it would acknowledge the right of Massachusetts to exercise jurisdiction, in what must still be considered as a part of New Brunswick. It appears, however, that all the timber seized by the British agents, as having been unlawfully cut down upon the disputed territory, is sold, and the proceeds of the sale are carried to a separate account, the disposal of which awaits the adjustment of the boundary.

Your Lordship will find in the inclosed letter of 20th January, from His Majesty's Lieut.-Governor of New Brunswick that, while His Excellency places implicit reliance upon the friendly sentiments expressed in the notes of the Secretary of State, the communications from the State Governments are not couched in the same spirit of forbearance and conciliation, and indeed the aggressions of which we have lately complained, were committed according to the decisions and resolves of the legislature of Massachusetts and Maine. They seem to consider the position of the disputed territory during the unsettled state of the boundary, as too favourable to the views and interests of Great Britain, and to this feeling must be attributed their constant attempts, to contest the jurisdiction exercised over it, exclusively by the Government of New Brunswick. At one time an attempt was made to take a census of the population of some British settlements, at another to lay out the land into townships and offer it for sale, as though the right to the territory was vested in the United States.

The decisive conduct of General Jackson in repressing these attempts, immediately after he became President, together with the reference of the dispute about boundary to arbitration, caused, for some time, a suspension of the futile attempts of Maine and Massachusetts to assert a right of jurisdiction. Since the rejection of the award of the arbiter, by the Government of the United States, there is a disposition to renew the vexatious proceedings, and a road has been laid out which is to pass beyond the conventional boundary.

In a letter to Sir A. Campbell, dated the 23rd of February, (a copy of which is inclosed,) I have expressed my conviction that the encroachments of the States are made without the knowledge and against the inclination of the General Government, but that I am of opinion that we must continue to protest against them. The reluctance and opposition of the States to obey the orders of the General Government, may give uneasiness and vexation to the Lieutenant-Governor of New Brunswick; but so long as the General Government is willing to afford redress, the ill-understood rights and interests of the State of Maine, cannot give rise to any serious conflict.

I have the honor to be, &c.

Viscount Palmerston, G. C. B.
&c. &c. &c.

(Signed)

CHAS. R. VAUGHAN.

Inclosure 1 in No 3.

Sir A. Campbell to Sir C. R. Vaughan.

Sir,

Government House, Fredericton, New Brunswick, January 20, 1834.

I HAVE the honour to acknowledge the receipt of your Excellency's letter of the 25th ult. conveying to me copies of the answers of the General Government, and of those of Maine and Massachusetts to your Excellency's able notes upon the last violation, by the presumed agents of these Governments, of the existing engagements with respect to the contested boundary.

I am unwilling to trouble your Excellency with any remarks upon these documents which must already have sufficiently engaged your attention, but I may, without impropriety, be permitted to observe that while I place implicit reliance upon the friendly sentiments expressed in the note of the American Secretary of State, I cannot but perceive that some of the communications from the State Governments are not couched in that spirit of peace and of forbearance which is so desirable at the present moment, but contain assumptions of a threatening nature which it must be the interest and object of the General Government to discountenance and repress.

Hitherto the trespasses and aggressions which have never ceased to be committed by certain parties from the neighbouring State, have been, in most instances, considered and

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treated as unwarranted, if *not unrestrained*, by the State Governments; and it is therefore with great regret I learn that the roads which we complain of, have been carried into the territory claimed and held by Great Britain, under express authority from the legislatures of Maine and Massachusetts. In my last letter on this subject I stated that the roads in question had been carried some distance within the line claimed by Great Britain; and as this is not denied by the State Authorities it is difficult to understand what Mr. McLane can mean when he states that, "it is believed to be within the territory of which the British Government has never been in the actual possession since the Treaty of 1783," and "that it is not intended to extend the road beyond the Aroostook." The term "actual possession," is of a very doubtful and indefinite meaning, when applied to an uninhabited and wilderness country, and it might, without any impropriety, be extended to nearly the whole country in dispute: and it is only therefore necessary to observe, as your Excellency has already done, in answer to this explanation, that the Aroostook River, from its source to its confluence with the St. John, lies wholly within the territory claimed by Great Britain, as your Excellency will at once perceive on reference to the Map A.

I am most happy, however, to find that it is not contemplated to make any further attempts to exercise the rights of sovereignty within the conventional frontier. Our provincial rights of jurisdiction and of occupancy have been too frequently, *and at all hazards*, asserted and maintained, to leave any doubt as to the course we must again pursue if the construction of this road be persevered in, or other encroachments made upon the lands in question.

I venture to assure your Excellency, that it has ever been my anxious wish and endeavour to prevent all just cause of complaint against any one connected with this province; on all practical occasions I have acted in that spirit of conciliation and forbearance which I know to be so essential to the preservation of harmony and good will between the people of the two countries, and in the explanation which I have now to offer upon the complaint of the land agent of Massachusetts, I think I shall be able to satisfy the General Government that I have sanctioned nothing at variance with these professions. Mr. Maclauchlan was appointed to the wardenship of the country, with the knowledge and concurrence of the President, and it is not conceived, therefore, that any fair ground of objection can be taken to his faithful performance of the duties of his office; but this Government never has admitted, and never can admit, the right of any agent from Maine or Massachusetts, to exercise authority within the conventional frontier of the province, while its proper limits remain a subject of negotiation. The seizures of timber, therefore, alluded to by Mr. Coffin as having been made by His Majesty's officers, even if made as stated, would in no way amount to an infringement of the existing understanding. The inclosed account of this transaction will, however, place it in a different light; and I have only further to add, that every sixpence arising from seizures in the disputed territory has been invariably paid over to the Receiver General of the Province, by whom a separate fund, and separate account of all such monies is regularly kept.

I have, &c.

Sir C. R. Vaughan,
&c. &c. &c.

(Signed)

ARCH. CAMPBELL.

Inclosure 2 in No. 3.

Mr. Beckwith to Sir A. Campbell.

Department of Crown Lands and Forests,

Fredericton, January 18, 1834.

Sir,

EARLY in February, 1832, I obtained information that several parties of lumber-men were at work within the bounds of the disputed territory, and principally on the river Aroostock, which information I submitted to your Excellency, and was in consequence instructed by your Excellency to inspect the said territory, seize any timber which had been cut, and require the trespassers to desist forthwith. Your Excellency, at the same time, expressed a wish that such inspection should be made with the cognizance of the public authority of the State of Maine, and that an officer of the said State should be requested to accompany the officer whom I should despatch on that service. In conformity to those instructions of your Excellency, I instructed Mr. B. R. Jouett to proceed to Houlton, exhibit his orders to the justices of that township, together with a communication explanatory of the object of his inspection, and to request that some officer of the State might accompany him. On 20th March, Mr. Jouett reported, that he had carried my instructions into effect, that he had found a number of the squatters at work and seized the timber they had made, and that in almost every case they desisted on being requested to do so and warned of the consequences of persisting. After Mr. Jouett's return, I notified those persons, that if they did not remove the timber from where it lay, no further steps should be taken in the matter, but if they attempted to convey it down the St. John, it should be seized and condemned: some of the timber was removed, and in most cases it was seized and condemned, and sold at from three shillings to nine shillings per ton, and the net proceeds carried to the disputed territory account, and in some instances, the parties, by altering the marks and mixing their timber up with other rafts, succeeded in escaping the vigilance of my deputies: prosecutions were commenced, but proceedings were, I believe,

stayed in consequence of the extreme indigence of the trespassers. I have been further informed by Mr. Jouett, that after accidentally meeting the deputy agent, Mr. Fairbanks, at the River des Chutes, as mentioned in his report, that gentleman being on his way to his residence on the Aroostock, proceeded in company with Mr. Jouett so far as their respective roads lay in the same direction, and during that time pointed out to him several lots of timber, cut by squatters, which lots he understood, from general report, had been seized by Mr. Fairbanks, but the trespassers paid no regard to such seizure, and Mr. Jouett also marked them according to his instructions.

III.

Further interference of agents of Maine and Massachusetts in the disputed Territory.

I have the honor to be, &c.
 (Signed) JOHN A. BECKWITH,
 Acting Commissioner and Surveyor-General.

Sir A. Campbell,
 &c. &c. &c.

Inclosure 3 in No. 3.

Sir C. R. Vaughan to the Hon. Louis McLane.

Washington, February 28, 1834.

THE Undersigned, &c. has the honor to communicate to Mr. McLane, &c., the explanation which he has received from the Lieutenant-Governor of New Brunswick, of a transaction complained of by the land agent of Massachusetts in a report communicated to the Undersigned, in a note from Mr. McLane, dated 21st December last.

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

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

The seizure of the timber in the first instance, by Mr. Coffin, the land agent of Maine, was the exercise of authority within the conventional frontier of the province of New Brunswick, which could not be admitted so long as the north-east boundary of the United States remains a subject of negotiation; and it appears that the proceeds of the sale of timber unlawfully cut down, are carried to account, and the possession of them will finally be appropriated to the party to which the territory may be adjudged by the settlement of the boundary question.

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

The Undersigned, &c.
 (Signed) CHAS. R. VAUGHAN.

The Hon. Louis McLane.
 &c. &c. &c.

Inclosure 4 in No. 3.

The Hon. Louis McLane to Sir C. R. Vaughan.

Sir, *Department of State, Washington, March 4, 1834.*

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

I pray you, &c.
 (Signed) LOUIS McLANE.

Sir C. R. Vaughan,
 &c. &c. &c.

Speech of Mr. Lincoln, of Massachusetts, in the house of Representatives respecting the Boundary of Maine; and Debate thereupon.—December 24, 1834.

(Inclosure in Sir C. R. Vaughan's Despatch of Jan. 12, 1835, p. 73, Class A.)

DEBATE ON THE MAINE BOUNDARY.

House of Representatives, December 24, 1834.

IV.

Speech of Mr. Lincoln on the boundary of Maine.

THE following resolution offered yesterday by Mr. Lincoln, of Massachusetts, was taken up for consideration:

Resolved, That the President of the United States be requested to lay before this house, (if in his opinion it is not incompatible with the public interest,) any communications which may have been had between the Government of the United States and that of Great Britain, since the rejection by the former of the advisory opinion of the King of the Netherlands, in reference to the establishment and final settlement of the north-eastern boundary of the United States, heretofore in controversy between the two Governments.

And that he also be requested to communicate any information which he may possess of the exercise of practical jurisdiction, by the authorities of the British Province of New Brunswick, over the disputed territory, within the limits of the State of Maine, according to the true line of boundary as claimed by the United States; and especially upon that part of the territory which has been incorporated by the Government of Maine into the town of Madawaska, together with such representations and correspondence (if any) as have been had by the Executive of that State with the Government of the United States, on the subject.

Mr. Parks, of Maine, said, that as the resolution was one particularly interesting to the State of Maine, and as no member of the delegation from that State, in either branch of congress, had thought it necessary to call for information on that subject, he asked the honorable gentleman from Massachusetts, what was his object in making the call, and more especially as regarded what was embraced in the two last parts of the resolution.

Mr. Lincoln said, that he had not anticipated, that there could be any possible objection to the resolution. He certainly had not offered it without believing that a useful object was to be attained. He could not consent to the prejudice of having it supposed for a moment, that he would either do himself the injustice, or offer the indignity to the house of proposing the inquiry suggested in the resolution, without a proper and reasonable motive. He should therefore, most cheerfully, in response to the call of the member from Maine (Mr. Parks) endeavor, in a brief, and, as he hoped, not unsatisfactory manner, to explain the objects of the resolution.

The State of Massachusetts (said Mr. Lincoln,) has a very deep and especial interest in the subject to which the resolution refers. As one of its representatives, he should feel, that, in this interest, there was a sufficient apology, if any was needed, for the measure he had proposed. It is a fact too well known to the gentleman himself and to the members of the house, to need (said Mr. Lincoln) my information, that, by the act of the ancient commonwealth, giving her assent to the separation of the territory now constituting the State of Maine, and its erection into an independent State, the wild and uncultivated lands of that territory were to be the common property of the two Governments. The quantity of these lands did not far vary from five millions of acres, one moiety of which, in common and undivided with Maine, by the terms of separation, incorporated into and made part of the fundamental law of that state, remained to Massachusetts. Over a great portion of these lands, by a monstrous pretension of the British Government, under the definitive Treaty of Peace of 1783, which defined the northern and north-eastern boundary of the United States, an adversary claim has, within a few years past, been extended.

By the fifth article of the Treaty of Ghent, provision was made for the settlement of this boundary, and, pursuant to a Convention subsequently entered into, the controversy concerning it was submitted to the arbitrament and decision of the King of the Netherlands. [Here Mr. L. went into a history of the negotiations and Conventions which had been held on the subject of the boundary.]

The next question in issue between the parties was the true position of the highlands, which should limit a due north line from the source of the river St. Croix, and satisfy the language of the Treaty of 1783, and to define and mark, upon the face of the country, by reference to natural appearances and monuments, this line was the only purpose of the submission. His Majesty the King of the Netherlands entered upon the duty of arbitrator, under the terms of the submission; and after an examination of the subject, being unable or affecting to be unable, from the documents and arguments presented to him, to decide the matter in dispute, he substituted, for an adjudication upon the question referred to his decision, a proposition of his own for the establishment of a new line of boundary between the two countries. Instead of the highlands which divide the waters of the Atlantic from those of the St. Lawrence, as described in the Treaty, he advised to the adoption of the

depths of the channel of a river, or, in his own more princely phraseology, "the thalway of the stream of the waters of the St. John's," as the future limit of the possessions and jurisdiction of the respective Governments.

Mr. Speaker, (continued Mr. L.) the communication of this result of the arbitrament was received with a burst of surprise, indignation, and apprehension, both in Massachusetts and Maine. The Legislature of each State passed resolutions remonstrating to the general Government against its acceptance. Maine, in a more especial manner, adopted the most strenuous efforts to resist it. In the imposing attitude of her State Sovereignty, she sent a special commissioner, clothed with almost plenipotentiary powers, to the Government of Massachusetts, inviting and soliciting her co-operation to defeat or resist, as occasion might require, the injustice and violence of the proposition. The earnest remonstrances of the State Governments reached the national councils, and, influenced by these, or other considerations, the Senate of the United States, on the 23rd of June, 1832, adopted a resolution which was decisive of the rejection of the opinion of the arbitrator. I beg leave of the house to read this resolution :

"Resolved, That the Senate advise the President to open a new negotiation with his Britannic Majesty's Government for the ascertainment of the boundary between the possessions of the United States and those of the King of Great Britain, on the north-eastern frontier of the United States, according to the Treaty of 1783."

It is worthy of special notice and consideration, that a resolution reported by the Committee of Foreign Relations, in the following words: "That the Senate advise the President to express to His Majesty the King of the Netherlands the assent of the United States to the determination made by him, and consent to the execution of the same," had been previously rejected by the decisive majority of 35 to 8 votes, in that body.

Such, Sir, was the state of this much vexed subject in June, 1832. And what is the state of it now? The President, in his annual message, at the commencement of the present session, informs us, that, "the question of the north-eastern boundary is still pending with Great Britain, and the proposition made in accordance with the resolution of the Senate, for the establishment of a line according to the treaty of 1783, has not been accepted by that Government."

A negotiation pending! And to what end? If the proposition, in conformity with a resolution of the Senate, has not been acceded to, has it been rejected? Is the Government negotiating for any other line of boundary than that described in the Treaty of 1783? No other, give me leave to say, will ever be acquiesced in by the States. I claim no authority to stand here in vindication of the rights and honor of the State of Maine. These are in better keeping. The honorable gentlemen who represent her on this floor, will do her ample justice. But if I know any thing of the character of the hardy and industrious citizens of that State, and I think I am not altogether ignorant in this particular, for they are "bone of our bone, and flesh of our flesh," they, no more than the people of Massachusetts, will consent to the sacrifice of their interest in this valuable property. Now he, (Mr. L.) wished to know, wherefore the proposition to negotiate for the settlement of the boundary, according to the Treaty of 1783, had not been accepted, and what was the alternative to its rejection. What was Maine to do? And what was to be the part of Massachusetts? The Government of the latter State had given a solemn pledge to the former, that she would stand by her to the last in maintaining this right of property; that, come what might, happen what would, she would never consent to the surrendering of the jurisdiction over it, which she had guaranteed by consenting to the act of separation; and this pledge, he (Mr. L.) felt well assured, would, at every hazard, and in all time, in good faith, be held sacred.

But, (said Mr. L.) the passage in the very brief allusion made to this most important subject, contains the following expression: "Believing that every disposition is felt, on both sides, to adjust this perplexing question to the satisfaction of all the parties interested in it, the hope is yet indulged that it may be affected on the basis of that proposition."

Now, Sir, I wish to be informed on what this hope of the President rests? What reasonable expectation may be indulged that the British Government will do that hereafter, which for nearly three years past it has refused to do? It is of the utmost importance to the people of both States, that this controversy should be speedily terminated. The existence of it has once threatened the peace of the nation, and, give me leave to say, that these States will not be content much longer, that the question shall remain unsettled.

It may be considered, Mr. Speaker, that to Massachusetts this is a matter only of property and pecuniary interest. Be it so; even in such point of view it would not be a subject of indifference. Her surveys have been arrested, and her sales limited by the pending controversy. A few years since, in common with Maine, she was opening roads, running out townships, and offering for sale large portions of the now disputed territory. Suddenly her operations were interrupted by collisions with British officers, and, in respectful deference to the earnest desire of the national Government, she consented to suspend the exercise of her possessing rights, pending the arbitrament of the boundary.

To the State of Maine, the subject must be vastly more important. The unsettled state of the question, not only affects her revenue from sales of the lands, but arrests the progress of population and improvement. These lands are among the most desirable for settlement. In the quiet enjoyment of them, Maine may look forward to no distant day, when, in numbers and resources, she will be in the front rank of the family of States. Deprived of this territory, she is but of third-rate importance among her sisters of the Union.

IV.

Speech of Mr. Lincoln on the boundary of Maine.

Under these circumstances, think you, Sir, the States will rest satisfied with longer forbearance? If I know any thing of the people, they will not blindly submit to the contingencies of unrestricted, nor the delay of protracted, negotiation. The legislatures of the States are soon to convene: the subject cannot fail to be with them one of the most earnest and solicitous concern. They will have a right to know what is the prospect of an amicable determination of the boundary; and it is for the purpose of furnishing this information, among other proper motives, that the resolution has been offered.

But it is not merely in this limited and partial view of *state interests*, that the subject-matter of the resolution is to be regarded. It has respect to the integrity of the territory and the sovereignty of the jurisdiction of the country. It reaches to the relations of the General and State Governments, and the guaranty of a republican form of Government to the enjoyment of all the citizens. The inhabitants of the disputed territory are American citizens. They were born under our laws, acquired the title to their possessions under grants from the State Governments, and are entitled to the rights and privileges and protection of freemen. On this debateable ground these very citizens have been molested in their persons and property, by the officers of the provincial Government of New Brunswick. Their substance has been seized for taxes to the British Crown, and their names enrolled for service in the British local militia. The history of the arrest and imprisonment of Baker, in the common jail at Fredericton, not many years since, must be familiar to the gentlemen from Maine, and to the members of this house. Still, more recently, the inhabitants of the town of Madawaska, incorporated by the Government of Maine, and acting under the authority of their incorporation, in attempting to organize their municipality, have been seized upon a charge of sedition against His Majesty's Government, and made to suffer the penalty of the transgression. It has been further represented, I know not how truly, that the British jurisdiction is now extended and practically enforced over a great portion of the disputed territory, in manifest intervention of an express stipulation that neither party, during the attempt at the adjustment of the boundary, should do any act to the prejudice of the rights of the other.

And are not these things matters worthy of inquiry? Is any gentleman in this house well advised of all the facts in the case? Sir, they concern the whole nation. American citizens are not thus to be transferred to a foreign jurisdiction, and degraded from the proud pre-eminence of independent freemen to the servile condition of vassal subjects. Again, I say, if this controversy be not speedily adjusted, the peace of the country will be put in jeopardy—the States will re-assert their possessive rights, surveyors will again be sent forth into the territory, and, if collisions shall ensue, it will behove this Government to see that the rights of her citizens be well maintained in the conflict.

The resolution embraces three propositions—

1. The communication of such correspondence as has been had since the rejection of the opinion of the King of the Netherlands, between the Government of Great Britain and that of the United States, on the subject of the boundary, as, in the opinion of the President, may not be incompatible with the public interest to make public.

2. The President is requested to communicate any information he may possess, in relation to the exercise of practical jurisdiction over the disputed territory. He (Mr. L.) had been informed that the British laws were enforced against the inhabitants dwelling on the debateable ground, while any exercise of authority was denied to officers acting under a commission from the State of Maine.

And 3dly. The resolution asked for the communication of any representations which may have been made by the Government of Maine to the General Government, touching this matter.

Here was the most authentic source of intelligence; and the reply to this part of the enquiry must be of the most satisfactory character. The resolution had been drawn up with every feeling of respect towards the Government, and in all sincerity (said Mr. L.) I can conceive of no possible objection to sending it to the President, for the exercise of his discretion, in furnishing or withholding the information which was sought.

Mr. Parks, in reply, said that the house would by this time perceive that the resolution of the gentleman from Massachusetts was of a most extraordinary character, and the reasons he had assigned for bringing it forward were, he must say, equally extraordinary. The gentleman gives as his reasons why he interferes in a question touching the jurisdiction of another State, that Massachusetts, a part of which he represents on this floor, is interested in the property or ownership of the territory in dispute between the State of Maine and the United States on one side, and Great Britain on the other. It was true that when Maine determined to assume the rank of a free, sovereign, and independent State, she was compelled by her kind guardian mother, Massachusetts, to pay well for her liberty, to purchase her freedom at a high price, by assenting that Massachusetts should be the owner with her in common of the wild lands, then undisposed of, within her territory; but she did not grant to Massachusetts any jurisdiction over the same. Maine will always recollect these circumstances. The last the gentleman from Massachusetts seems to have forgotten, for he now comes forward to ask, as he is pleased to say, as a member from Massachusetts interested in the property, to inquire whether the jurisdiction of Maine has been infringed upon, exhibiting a kind, parental solicitude, as if she had no one on this floor, or in the other house, to watch over her honor or protect her rights; and this too without any instructions from Massachusetts to move at all in the matter. If Massachusetts believes that Maine has violated her faith pledged to her by the solemn act that effected the separation, let her, as a State, call on Maine as a State, each in their sovereign capacities, for a breach of that

compact, for by that compact alone has she any right of ownership in the territory in question, and with that compact this Federal Government has nothing to do. When Maine fails to fulfil any of her obligations, then she will have a right to complain, and to take such measure, as a State, as she may think advisable; but even then she will have no right to come here for redress. The State of Maine is not to be called to the bar of this house to answer for her conduct to Massachusetts. I aver that the gentleman, in the capacity in which he makes this call, viz., as a representative of Massachusetts, has no right, on this floor, to interfere with the question of jurisdiction of Maine within her own limits. Thank God the time has passed by when she has any legal right to interfere in our internal relations, or external either, excepting such as may regard our engagements with herself. But further, Sir, if she desires information upon this matter, she has the materials for it within herself. She has but to call upon her own land agent, and she will get information much more correct and accurate than can be possibly in the possession of any department of this Government. Her land agent traverses every portion of our extensive forests without let, hindrance, or control; he has as many deputies as he chooses to employ, and the honorable gentleman, from the official situation he has for so many years held as the Governor of Massachusetts, must know full well that no individual in this nation has more information upon that branch of his inquiry than the gentleman who so honorably and faithfully fills the office of her land agent. But, Sir, the honorable gentleman goes further, he calls for any correspondence that may have taken place between the Government of Maine and the Government of the United States, upon this same subject of jurisdiction, and this, too, as I understand, likewise in his capacity as a member from Massachusetts. To this, I answer, that to Massachusetts she is not accountable for any thing that may have taken place between her as a State, and the General Government. Whenever Massachusetts, as an individual owner of certain real estates within her limits is injured by any act of conduct of hers, then she, like all other individuals, may seek her remedy from that State; but she must recollect she is but an individual proprietor, having a stake in the soil, and the soil only.

But, Sir, let us suppose that the gentleman quits the position he assumed, as calling for this information as a member of Massachusetts, and that he calls for it in his relation as the representative of a part of the people of the United States on this floor—should it be granted? Neither of the members from Maine have desired it; nay, the honorable gentleman confesses that he did not consult any one of them upon the subject; neither has the Executive desired it, either for its own justification, or for any other purpose. Neither of the parties interested, and only interested, have made any request on the subject; and yet, the gentleman from Massachusetts, out of his abundant regard and solicitude for the interests and honor of Maine (for I can see no other reason,) wishes to know whether the jurisdiction of Maine has been infringed upon, and desires to see (if any) what correspondence has taken place between her and the General Government on the subject. Sir, it seems to me that such curiosity in a stranger to the parties is improper, if it is not officious. Sir, I do not object to this resolution because I fear that in any manner it will (if passed) implicate the honor of the State which, in part, I represent on this floor. I expressly disavow any such feeling. So far as the honor of the State is concerned, I should be perfectly willing to have every act done, every word written, and every thing proposed or intimated by that State, laid open to the world. I fear not that she would suffer by it. I object solely for two reasons; in the first place, that if, as from the President's message, a hope remains of a peaceable adjustment of this perplexing question, a full answer to the resolution would not do good, but might do harm. And secondly, because the call, coming as it does, is derogatory to the State, and to its members upon the floor of this and the other house, and among whom are some of the gentleman's most ardent political friends. I do not understand from the gentleman that he contemplates any legislative action of this house upon the subject, nor, indeed, can I well see how any can be had. If any communications have taken place between the Government of Maine and the General Government, it must be in the character of the latter, as general guarantee to the individual States of their rights and territory, and to the executive in his capacity as a component part of the treaty-making power, through which all attempts at a peaceable adjustment of this controversy must be had. Does this house seek to intrude itself upon that power, and appropriate to itself rights which, by the Constitution are secured to different branches of the Government? But, Sir, I principally oppose the resolution, because uncalled for as it is, either by the Executive Government on the one hand, and the State on the other. This house ought to have too much respect for the rights of States, to countenance this attempt of the gentleman from Massachusetts, the more especially as from his own statement he does not make the call in his capacity as a legislator of the Union, but as a member of Massachusetts; which State, from common civility to her sister State, should have made the call, if necessary, directly upon her. I warn this house to be careful how they justify this course—how they approbate this precedent. I ask what would have been the language of Georgia, for example, if, contrary to either her wishes or that of the General Government, the correspondence of her Executive with the Executive of the Union, had been called for by a member from a different State, wholly uninterested in the matter, what would have been the feelings of that State, or of any other State in the Union? I say, that a precedent for this call, made in this manner, cannot be found in the whole legislative history of this country; and I again warn the real friends of State rights how they countenance it. It is derogatory to every member of both houses of congress from Maine, because it virtually promises that they are forgetful of her honor and interest—

IV.

Speech of Mr. Lincoln on the boundary of Maine.

[Here Mr. Lincoln disavowed any intention of arraigning Maine, or of interfering in any way with her honor or interest.]

I am well aware, Mr. Speaker, that the honorable gentleman expressly disavows any such intent, and I am not the less aware, Sir, that such is the inference that must be drawn from the resolutions, viz. : that the members from Maine are derelict to her honor and interests, and that they have to take wing and lodge themselves under the protecting and fostering care of Massachusetts. The gentleman says, "Would to God I could speak for "Maine on this floor." Mr. Speaker, I well know that Massachusetts has a strong desire to take the benighted people of Maine under her care and protection, and that nothing prevents but the indifference of the people themselves, to profit by so high an honor. I should have thought, Sir, but for the resolution of yesterday, that the people of the State which the gentleman represents, must by this time have learned, by the frequent rejection of their kind offices, and more particularly by the events of the last summer, that the people of Maine consider themselves as of age, and abundantly capable of forming their own opinions on public matters, protecting their own rights and honor, and securing her own best interests. The gentleman says, the honor of Maine is not in his hands. True, Sir, it is not. It is here in the hands of her Senators and Representatives, and when they shall prove recreant to, or insufficient for, the task confided to them, she will recall them, and either send others better fitted for the trust, or, perhaps, call on the gentleman from Massachusetts for aid.

Mr. Speaker, I again repeat that I do not oppose the passage of this resolution, because I fear that any developements that might be made would compromit the honor of my State. I believe it is "above fear and above reproach;" if not—then let her suffer for it. But, Sir, I oppose it, as setting a precedent injurious, as I believe, to State rights, and as being an unauthorized interference in the affairs existing between one of the Sovereign States of this Union and the General Government, which will tend strongly, to say the least, to destroy all that parliamentary courtesy which ought ever to exist on this floor, between the Representatives of the people of different independent communities.

After speeches from several other members, and a reply from Lincoln to Mr. Parks, the house adjourned without coming to any decision on the question before it.

V.

Report and Resolutions in the House of Representatives of the State
Maine, on the north-eastern Boundary.—February, 1837.

V.

Sir A. Campbell to Lord Glenelg.

My Lord,

Fredericton, New Brunswick, March 7, 1837.

Report and Resolutions in the House of Representatives of the State of Maine.

HEREWITH I have the honor to transmit to your Lordship, the copy of a report laid before the House of Representatives of the neighbouring State of Maine, relative to the north-eastern boundary. I also transmit the Royal Gazette of this province, containing a copy of several resolutions passed by the said House on that report.

I have the honor to be, &c.

The Lord Glenelg.

(Signed)

ARCH. CAMPBELL.

&c. &c. &c.

Inclosure.

Report presented by Mr. Holmes, of Alfred, in the House of Representatives, on the North Eastern Boundary.

February 2, 1837.

THE joint committee to whom was referred so much of the Governor's Message as relates to the north-eastern boundary, and the documents and evidence, together with an order of the two houses instructing the committee "to enquire into the expediency of providing by law for the appointment of commissioners on the part of this 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, to establish monuments in such places as shall be fixed by said commissioners and by commissioners to be appointed on the part of the Government of Great Britain;" have attended to the duties assigned them with the industry and solicitude which the importance of the subject demanded. Could the committee have spared the time, and had the means to obtain documents not within the jurisdiction of the State, and consequently out of its power, a more clear, methodical, and perfect view of the subject would have been presented. But as there had been hitherto so much procrastination, and the impatience of the public, already great, was becoming more and more intense, your committee, without further preamble or apology, ask leave to present the following

REPORT.

The legislature and people of Maine, we believe, will not contend that the Treaty making power of the United States, does not extend to a final adjustment of a disputed line of boundary between a State and a foreign nation; although we are fully aware that such a power might deprive a State of its proper domain, yet inasmuch as the President owes his elevation in part to the federative principle, and the States are equally represented in the Senate, and two-thirds of the members present are necessary to the ratification of a Treaty, each frontier State might be pretty safe from any attempt at dismemberment.

The framers of the Constitution, foresaw that the time might come when the States frontier to foreign territory might be in a minority, and that consequently their unity of interest and safety might not avail them, and it was wisely determined that one more than a third might effectually defeat any attempt to dismember a State by Treaty. And this precaution it seems was necessary, since it already occurs that nine only of the twenty-six States are frontier to foreign territory. But we do insist that no power is granted by the Constitution of the United States to limit or change the boundary of a State or cede a part of its territory without its consent. It is even by no means certain how far such consent would enable the treaty authority to exert its power. Citizens might be made the subjects of a treaty transfer, and these citizens, owing allegiance to the State and to the Union, and allegiance and protection being reciprocally binding, the right to transfer a citizen to a foreign Government—to sell him, might well be questioned, as being inconsistent with the spirit of our free institutions. But be this at it may, Maine will never concede the principle, that the President and two-thirds of the Senate can transfer its territory, much less its citizens, without its permission given by its constitutional organs.

V.
 Report and Resolutions in the House of Representatives of the State of Maine.

Your Committee, however, deem it but fair to admit that they have discovered no inclination in the General Government or any department of it to assume this power. On the contrary, the President has repeatedly declined the adoption of a conventional line deviating from the Treaty of 1783—upon the express ground, that it could not be done without the consent of Maine.

It is due, nevertheless, to the State of Maine to say, that the Committee have no evidence that any conventional line has been proposed to them for their consent. It indeed appears that the consent of Maine had not been given to the adoption of any other boundary than that prescribed by the Treaty of 1783, up to the 29th February, 1836, and we are well assured, that no proposition for a different boundary has since that time been made to any department of the Government of this State.

The President of the United States, on the 15th June last, communicated to the Senate, in compliance with their resolution, a copy of the correspondence relative to the north-eastern boundary. This correspondence embraced a period from the 21st July, 1832, to the 5th March, 1836.

The opinion and advice of the King of the Netherlands, to whom the controversy was referred, by the provisions of the Treaty of Ghent, was made on the 10th January, 1831, and of the three questions submitted, viz.: The north-eastern boundary—the north-westernmost head of Connecticut River,—and the 45th parallel of latitude, he seems to have determined but one. He did decide that the source of the stream running into and through Connecticut Lake is the true north-western head of that river, as intended by the Treaty of 1783;—and as to the rest, he advises that it will be convenient (*il conviendra*) to adopt the “Thalweg” the deepest channel of the St. John’s and St. Francis, from the north line; and that the forty-fifth degree is to be measured in order to mark out the boundary to the St. Lawrence, with a deviation so as to include Rouse’s Point within the United States. As to the convenience of establishing the St. John’s and St. Francis as the northern boundary of Maine, we have only to observe, that however “convenient” it may be to Great Britain to obtain so large a portion of our territory and waters, it would certainly be very inconvenient to us, and inasmuch as we are probably capable of judging of our own “convenience,” and have never solicited the advice of any one on this point, it is scarcely to be expected that we shall be advised to adopt a line, so preposterous and injurious.

It was in this view and in strict conformity with the constitution conferring the Treaty Power, that the President on the 7th December, 1831, submitted to the Senate this “award” and “advice” of the King of the Netherlands. Senators were divided on a principal point; some insisting that to carry the award or opinion into effect was only in execution of the Treaty, and it therefore belonged exclusively to the President “to take care” that this “supreme law” was faithfully executed, or to reject it altogether.

But the prevailing opinion was, that this “award” or “advice” was perfecting an unfinished Treaty, and that therefore it could not be effected by the President without “the advice and consent of the Senate, two-thirds of the members present concurring therein.” So far from the concurrence of two-thirds for the measure, there were thirty-four to eight against it, and it was consequently rejected, and a recommendation to the President was adopted to open a new negotiation to determine the line of boundary according to the Treaty of 1783.

It is insisted by the British Ministers, and almost conceded by ours, that a due north line from the monument at the source of the St. Croix, will intersect no highlands described in the Treaty of 1783. Now this is an assumption, by Great Britain, totally unwarranted by any evidence. The boundaries bearing upon the question are thus given: “From the north-west angle of Nova Scotia, to wit, 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 the rivers that empty themselves into the 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 St. Lawrence.”

The first object, starting place, or *terminus aquo*, is this north-west angle of Nova Scotia. It is the corner of the British Province, designated by themselves. It was presumed, and it is still believed, that they knew the identical spot. We have a right to demand of them to define it. In the Treaty of 1783, they were disposed to define it, and hence they say it is that angle which is formed by a line drawn due north from the source of the St. Croix, to those highlands which divide the rivers that flow into the St. Lawrence, from those which flow into the Atlantic Ocean.

Nothing can be more clear than that the British negotiators of the Treaty of 1783, had reference to their east and west line between Canada and Nova Scotia. This in 1755—6 was matter of controversy between France and England; the French claiming that it was far south, and the British strenuously contending that these very highlands were even more north than we have endeavored to fix them.

The controversy resulted in a war, which, after the capture of Quebec, was terminated by the peace of 1763, whereby Great Britain obtained both sides of the line, and she then established the north line of Nova Scotia about where we contend it should be. So far

from admitting that a due north line from the monument will not intersect the highlands intended by the Treaty of 1783, the State of Maine has always insisted, and still insists, that no known obstacle exists to the ascertaining and accurately defining them, and thus establishing the *terminus aquo*, to wit, the north-west angle of Nova Scotia. It would seem strange indeed, that as this line, so fully discussed and controverted between the English and French in 1755—6, should have been left unsettled still, when both provinces became British. It is impossible to imagine such ignorance of so important a point as this north-west angle, so often referred to, and spoken of as a notorious monument.

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The peace of 1783 was considered by Great Britain as a grant by metes and bounds. The boundaries were prescribed, and this north-west angle was the commencement. Twenty years only before this (1763), Nova Scotia had been organized as a distinct province, then including what are now Nova Scotia and New Brunswick,—and this angle was referred to as a boundary without hesitancy or doubt. Indeed the Treaty itself, as if to make assurance doubly sure, fixed it where a due north line from the source of the St. Croix will intersect those highlands which divide the rivers which flow into the River St. Lawrence from those which flow into the Atlantic Ocean. This source of the St. Croix has been determined, and a monument fixed there by the Commissioners under the fifth Article of the Treaty of 1795 (Jay's). Now the assumption that the north line from this monument, will intersect or meet no such highlands, is entirely gratuitous.

The Treaty does not speak of mountains, nor even hills, but of "highlands" that divide rivers flowing different ways. It was well known that rivers did fall into the St. Lawrence and into the Atlantic;—that these rivers would run down and not up, and it was consequently inferred that the land from whence these rivers flowed, must of necessity be high;—and unless there are to be found in that region geological phenomena which exist nowhere else on the face of the globe, this inference is irresistible.

The truth is, that these highlands have been known and well understood by the British themselves, ever since the grant of James the first, to Sir William Alexander, in 1621. The portion of the boundary there given, which relates to this controversy, is "from the western spring head of the St. Croix by an imaginary line, conceived to run through the land northward to the next road of Ship's River or spring, discharging itself into the Great River of Canada, and proceeding thence eastward along the shores of the sea of the said River of Canada, to the road, haven, or shore, commonly called *gaspeck*"—(*gaspe*.)

The cession of Canada by France made it necessary to define the limits of the province of Quebec, and accordingly His Britannic Majesty, by his Proclamation of 7th Oct. 1763, is thus explicit as to what affects this question—"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 de Chaleurs, and the coast of the Gulph of the St. Lawrence to Cape Rosiers," &c.

The Act of Parliament of the 14 George III. (1774), defines thus the south line of Canada:—"South by a line from the Bay de Chaleurs along the highlands which divide the rivers that empty themselves into the River St. Lawrence from those which flow into the sea." The north line of the grant to Alexander is from the source of the St. Croix to the "Spring head" or source of some river or stream which falls into the River St. Lawrence, and thence eastward to Gaspe Bay, which communicates with the Gulph of St. Lawrence, in latitude 49. 30., and would make nearly an east and west line. The Proclamation of 1763 defines the south line of the province of Quebec, as passing along the highlands which divide the rivers that fall into the St. Lawrence, from those which fall into the sea, and also along the north coast of the Bay de Chaleurs, to the Gulph of St. Lawrence. This is the south boundary, and consequently in an east and west direction, but it passes north of Bay de Chaleurs, wherefore the south boundary of the province must of necessity be north of Bay de Chaleurs. The eastern boundary is northerly by the Gulph to Cape Rosiers, in about latitude 50, longitude 64, north of Gaspe Bay, and at the mouth of the River St. Lawrence, where it communicates with the gulph or sea. And the Act of Parliament makes this south side from this same bay along those highlands, and it must inevitably run west, or it is no south boundary. Now no one can doubt that, in the Proclamation of 1763, it was the intent to adopt Sir William Alexander's northern, for this southern, boundary of the province of Quebec.

Indeed it appears in every commission to the Governor of Nova Scotia and New Brunswick from 1763 to 1784, and after the Treaty of Peace of 1783, that the province of Nova Scotia extended to the southern boundary of the province of Quebec. It then irresistibly and inevitably follows that a west line from the Bay de Chaleurs intersecting a due north line from the monument is the identical north-west angle. Now a line from Mars Hill direct to Cape Rosiers, instead of being easterly, would be north of northeast crossing the Bay de Chaleurs. But passing along its north coast as the proclamation provides, the line from this Mars Hill must be more northerly still. Indeed the pretence that a pyramidal spur or peak such as this hill should constitute the range of highlands, mentioned in the Treaty, is so utterly visionary that it is entitled to no sort of respect.

We may now, by these facts and reflections give this enquiry a right direction, to wit—to the ascertainment of the north boundary of Nova Scotia, which is the southern boundary of Canada. We have always been lured from this by the British negotiators to the left or west of this north line from the monument.

No one, who is in the least conversant with the subject, can suppose for a moment

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that this north-west angle can be found in such a direction. The question for us is, are there any highlands north of the Bay de Chaleurs extending in a western direction towards a north line drawn from the monument. If this line westerly from the Bay be not distinctly marked so far as to interest this north line, the principle is, to extend it in the same direction to the place of intersection; that is, if the line between Nova Scotia and Canada is west, to within say thirty miles of the north line from the monument, and the rest of the way is indefinite or obscure, extend it on, in the same direction, until you form a point of intersection, and this will be the north-west angle of Nova Scotia. But the truth is the highlands are there, and have been found in running due north from the monument.

The elevations were taken by the British surveyor from the source of the St. Croix, at the monument to the first waters of the Restigouche; and at Mars Hill forty miles—the summit of this isolated sugar-loaf was eleven hundred feet, and at the termination of the survey at the Ristigouche waters, one hundred miles further, the elevation was sixteen hundred feet, consequently the summit of Mars Hill, eleven hundred feet above the waters of the St. Croix, is five hundred feet lower than the lands at the Ristigouche, and yet the pretence is that there are no highlands, but this detached spur, Mars Hill! Still further, the highest position surveyed, is nearly fifty miles short of the Metis, which falls into the St. Lawrence and we do not perceive that the elevations have been taken there at all; but we do find, it is here that the waters separate, and consequently the land must be still higher.

In failure of highlands (assumed not to exist) the British negotiators claim a line, which instead of dividing the St. Lawrence and Atlantic waters would actually extend between two rivers, both of which fall into the Atlantic.

To say nothing of the absurdity, not to say arrogance, of such a claim, it is enough that it is in the teeth of the Treaty itself. It is painful to repeat the argument that no other highlands were intended, for all others were expressly excluded, but those which divide the waters that flow in those different directions. The effect of their construction, as we all know, is to give them the whole of the St. John, with all its tributaries and a tract of territory south of that river, equal at least to seventy-five miles square.

Whether from the peaceful spirit of our Government, the Christian patience of Maine, or the "modest assurance" of the British negotiators, any or all, certain it is, that His Britannic Majesty's pretensions are growing every day. It is not only an after-thought, but one very recently conceived, that we were to be driven south of the St. John.

His Britannic Majesty's agent (Mr. Chipman) who has been lately urging us south of that river, was also agent to the commission under the Treaty of 1795, to ascertain the true St. Croix, and in insisting on a more western branch of this river, gives as a reason, that a line due north will cross the St. Johns further up, whereas, if you take an eastern branch, such line will cross near Fredericton, the seat of Government of New Brunswick, and materially infringe upon His Majesty's province. He not only admits, but contends, that this north line must cross the river. Here are his words: "This north line must of necessity cross the river St. Johns." Mr. Liston, British Minister, in a private letter to Mr. Chipman of 23rd October, 1798, recommends a modification of the powers of the commissioners, for the reason, that it might give Great Britain a greater extent of navigation on the St. Johns River. The same agent (Mr. Chipman) was also agent under the fourth article of the Treaty of Ghent, and we find him contending there, that the north-west angle of Nova Scotia is the same designated in the grant to Sir Wm. Alexander, in 1621, "subject only to such alterations as were occasioned by the erection of the province of Quebec, in 1763." Now we have already seen that this south line of the province of Quebec, so far from altering this north-west angle, in fact confirms it.

In perfect accordance with this disposition to encroach, is a proposition of the British Minister (Mr. Vaughan,) that inasmuch as the highlands cannot be found, by a due north direction from the monument, we should vary west until we should intersect them, but not east! Now that, in case a monument cannot be found in the course prescribed you should look for it, at the left, but not to the right, seems to us a very sinister proposition. We have shewn, and, as we think conclusively, that the range of highlands is to be looked for on British ground and no where else; because it is their own boundary, and a line which must, with an ascertained north line, form the angle of one of their own provinces. And yet we are not to examine there at all, we have never explored the country there, and are expected to yield to such arrogant, extravagant, and baseless pretensions!

We would ask, why? in what justice, if we cannot find the object in the route prescribed, are we to be thus trammelled? where is the reciprocity of such a proposition, so degrading to the dignity, and insulting to the rights and liberties of the State? No, the people of Maine will not now, and we trust they never will, tamely submit to such a one-sided measure.

The next restriction or limitation, with which this negotiation is to be clogged, is an admission that the Ristigouche and St. Johns are not Atlantic Rivers—because one flows into the Bay de Chaleurs and the other into the Bay of Fundy—yet neither falls into the River St. Lawrence. They would then find those highlands between the St. Johns and the Penobscot. There cannot be a more arrogant pretension or palpable absurdity. Suppose the waters of both these rivers are excluded, as flowing neither way, still the waters that flow each way are so far separated as to leave a tract of country which, if equally

divided, would carry us far beyond the St. Johns. But we admit no such hypothesis. The Atlantic and the sea are used in the charters as synonymous terms. The Ristigouche uniting with the Bay de Chaleurs, which communicates with the sea, and the St. Johns uniting with the Bay of Fundy, which also communicates with the sea, and that too by a mouth ninety miles wide, are both Atlantic Rivers. These rivers were known by the negotiators not to be St. Lawrence Rivers, they were known to exist, for they were rivers of the first class. If they were neither St. Lawrence nor Atlantic why were they not excepted? They were not of the former, therefore they must be included in the latter description. Indeed if rivers uniting with Atlantic Bays are not Atlantic Rivers, the Penobscot and Kennebec, which unite with the respective Bays of Penobscot and Sagadahock, would not be Atlantic Rivers; and then where are those highlands which divide the waters referred to in the Treaty of 1783? Should we leave this question unsettled a little longer and the British claims continue to increase, we might very soon find these highlands south of the Connecticut and all the intermediate country would be recolonized by "construction." We therefore invoke the sympathy of all New England with New York besides, to unite against this progressive claim—this avalanche which threatens to overwhelm them as well as ourselves.

Again, if this Mars Hill (and we confess we cannot speak of the pretension with any patience) is the north-west angle, and the north boundary of Nova Scotia and the south boundary of the Province of Quebec are the same and north of the Bay de Chaleurs, then there is indeed no north-west angle; for a line, due north from the monument passing by Mars Hill, must pursue nearly the same direction to get to the north of that Bay without crossing it; and who ever thought of an angle at the side of a continuous line? Now according to the British maps, taken in this very case, you must run a course of north about fourteen degrees east to obtain the north side of the bay without crossing it, and the distance would be, in this almost due north direction, more than one hundred miles—while that from the monument to Mar's Hill would be little more than forty. Now when we consider that this northerly line must form nearly a right angle to pass along the north shore of the Bay de Chaleurs, that this is one hundred miles further north than Mar's Hill, where, instead of an angle, there can be only an inclination of fourteen degrees, can there be a greater absurdity than the British claim founded on these facts?

We will now present some facts and remarks in regard to the surveys and explorings made by the commission under the fifth article of the Treaty of Ghent. And the first fact that occurs is, that the elevations taken by the British surveyor, stop far short of where the waters divide, and we find no proof that these elevations were carried through by our own surveyors. If the British surveyor, after ascertaining he was still ascending, and had in fact arrived at the lands at a branch of a river elevated 500 feet even above the summit of Mar's Hill, found it prudent to stop short, we see no good reason why the American agent did not proceed on and take accurate elevations, at a place where the waters divide. If such a survey was made, the committee have not been able to obtain the evidence—it is not in the maps or documents in the library or office of the Secretary of State, and the committee believe that no such elevations have been taken northerly of the first waters of the Ristigouche. It is indeed a little singular that we have so little evidence, not only in regard to this height of land, but also of the rivers which flow into the St. Lawrence to the left, and especially to the right, of the north line from the monument.

We know some of them, to be sure, such as the Oelle Kamouska, Verte, Trois Pistoles, Remouskey, and Métis, on the left, and the Blanche, Louis, Magdalen, and others on the right of this line, but we know them chiefly as on maps, and as transcribed from older maps—but very little from actual survey or even exploration. An examination of the sources of those rivers at the right of this north line, with the important natural boundary—the north shore of the Bay de Chaleurs would accurately define the divisional line, between the province of Quebec and Nova Scotia, which extending west, would intersect the due north line and thus form the north-west angle of Nova Scotia.

It moreover appears that little or no exploration has been made of the lands east of the due north line. It seems strange to us, although it may be satisfactorily explained, why we should have been drawn away from this very important region. It is indeed the true source of enquiry. In this direction the evidence is to be found; and Maine can never be satisfied until it is looked for here.

An extraordinary method of adjusting this question, though in perfect accordance with other pretensions, has been proposed by Great Britain—that the disputed territory should be divided in equal portions, each party being satisfied of the justice of its claims. To this proposition we cannot subscribe. It is equally unjust between nations and individuals. Whether a party in controversy is satisfied or not with the justice of his claims, is what is only known to himself, and consequently the one whose claims are most exorbitant, however unjust, will always get the best end of the bargain. But such a rule would in this case apply most unfortunately to Maine. We are limited at farthest to the St. Lawrence, and to a very narrow point there—while the British may extend their claims to the south and west indefinitely. Establish this principle, and we shall soon find their claims, already so progressive, stretched over to the Piscataqua, and then if we are to divide equally, both as to quantity and quality, the divisional line would then fall south of the Kennebec. If the want of the consent of Maine is the obstacle to such an adjustment, we trust it will always remain an insuperable one. Indeed, we protest against the application to us, of such a rule, as manifestly unequal and unjust.

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We come now to the recent transactions of the British colonial authorities, sanctioned, as it appears, by the Government at home—and we regret to perceive in them also those strong indications of continual and rapid encroachment, which have characterised that Government in the whole of this controversy. Mr. Livingston in his letter of July 21, 1832, proposes that “until the matter be brought to a final conclusion both parties should refrain from the exercise of ‘jurisdiction,’” and Mr. Vaughan in reply, of April 14, 1833, in behalf of his Government “entirely concurs.”—Here then the faith of the two Governments is pledged to abstain from acts of jurisdiction until all is settled. Now, how are the facts? We understand and indeed it appears by documents herewith exhibited, that an act has passed the Legislature of New Brunswick, “incorporating the St. Andrews and Quebec Rail-road Company,” that the King has granted £10,000. to aid the enterprise, and that the Legislature of Lower Canada, by its resolutions of both houses, has approved the scheme and promised its co-operation. It may be, that the Government at home was not aware that this rail-road must inevitably cross the disputed territory.

But this ignorance of the subject seems incredible. A rail-road from St. Andrews to Quebec would be impossible, unless it crossed the territory in question. Even next to impossible and totally useless, were it to pass at the north of the St. Johns. It seems therefore extraordinary indeed that the British Government, even in the incipient stages of this enterprise, should make an appropriation which is in direct violation of its solemn pledge. To give to a rail-road corporation powers over our rights and property, is the strongest act of sovereignty. It is an act of delegated power which we ourselves give to our own citizens with extreme caution, and with guarded restrictions and reservations. This rail-road must not only cross the disputed territory, but it crosses it fifty miles south of the St. John's, and almost to the southerly extremity of the British claim, extravagant as it is. By the map herewith exhibited, of the survey of the route, it appears that the road crosses our due north line at Mars Hill, thence doubling round it, toward the south, it crosses the Roostic between the great and little Machias, the Alleguash at the out-let of first Lake, a branch of the St. Johns, south of Black River, and passes into Canada between Spruce Hills on the right and Three Hills on the left, thus crossing a tract of country south of the St. Johns one hundred by fifty miles. We have not a copy of the Act of Incorporation of New Brunswick, and cannot therefore say that the route there defined is the same as on the map. But be this as it may, certain it is, as any one will see, that no possible route can be devised which will not cross the territory in question. It is then a deliberate act of power, palpable and direct, claiming and exercising sovereignty far south even of the line recommended by the King of the Netherlands.

In all our enquiries and examinations of this subject there has been great negligence in regard to this north-west angle. Judge Benson, one of the commissioners under Jay's Treaty, in a letter to the President of the United States expressly and clearly defines this angle. He states distinctly that the due north line from the source of the St. Croix is the west side line, and the highlands are the north side line which form this angle, and this had never been questioned by the British themselves.

This due north line—viz. the west side line, was established by the commission of which Judge Benson was a member, and the British have made the north side line to be north of the Bay de Chaleurs, and yet with these postulates to pretend that the points of intersection cannot be found, is one of the greatest of their absurdities. And another absurdity quite equal is, that after passing west along the north shore of this bay, they would fall down nearly south more than one hundred miles to Mars Hill, about sixty miles from the south shore of the province at the Bay of Passamaquoddy, which is part of the Bay of Fundy; and this point too of so little inclination, that it is a palpable perversion of language to call it an angle, much more a north-west angle.

It is indeed time for us to begin to search and in the right places too, in order to put a stop to these perpetual encroachments upon our territory and rights. Our first object should be to ascertain and trace the north boundary of Nova Scotia which is the south boundary of the province of Quebec, and see if Canada comes as far down as Mars Hill. And we should proceed to finish taking the elevations on the due north line to some point where the waters divide. The General Government should be immediately called on to execute the work with the co-operation of Massachusetts and Maine. Notice should be given to the British authorities to unite in the undertaking, and if they refuse, our Government ought to proceed *ex parte*. The act would be entirely pacific, as the object would be to ascertain facts, much more pacific than the survey, without notice, of the St. Andrews and Quebec rail-road, through our territory, not for the purpose of ascertaining a boundary, but to assume jurisdiction.

Your committee have gone through this tedious investigation with all the deliberation, exactness and candour, which our time, means, and feelings would allow. Our animadversions may, in some instances, have been strong and even severe, but we think we have expressed the sentiments and feelings of the people of Maine suffering under protracted injuries. The State should take a firm, deliberate, and dignified stand, and one which it would not retract. While it awards to the General Government all its legitimate powers it will not be forgetful of its own. We call upon the President and Congress, we invoke that aid and sympathy of our sister States, which Maine has always accorded to them; we ask, nay we demand, in the name of justice, how long we are to be thus trampled

down by a foreign people? and we trust we shall meet a cordial and patriotic response in the heart of every republican of the Union. Your committee, therefore, submit the following resolutions.

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L. J. HAM,
NATHANIEL S. LITTLEFIELD,
SAM'L P. BENSON,
EBEN'R HIGGINS,
JOHN R. REDMAN,
Of the Senate.

JOHN HOLMES,
J. A. LOWELL,
NATHAN IDE,
DANIEL SMALL,
SEWALL PRESCOTT,
EPHRAIM WEEKS,
JAMES BURBANK,
CHARLES HUNT,
JOHN D. RICHARDS,
Of the House.

STATE OF MAINE.

Resolves relative to the north-eastern Boundary.

1st. Resolved,—That we view with much solicitude the British usurpations and encroachments on the north-eastern part of the territory of this State.

2d. Resolved,—That pretensions so groundless and extravagant indicate a spirit of hostility, which we have had no reason to expect from a nation with whom we are at peace.

3d. Resolved,—That vigilance, resolution, firmness, and union on the part of this State, are necessary in this state of the controversy.

4th. Resolved,—That the Governor be authorized and requested to call on the President of the United States to cause the north-eastern boundary of this State to be explored and surveyed, and monuments erected according to the Treaty of 1783.

5th. Resolved,—That the co-operation of Massachusetts be requested.

6th. Resolved,—That our senators in congress be instructed, and our representatives requested, to endeavor to obtain a speedy adjustment of the controversy.

7th. Resolved,—That copies of this report and resolutions, be transmitted to the Governor of Massachusetts, the President of the United States, to each of our senators and representatives in congress, and other senators in congress, and the governors of the several States.



VI.

Correspondence respecting a projected Railway, between the Cities of Quebec and St. Andrews, through a portion of the Disputed Territory.—1837.

No. 1.—*Henry S. Fox, Esq. to Viscount Palmerston.*—(Received April 24.)

(Extract.)

Washington, March 29, 1837.

THE United States Government are informed that it is projected to construct a railroad between the city of Quebec and the city of St. Andrews, in New Brunswick, and that the project has been, to some extent, patronized and sanctioned by the legislatures and civil authorities of Canada, New Brunswick, and Nova Scotia. It is alleged that the line of this railroad is destined to traverse the territory at present in dispute between the two countries. The President of the United States, therefore, distinctly protests against the prosecution of the work, as an encroachment upon the American rights, and an unwarrantable assumption, by the British Colonial authorities, of the claim in dispute; and he calls upon His Majesty's Government to use such means as may appear proper for suspending the enterprise in question, during the continuance of the pending amicable negotiations respecting the north-eastern boundary.

As I am, of course, not acquainted with the views and wishes of His Majesty's Government upon the above subject, I have, in the inclosed reply to Mr. Forsyth, simply acknowledged the receipt of his note, and undertaken to convey the same immediately to your Lordship's knowledge. I have, at the same time, judged it expedient to communicate Mr. Forsyth's note, confidentially, to the Governors of Canada, New Brunswick, and Nova Scotia, in order that they may be enabled, without the loss of time required by reference from home, to transmit to His Majesty's Government such observations as the statements contained in that note may suggest to them, with such local information as may put His Majesty's Government fairly in possession of the facts of the case. I have also requested His Majesty's Governors of the aforesaid provinces to favour me with their respective opinions and views upon the same subject, for my own information; but I shall abstain from entering into any official discussion of the question with the United States' Government, without precise instructions from your Lordship.

Inclosure 1. in No. 1.

The Hon. John Forsyth to Henry S. Fox, Esq.

Department of State, Washington, March 23, 1837.

THE Undersigned, &c., has the honor by direction of the President to invite the attention of Mr. Fox, &c., to a subject which, from its high importance, demands the prompt consideration of His Majesty's Government.

It appears from representations and documents recently received at the Department of State, that a number of the inhabitants of the town of St. Andrews in New Brunswick, associated themselves together, in the year 1835, by the name of the St. Andrews and Quebec Railroad Association, for the purpose of bringing into public notice the practicability of constructing a railway between those ports, and that sundry resolutions were passed in furtherance of this object, and that the project was sanctioned and patronized by the Governor in Chief of British North America,—the Lieutenant-Governors of New Brunswick and Nova Scotia,—and the Legislatures and people of Lower Canada and New Brunswick. That the route of the proposed railroad had been explored as far as the head waters of St. Johns river, by surveyors employed by the Association. That an Act has actually passed the Legislature of New Brunswick, incorporating this Company, and that a similar Act was expected to be passed in Lower Canada; that letters were addressed to the Boards of Trade, of Quebec and Montreal, requesting their co-operation,—that these communications were favorably received, and that petitions had been forwarded to His Britannic Majesty, signed by committees of the Association, and by inhabitants of the cities of Quebec and Montreal, soliciting the construction of a railway between the ports above named, or the extension of royal aid and protection to the petitioners in the proposed undertaking.

Without allowing himself to believe for a moment that His Britannic Majesty's Government will, in any manner, countenance the projected railroad from St. Andrews to Quebec, when the slightest inspection of the map of the country which it crosses, will shew that its intended location would be, for a great portion of the route, an encroachment upon the territory in dispute, between the United States and Great Britain,—the President yet sees cause for great surprise and deep regret in the fact, that the civil authorities of His Majesty's Provinces on our north-eastern borders, should have lent their encouragement to, or should, in anywise have promoted an undertaking which, if persevered in, will inevitably lead to the most disastrous consequences.

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VI.

Correspondence respecting projected Railway through the disputed territory.

Inclosure 1 in No. 2.

VI.

John Backhouse, Esq. to J. Stephen, Esq.

Sir,

Foreign Office, May 10, 1837.

I AM directed by Viscount Palmerston, to transmit to you a Copy of a Despatch from Mr. Fox, His Majesty's Minister at Washington, inclosing a copy of an official Note which he had received from Mr. Forsyth, Secretary of State of the United States of America, upon important subjects connected with the question of the boundary line between the United States and His Majesty's possessions in North America.

I am to request that you will lay these papers before Lord Glenelg for his Lordship's consideration.

J. Stephen, Esq.
&c. &c. &c.

I am, &c.,
(Signed) J. BACKHOUSE.

Correspondence
respecting project-
ed Railway through
the disputed terr-
tory.

Inclosure 2 in No. 2.

J. Stephen, Esq. to John Backhouse, Esq.

Sir,

Downing Street, June 2, 1837.

I AM directed by Lord Glenelg to acknowledge the receipt of your letter of the 10th instant, inclosing copies of a correspondence which has passed between His Majesty's Minister at Washington, and the Secretary of State of the United States on subjects connected with the boundary question, and more especially with reference to the proposed rail-road between Quebec and St. Andrews.

It appears to Lord Glenelg, that under all the circumstances of the question, it would be impossible for His Majesty's Government to resist the protest of the Government of the United States, and he has accordingly directed an instruction to be prepared for the Earl of Gosford and Sir John Harvey, of which the inclosed is a copy.

John Backhouse, Esq.
&c. &c. &c.

I have, &c.
(Signed) JAS. STEPHEN.

Inclosure 3 in No. 2.

Lord Glenelg to the Earl of Gosford.

My Lord,

Downing Street, June, 1837.

I HAVE the honor to inclose to you herewith a copy of a letter addressed to this Department by direction of Viscount Palmerston, containing a correspondence between His Majesty's Minister at Washington, and the Secretary of State of the United States, on subjects connected with the adjustment of the boundary line, and more especially with reference to the proposed railroad between Quebec and St. Andrews in New Brunswick. You will observe that the Government of the United States distinctly protest against any further progress in that undertaking, on the ground that it would be an infringement of the agreement at present subsisting between the two countries in regard to the disputed territory.

His Majesty's Ministers do not attempt to deny the force of this objection, and much as they regret any obstacle to an undertaking which promised such advantageous results, they cannot sanction any further progress in it, in opposition to the express remonstrance of the Government of the United States.

Anxious, therefore, to act towards that Government in a spirit of the utmost fairness and conciliation, His Majesty commands me to instruct your Lordship to take the most effectual measures for preventing any infringement on the disputed territory by His Majesty's subjects in Lower Canada.

The Earl of Gosford.
&c. &c. &c.

I have, &c.
(Signed) GLENELG.

No. 3.—*Henry S. Fox, Esq. to Viscount Palmerston.*

My Lord,

Washington, November 24, 1837.

AFTER receiving your Lordship's despatch, of the 5th of July, conveying to me the decision of Her Majesty's Government, with reference to the projected railroad between the city of Quebec and the city of St. Andrews, in New Brunswick; I verbally communicated that decision to the United States' Secretary of State, Mr. Forsyth. The President, shortly afterwards, personally requested me to make the same communication in writing,

as it would be satisfactory to him, he said, to be enabled to transmit the information in the same form to Maine, where a knowledge of the favourable result of the representation from his country upon the subject of the railroad, would tend to allay the irritation then recently excited by the arrest and imprisonment of Ebenezer Greely. The President at the same time expressed to me his satisfaction at the ready and obliging manner in which Her Majesty's Government had been pleased to listen to the remonstrance which he had found it his duty to address to them. Although I was not formally instructed by your Lordship to make such a communication in writing, I considered myself justified, under the circumstances of the case, in complying with the personal request of the President, more especially as the further overture which your Lordship directed me to make, respecting the projected railroad, presupposed a knowledge by the American Government of a relinquishment of the project in the first instance, on the part of Great Britain. I accordingly addressed to Mr. Forsyth the short notification, which I have herewith the honour to inclose.

I have the honour to be, &c.

(Signed)

H. S. FOX.

Viscount Palmerston, G.C.B.
&c. &c. &c.

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ed Railway through
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tory.

Inclosure in No. 3.

Henry Fox, Esq., to the Hon. John Forsyth.

Sir,

Washington, August 24, 1837.

WITH reference to the official note, which by direction of the President you addressed to me on the 23rd of March last, respecting the projected railroad between the cities of Quebec and St. Andrews, which, it was apprehended would, if carried into effect, traverse a part of the territory at present in dispute between Great Britain and the United States, I am now enabled to inform you, that in consideration of the arguments and observations contained in your note, Her Majesty's Government has been pleased to direct the colonial authorities of Lower Canada and New Brunswick respectively, to cause all operations connected with the above mentioned project, within the limits of the disputed territory to be immediately discontinued.

I have the honour to be, &c.

(Signed)

H. S. FOX.

The Hon. John Forsyth,
&c. &c. &c.

VII.

Further attempts of the Authorities of the State of Maine to exercise Jurisdiction within the Disputed Territory.

FIRST MISSION OF EBENEZER GREELY.

No. 1.—*A. Stevenson, Esq., to Viscount Palmerston.*—(Received August 12.)

23, Portland Place, August 10, 1837.

THE Undersigned, Envoy-Extraordinary, and Minister-Plenipotentiary from the United States, has the honor, in pursuance of instructions from his Government, to transmit to Lord Palmerston, Her Majesty's Principal Secretary of State for Foreign Affairs, copies of sundry official documents, detailing the circumstances under which a most unwarrantable outrage has recently been committed, by the authorities of the province of New Brunswick, upon the rights and liberty of a citizen of the United States.

From these papers it appears that Ebenezer S. Greely, a citizen of the State of Maine, was duly appointed for the purpose of taking an enumeration of the inhabitants of that State under an Act of its Legislature.

That on the 6th of June last, whilst Mr. Greely was employed in performing this duty, and taking down the names of the inhabitants residing in that part of the disputed territory claimed by the United States, as lying within the limits of Maine, he was forcibly arrested by the authorities of New Brunswick, immediately transported in custody to the town of Fredericton, and imprisoned in the public gaol, where he still remains. This proceeding by the authorities of New Brunswick having produced, as might justly have been expected, very deep excitement in Maine, was followed by an immediate appeal from the Governor of that State to the Government of the United States, for intervention and redress.

This application on the part of Maine, having received the special consideration of the President, the Undersigned has been instructed to lose no time in presenting the subject to the early and earnest attention of Her Majesty's Government, and demanding not only the immediate liberation of Mr. Greely from imprisonment, but indemnity for the injuries which he has sustained.

In fulfilling these instructions of his Government, it is not the purpose of the Undersigned to open the general discussion of the respective claims of Great Britain and the United States to the disputed territory, (within which Mr. Greely was arrested,) or the right of either Government to exercise exclusive jurisdiction within its limits. Whatever opinion the Undersigned may entertain as to the rightful claim of the State of Maine to the territory in dispute, and however unanswerable he may regard the arguments by which the claim may be sustained, he deems it neither proper or needful to urge them upon the consideration of Her Majesty's Government, in the discussion of the present case, more especially as the whole subject is elsewhere and in another form matter of negotiation between the two Governments, where the discussion of the question of right more appropriately belongs.

The Undersigned, moreover, does not presume, that pending the negotiation, and whilst efforts are making for the peaceable and final adjustment of these delicate and exciting questions, Her Majesty's Government can claim the right of exclusive jurisdiction and sovereignty over the disputed territory, or the persons residing within its limits. In such a claim of power, on the part of Great Britain, or its provincial authorities,—the Undersigned need not repeat to Lord Palmerston, what he is already fully apprized of—the Government of the United States can never consent to acquiesce, in the existing state of the controversy. On the contrary, the mutual understanding which exists between the two Governments on the subject, and the moderation which both Governments have heretofore manifested, forbids the exercise by either of such high acts of sovereign power as that which has been exerted in the present case by the authorities of Her Majesty's Provincial Government.

The Undersigned must therefore suppose that this arrest and imprisonment of an American citizen under such circumstances, and in the existing state of the controversy could only have been justified by some supposed infringement of the understanding existing between the parties in relation to the question of jurisdiction within the limits of the disputed territory. Such, however, was not the case. The correspondence between the Governor of Maine and the Lieutenant-Governor of New Brunswick shows, that the only act done by Mr. Greely was the simple enumeration of the inhabitants, and it is not perceived how such an act could be construed into a breach of the understanding between the two Governments.

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It is proper also to remark, that this was not the first time that the inhabitants of this particular settlement had been enumerated under the authority of the United States. It was done in the census of 1820, as a portion of the State of Maine, and was at the time neither objected to or remonstrated against by the British Government, or that of New Brunswick.

Wherever then the right of jurisdiction and sovereignty may dwell, the Undersigned feels satisfied that Her Majesty's Government cannot fail to perceive that the arrest and imprisonment of Mr. Greely under the circumstances of this case, was not only a violation of the rights of the United States, but was wholly irreconcilable with that moderation and forbearance which it is peculiarly the duty of both Governments to maintain until the question of right shall be definitively settled.

It becomes the duty of the Undersigned therefore, in pursuance of special instructions from His Government, to invite the early and favourable consideration of Her Majesty's Government to the subject, and to the demand as a matter of justice and right, the immediate discharge of Mr. Greely from imprisonment, and a suitable indemnity for the wrongs he has sustained.

Before closing this note, the Undersigned will avail himself of this occasion to remind Lord Palmerston of the urgency which exists for the immediate and final adjustment of this long pending controversy, and the increased obstructions which will be thrown in the way of its harmonious settlement, by these repeated collisions of authority and the exercise of exclusive jurisdiction by either within the disputed territory.

He begs leave also to repeat to his Lordship, assurances of the earnest and unabated desire which the President feels, that the controversy should be speedily and amicably settled, and to express the anxiety with which the Government of the United States is waiting the promised decision of Her Majesty's Government upon the proposition submitted to it as far back as July, 1836, and which the Undersigned had been led to believe would long since have been given; and he has been further directed to say, that should that proposition be disapproved, the President entertains the hope that some new one on the part of Her Majesty's Government will immediately be made for the final and favorable termination of this protracted and deeply exciting controversy.

The Undersigned prays Lord Palmerston to receive renewed assurances of his distinguished consideration.

Viscount Palmerston, G.C.B.,
 &c. &c. &c.

A. STEVENSON.

Inclosure 1 in No. 1.

The Governor of the State of Maine to the Executive Department, July 3, 1837.

Sir,

Augusta, June 27, 1837.

I LOSE no time in communicating to your Excellency a copy of a letter from Sir John Harvey, Lieut.-Governor of the Province of New Brunswick, and also of a letter from J. A. McLaughlan to Sir John Harvey, in relation to the arrest and imprisonment of Ebenezer S. Greely.

His Excellency Martin Van Buren,
 &c. &c. &c.

I have the honor to be, &c.,

(Signed) ROBERT P. DUNLAP.

Inclosure 2 in No. 1.

The Governor of the State of Maine to the Secretary of State.

(Extract)

State of Maine, Executive Department, July 3, 1837.

On the eighth day of March last, the Legislature of this State passed an Act relative to the surplus revenue, a copy of which is inclosed, to the eleventh, twelfth, and thirteenth Sections of which I beg leave to refer your attention. An additional Act was passed on the 29th day of March last, a copy of which I also inclose.

By this last-named Act, it became the duty of the county Commissioners of Penobscot county, to cause an enumeration to be taken of the inhabitants of said county residing north of the surveyed and located townships. The tract thus defined, comprised the town of Madawaska which was incorporated by this State on the 15th of March, 1831.

Pursuant to that requirement, the county commissioners of said county appointed Ebenezer S. Greely to perform that service, and being duly commissioned, he forthwith proceeded to the place designated, and entered upon the required operations. Being thus employed, he was on the 29th of May last, arrested by the authorities of the province of New Brunswick, and conveyed to Woodstock, in the county of Charleston in said province: but the Sheriff of the county refused to commit him to gaol, and he was accordingly discharged. He immediately returned to the Madawaska settlement to enter again upon the duty entrusted to him. On the sixth of June last, he was arrested a second time by the same authorities, and committed to the gaol at Fredericton.

It was for this act of obedience to the laws of his Government, that Mr. Greely now

lies incarcerated in a public gaol in the province of New Brunswick. Is not redress urgently called for? Must not this unoffending citizen be immediately released?

Permit me, Sir, to add my confident belief that the President, on this presentation of the facts relative to this outrage upon the national as well as State rights, will not fail to demand the immediate release of Ebenezer S. Greely, and to interpose suitable claims of indemnity for the wrongs so wantonly enforced upon him.

The Hon. John Forsyth.
&c. &c. &c.

I am, &c.
ROBERT P. DUNLOP

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nezer Greely.

Inclosure 3 in No. 1.

Eleventh, twelfth, and thirteenth Sections of an Act of the Legislature of the State of Maine, Entitled "An Act providing for the disposition and repayment of the Public Money apportioned to the State of Maine, on deposits by the Government of the United States, passed on the 8th of March, 1837.

Section 11th. Be it further enacted, That for the purpose of ascertaining the population of the several cities, towns, and plantations in this State, the alderman of cities, the select-men of towns, and the assessors of plantations, are hereby authorized, at the expense of their respective cities, towns, and plantations, to cause the number of inhabitants thereof, (omitting in such enumeration, foreigners not naturalized, whose residence has not been established at least four years, in any of the cities, towns, or plantations, or other place wherein such enumeration is to be made, and Indians not taxed,) to be taken according to the directions of this act.

The said enumeration shall distinguish all persons under the age of four years, those of four, and under twenty-one; and those of twenty-one and upwards, belonging to each city, town, and plantation in this State, on the first day of March, eighteen hundred and thirty-seven.

Section 12th. Be it further enacted, That said alderman, select-men, or assessors, or such person or persons as shall be appointed by them for that purpose, shall, respectively, before entering upon the performance of their duty as aforesaid, take and subscribe an oath or affirmation before some Justice of Peace for the faithful performance of their duties in substance as follows:—

I of do solemnly swear (or affirm) that I will truly and faithfully make a full and perfect enumeration and description of the persons resident within the of on the first day of March, eighteen hundred and thirty-seven, and return the same to the Treasurer of Maine, agreeably to the directions of an Act, "entitled an Act providing for the disposition and repayment of the public money apportioned to the State of Maine, on deposit by the Government of the United States," according to the best of my ability. And that I will make said enumeration and description by actual inquiry at every dwelling-house of said or personal inquiry of the head of every family and not otherwise.

Section 13th. Be it further enacted, That said enumeration shall be fully completed and accurate returns thereof made to the Treasurer of the State, on or before the twentieth day of April next, which returns shall be made in a schedule, the form of which, (with the form of the oath specified in this section) shall be provided and furnished by said treasurer, and they shall distinguish the several families by the name of their master, mistress, or head. And the person taking such enumeration shall take and subscribe upon the returns rendered by him, an oath or affirmation as follows:—

I do solemnly swear (or affirm) that the number of persons set forth in the return made by me agreeably to the provisions of the Act, entitled "An Act providing for the disposition and repayment of the public money apportioned to the State of Maine on deposit by the Government of the United States" has been ascertained by an actual inquiry of the head of every family, in conformity with the provisions of said Act, and that the return aforesaid is correct and true according to the best of my knowledge and belief.

A. B.

And the blank forms which the treasurer is to transmit shall be forwarded to the sheriffs of the respective counties, whose duty it shall be to cause the same to be forthwith distributed to the clerks of the respective cities, towns, and plantations. And the sheriffs' bills therefore shall be presented to the Legislature for allowance.

Inclosure 4 in No. 1.

An Additional Act, providing for the distribution and repayment of the public money apportioned to the State of Maine on deposit by the Government of the United States.

Section 1. Be it enacted by the Senate and House of Representatives in Legislature assembled, That the time allowed to the respective cities, towns, and plantations, in which to take the census and make returns thereof to the state treasurer is hereby extended to the twentieth day of June next.

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nezer Greely.

Section 2. Be it further enacted, That the treasurer is hereby directed to distribute the amount of the second instalment of the surplus revenue among the cities, towns, and plantations, according to the number of their respective scholars, as borne on the school fund apportionment of the present year. And the third instalment shall be distributed according to the same apportionment, unless the census required by the Act to which this is additional shall be fully made, and the returns thereof to the treasurer completed by the first day of July next.

Section 3. Be it further enacted, That the third and fourth instalments shall be distributed among the towns, plantations, cities, and incorporated places in such manner as that the aggregate of the four instalments shall be in exact proportion to their population as ascertained by said census.

Section 4. Be it further enacted, That in addition to the enumeration required by the Act aforesaid to be taken by the county commissioners, it shall be the duty of the County Commissioners of the county of Penobscot, to take the enumeration or census of all the inhabitants of said county, residing north of the surveyed and located townships.

Section 5. Be it farther enacted, That the Treasurer be directed to cause the first action of this Act to be forthwith published in all the newspapers which publish the Laws of the State.

Section 6. Be it further enacted, That the Act to which this is additional, and also this Act shall take effect and be in force from the times of the passage thereof respectively.

Approved by the Governor,
March 29th 1837

No. 2.—*J. Stephen, Esq. to John Backhouse, Esq.*

(Extract.)

Downing Street, August 10, 1837

I AM directed by Lord Glenelg to transmit to you herewith for the early consideration of Viscount Palmerston, extracts of despatches from the Lieutenant-Governor of New Brunswick, reporting the arrest and committal to prison of Ebenezer Greely, a citizen of the State of Maine, on a charge of attempting to assert the sovereignty of that State over the Madawaska settlement. This attempt seems to be very similar in its nature to that undertaken in 1828 by an American citizen named Baker, and which resulted in the legal conviction of that individual before the supreme court of New Brunswick.

As it appears from the letter of the Governor of Maine, of the 26th June, and from the general order to the local militia of the day following, that the authorities of that State are disposed to justify and support the attempts of Greely, Lord Glenelg is of opinion that no time should be lost in addressing to the Central Government of the United States, a very serious remonstrance on the subject. It can scarcely be necessary to point out the invalidity of the pretensions advanced by the authorities of the State of Maine, while it is impossible not to foresee that those pretensions, if persevered in, must lead to hostile collisions between that State and the Government of New Brunswick.

I am, &c.

John Backhouse, Esq.

(Signed)

JAS. STEPHEN.

&c. &c. &c.

Inclosure 1 in No. 2.

Sir J. Harvey to Lord Glenelg.

(Extract.)

Government House, Fredericton, June 6, 1837.

BEFORE I had been twenty-four hours sworn into the administration of this Government, reports were laid before me by the Advocate-General, in the temporary absence of the Attorney-General, of which I enclose copies, and by which your Lordship will find that an American Citizen from the State of Maine, had been arrested for openly taking a census of the population of the Madawaska settlement, and holding language tending to disturb and unsettle the minds of the inhabitants,—acts constituting an exercise of jurisdiction on the part of some of the authorities of that State and an interference with that of this province, which, as soon as the facts are brought before me in a more regular and authentic shape, I shall feel it my duty to represent to the British Minister at Washington, to whom I have not omitted to report my arrival and assumption of this Government. Upon receiving the report above referred to, I directed the Warden of the disputed territory to proceed and “report from the spot.”

P.S. June 7. By a report this morning received from the Sheriff of Carlton, I am happy to find the affair of Ebenezer Greely appears to be of far less importance than it was at first represented to be.

Inclosure 2 in No. 2.

The Attorney General of New Brunswick to Sir J. Harvey.

VII.

May it please your Excellency,

Fredericton, June 5, 1837.

DURING my absence at Gagetown on private business, a despatch, of which I have the honour to inclose copies, was sent to me from the clerk of the peace in the county of Carleton, within which county the territory in dispute between the British and American Governments is situated.

Further attempt of Maine to exercise jurisdiction in the disputed territory.

As further proceedings may originate questions of importance, in relation to the disputed territory, so called, I feel it my duty as Attorney-General to submit the case for your Excellency's consideration and direction, without giving any instructions as from myself, either to the sheriff or magistrates. But I feel it incumbent on me to say, that the offence charged against the party is one of a serious nature, and the individual concerned has either voluntarily put himself forward to create disturbance and produce dissatisfaction among the peaceable inhabitants of Madawaska, in which case he personally and most justly deserves punishment, or he is the covert agent of the Government of the State of Maine, and if so, the proceedings should, I humbly conceive, be met promptly by the Government of this province, and the course adopted by the Magistrates supported by bringing the case before the judicial tribunals of the country.

First Mission of Ebenezer Greely.

I have, &c.

Sir John Harvey,
&c. &c. &c.

(Signed)

CHARLES J. PETERS,
Attorney-General.

Inclosure 3 in No. 2.

The Clerk of the Peace of Carleton to the Attorney General.

My Dear Sir, •

May 31, 1837.

THE inclosed letter I received this morning, and hasten to transmit it to you in order that if any thing is to be done in the subject-matter of it, it may emanate, from what appears to me to be the only proper quarter—the Government. This will be handed you by Mr. Joseph Phillips, who will be prepared to detail any particulars that may not be found in the inclosed. The question being one in which the Government is directly concerned, I would not venture to give any opinion that would justify the course the Magistrates have pursued. The person who brought Greely down a prisoner, will return forthwith to Madawaska, and the prisoner, for the present, will go where he pleases, and intends, I am informed, resuming his official course in taking the census. I shall write by Michaw to the Magistrates, stating that I have transmitted the matter to you to be laid before the proper tribunal. Please let me hear from you in reply, as soon as practicable, in order that I may communicate, if necessary, to them.

Your's &c.,

(Signed)

A. K. SMEDES WETMORE.

I also inclose the Magistrates' Warrant for Commitment.

Inclosure 4 in No. 2.

The Sheriff of Carleton to the Clerk of the Peace.

Sir,

Woodstock, June 6, 8 o'clock, a. m.

YOUR special messenger, Mr. Turner, being in such great haste, I fear it will be out of my power, without incurring the risk of his too long detention to justify my conduct so fully in the Greely affair as I might hope to do were I allowed more time, particularly as I had the honor of replying, although briefly, to a letter on the same subject from the Hon. John L. Saunders, and also as I have this moment returned from an arduous night's fatigue on public duty. I will, therefore, now only remark, that the course I pursued was in consequence of my considering the conduct of Ebenezer Greely as a mere speculative attempt, in which he seemed extremely disappointed at not being imprisoned. I also acted under the impression that as he had quietly submitted to our jurisdiction, the views of the Magistrates were answered in this stage of the affair, by having the offender removed from the scene of mischief. In this impression I was sustained by my legal advisers.

I have, &c.

(Signed)

JOHN E. WINSTON,
Sheriff of Carleton.

Inclosure 5 in No. 2.

Sir J. Harvey to Lord Glenelg.

(Extract)

Government House, Fredericton, New Brunswick, June 15, 1837.

WITH reference to my despatch of the 6th instant, I have now the honor to enclose a copy of the report addressed to me upon the subject of Ebenezer Greely's mis-

sion and arrest by the Warden of the "Disputed Territory," as also of the communications which I deemed it proper to address to the Governor of the State of Maine, and to His Majesty's Minister at Washington on the subject.

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Inclosure 6 in No. 2.

J. A. MacLauchlan, Esq. to Sir J. Harvey.

May it please your Excellency, *Fredericton, New Brunswick, June 10, 1837.*

First Mission of
Ebenezer Greely.

IN obedience to your Excellency's instructions, communicated to me through the Advocate General, in the absence of His Majesty's Attorney and Solicitor Generals, I have now the honor to report, for the information of your Excellency, that I proceeded with the least possible delay to the Madawaska settlement.

On my arrival at the East Falls, 130 miles from hence, I was informed the American citizen, Ebenezer S. Greely, had passed up the day before, for the purpose of again proceeding with the census of the inhabitants of Madawaska, under authority from the State of Maine.

Aware of the probable excitement that would naturally arise between the two Governments from this circumstance, and, at the same time, fully convinced that His Majesty's Government would but regret any unnecessary misunderstanding during the pending negotiations, I thought it advisable to call on Mr. Coombs, a Magistrate in the parish, living twelve miles above the Falls, and requested him to accompany me, (which he very readily did) to witness any conversation that might pass between Mr. Greely and myself. We then proceeded, and overtook Mr. Greely a short distance above Green River, about twenty-four miles from the Falls. Having ascertained by the inhabitants as we passed along, that he had the whole of the previous day taken down the houses, number of each family, and stating they would shortly receive from the State of Maine a sum of money, not exceeding three dollars, for each head of a family out of the surplus revenue of the United States.

I requested Mr. Greely to shew me his instructions for exercising authority in Madawaska. Then he handed me a document, a copy of which I beg to enclose your Excellency, and after perusing the same, I returned it with my opinion, that I really thought he had mistaken the intention of his instructions, as no allusion was made either to that settlement, or the territory in dispute; and, therefore, if he would then desist from proceeding with the "census," I would take no notice of what had passed. However, in reply to my advice and request, Mr. Greely remonstrated, and attempted to make it appear that he would be fully borne out by his Government in what he had done; and it was also his intention to finish the census, if he was not prevented. This reply, I regret to say, left me no alternative, but to make him a prisoner, which I did on Wednesday morning the 7th instant. On Friday evening I arrived in town; and yesterday morning, by the advice of the Advocate-General, I committed him to the gaol of the county of York.

I have the honor to be, &c.

(Signed)

J. A. MACLAUHLAN,
Warden of the Disputed Territory.

Sir J. Harvey,
&c. &c. &c.

Inclosure 7 in No. 2.

Appointment of Ebenezer S. Greely.

WHEREAS an additional Act, providing for the distribution and repayment of the public money apportioned to the State of Maine, on deposit by the Government of the United States, approved March 29th, 1837, makes it the duty of the county Commissioners for the county of Penobscot, to appoint some person or persons to take and return to the State Treasurer, the enumeration or census of all the inhabitants of said county, residing north of the surveyed and located townships. Reposing full confidence in your ability and integrity, We, the subscribing county Commissioners for the county of Penobscot, do, by the power vested in us by the additional Act aforesaid, authorize and appoint you to take an enumeration or census of the inhabitants resident on the territory above named, according to the requirements and provisions of an Act, providing for the disposition and repayment of the public money apportioned to the State of Maine on deposit by the Government of the United States; approved March 18, 1837.

You are required to make returns thereof, under oath, on, or before the twentieth day of June next to the State Treasurer.

Given under our hands at Bangor, in the county aforesaid, this fifteenth day of May, A.D. 1837.

(Signed)

E. G. RAWSON,
JOSHUA CHAMBERLAIN, Jun.

County Commissioners for the County of Pembroke.

True Copy.

(Signed)

A. J. MACLAUHLAN,

Warden of the Disputed Territory.

Inclosure 8 in No. 2.

VII.

*Sir J. Harvey to the Governor of the State of Maine.**Government House, Fredericton, New Brunswick, June 6, 1837.*

Sir, I DO myself the honor of acquainting your Excellency with my arrival in this province, and my assumption of the administration of its Government, under a Commission from my Royal Master, and I hasten convey to your Excellency the assurance of my desire so to conduct the duties attaching to my office, as respects our neighbours of the State of Maine, as may convince your Excellency of my sincere wish to promote a friendly intercourse and good understanding with them by every means in my power.

I enter upon the administration of this Government with an anxious hope that by an early settlement of the territorial question, the subject of negotiation betwixt the General Government of the United States and Great Britain, the interests of these adjoining provinces may no longer interfere with each other, and that their inhabitants may be left free to cultivate that harmony and good feeling which it is so desirable should subsist betwixt people of common origin and identified in their mutual interests.

I have the honor, &c.,

(Signed) J. HARVEY, M.-General, Lieut.-Governor.

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1st mission of Ebenezer Greely.

Inclosure 9 in No. 2.

*Sir J. Harvey to the Governor of the State of Maine.**Government House, Fredericton, New Brunswick, June 12, 1837.*

Sir,

SINCE I had the honor of addressing your Excellency under date the 6th instant, announcing my having assumed the Administration of the Government of this Province, a report has been laid before me by the Warden of the disputed territory, copy of which I feel to be an act of courtesy towards your Excellency, to lose no time in communicating to you.

In including the territory within the limits of British claim in the "census" which Ebenezer Greely appears to have been instructed to take of the population of the county of Penobscot, he has evidently acted in ignorance, or under a misconception of the existing relations betwixt England and the United States of America, which I cannot allow myself to doubt that your Excellency will lose no time in causing to be explained and removed.

Though necessarily committed to confinement, I have desired that every regard may be shewn to Greely's personal convenience, consistent with the position in which he has "voluntarily" placed himself. I use this expression, because, as your Excellency will observe, Greely was informed by the Warden, that if he would desist from the acts in which he was engaged, and the language which he was holding to the people of the Madawaska settlement (acts constituting not only an interference with the acknowledged right of jurisdiction of this province, but the positive exercise within its limits of actual jurisdiction, however unauthorised, on the part of the State of Maine), and would withdraw from the district he should be allowed to do so, otherwise, that in the discharge of the duties imposed upon him by his office, he, the Warden (who is in the commission of the peace) must be under the necessity of apprehending, in order to make him amenable to the laws of this province. This proposal Greely rejected, and was accordingly committed to gaol, to be dealt with according to law. In the mean time, as an evidence of my desire to cultivate the most friendly understanding with the Government of the State of which Greely is a citizen, I lose no time in saying that upon receiving an assurance from your Excellency that your authority shall be exerted in restraining this, or any other citizen of the State of Maine from adopting proceedings within the British limits (as claimed) calculated to infringe the authority and jurisdiction of this province, and to disturb and unsettle the minds of that portion of its inhabitants residing in the disputed territories, until the question in dispute be brought to a final settlement, Greely shall immediately be enlarged.

Trusting that your Excellency will see in this proposition an anxious desire on my part to redeem the pledge in my communication of the 6th instant.

I have the honor, &c.,

(Signed) J. HARVEY, M.-General, Lieut.-Governor.

His Excellency the Governor of the State of Maine.

Inclosure 10 in No. 2.

Sir John Harvey to Lord Glenelg.

(Extract.)

Government House, Fredericton, New Brunswick, July 6, 1837.

BY the post of this morning I received the answer of the Governor of the State of Maine to my letter of the 12th ultimo, relative to the arrest of "Ebenezer Greely," which I immediately transmitted to His Majesty's Minister at Washington, for the reasons which I have so fully stated in my letter to Mr. Fox, that it can only be necessary for me to refer your Lordship to that letter (copy of which and its various enclosures are herewith transmitted) for full information upon a subject which may, and appears very likely to, assume a character of national importance.

Whether the proceedings of the Executive Government of the State of Maine have any

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other object than to force their General Government to come to a final settlement with taht of His Majesty, upon this vexatious boundary question, I have as yet had no means of accurately ascertaining; but looking to the moment at which Greely's mission took place, and his undisguised admission that his object was to be taken into custody, (and to the fact of his having remained little more than nominally a prisoner, and not having attempted an escape), there are quite sufficient grounds, as appears to me, for connecting it, or rather for suspecting that it may be so far connected with Lower Canada, as to be intended as a diversion in favor of the Papineau party, by preventing reinforcements of troops being sent from Nova Scotia, or from hence, into that province. Whatever may be its object, I wish to renew to your Lordship the assurance conveyed in a former despatch, that nothing short of an actual invasion, or the irruption of an armed force, shall induce me to call my military means into activity.

Inclosure 11. in No. 2.

The Governor of the State of Maine to Sir John Harvey.

State of Maine, Executive Department,

Augusta, June 26, 1837.

Sir,

I HAVE had the honor to receive your Excellency's communication of the 12th instant, informing me of the arrest and imprisonment of Ebenezer S. Greely.

Mr. Greely is a citizen of this State, and at the time of his arrest was in the public employ, within the limits and under the authority of this State.

Will your Excellency pardon me for observing that I do not find it easy to reconcile the procedure had by your approbation toward Mr. Greely, with the dispositions for maintaining friendly relations between the respective Governments, expressed in the letter of the 6th of June instant, which you did me the honor to address to me.

The arrest and imprisonment of Mr. Greely is an infringement of the rights guaranteed to him, as well as every other citizen of the United States by the constitution of his country, and a deep invasion of the soil and sovereignty of this State. And I cannot but persuade myself, that the consideration which your Excellency will feel to be due to this subject, will lead to the immediate enlargement of Mr. Greely, and to the reparation justly due to an unoffending citizen of a friendly country, for a procedure so highly unwarrantable. And it will give me pleasure to learn that the high estimation which your Excellency certainly cherishes for the national honor and dignity of any people, has led to a full retraction of the wrong done to the United States, and this State, in the measures pursued toward Mr. Greely, under your Excellency's administration.

I shall lose no time in communicating to the Government of the United States, the letter of your Excellency.

I have, &c.,

(Signed)

ROBERT P. DUNLOP.

Sir John Harvey,
&c. &c. &c.

Inclosure 12 in No. 2.

Mr. Consul Sherwood to Sir J. Harvey.

British Consulate, Maine and New Hampshire,

Portland, June 29, 1837.

Sir,

A GENERAL Order of the Adjutant-General of the State of Maine, No. 57, dated the 27th instant, having been issued and published in the several newspapers within this State, by command of Robert Dunlop, Esquire, the Governor thereof, I have deemed it to be my duty to transmit to you a copy of the same, on the other side written, for your information.

I also have to acquaint you that I have this day forwarded a like copy of the said General Order to His Excellency, Henry Stephen Fox, Esquire, His Majesty's Envoy Extraordinary and Minister Plenipotentiary, at the seat of Government at Washington, D. C. for his information.

I have, &c.,

(Signed)

JOS. S. SHERWOOD.

His Majesty's Consul.

Sir John Harvey,
&c. &c. &c.

GENERAL ORDER.—No.

State of Maine, Head Quarters,

Augusta, June 27, 1837.

Fellow Soldiers,

THE soil of our State has been invaded, one of our citizens, while in performance of a duty required by law, was arrested within the territory of Maine, and carried to an adjoining foreign province, where he now remains incarcerated within the walls of a prison. This is but a repetition of former acts of injustice committed against our border inhabitants, by officers acting under the authority of the British Province of New Brunswick.

The integrity of the State must be preserved; Maine looks to the General Government for redress. Our citizens must be secure within our limits, and it may be found necessary to bring forth military power, to give that protection to which they are entitled.

The Commander-in-Chief, therefore, calls upon the militia to hold themselves in readiness to obey such orders as the security of our citizens and the honor of the State may require.

By the Commander-in-Chief,

(Signed)

A. B. THOMPSON.
Adjutant-General.

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Inclosure 13 in No. 2.

Sir J. Harvey to Henry S. Fox, Esq.

(Extract.)

Government House, Fredericton, New Brunswick, July 6, 1837.

I HAVE the honor to acquaint your Excellency that the post of this morning brought me the answer of the Governor of the State of Maine, to my letter to him of the 12th ultimo.

Its contents appear to me to render it important that your Excellency should be possessed as fully as possible of the "legal case" as respects Ebenezer Greely. I have accordingly called upon the Attorney-General to draw up a précis of it, with copies of the sworn informations upon which the proceedings were founded, which I have the honor herewith to transmit, together with copies of Governor Dunlop's letter to me, and of one which was received by me at the same time, from the British Consul at Portland.

Your Excellency is aware of the tenor of the instructions which I hold from His Majesty's Secretary of State for the Colonies, in accordance with the spirit of which I deem it my duty to invite your Excellency's attention to the grounds upon which the Governor of Maine contends that I ought to liberate Greely, viz.,—"that at the time of his arrest he was "in the public employ, within the limits and under the authority of that State." Upon the assertion as to Greely's being within the limits of the State of Maine at the time of his arrest (in the Madawaska Settlement) it cannot be necessary for me to offer any comment, but I regard both that assertion and the declaration that Greely was acting in "the public employ, and under the authority of that State at the time of his arrest," as so important, that I feel it right to forward to your Excellency the original document in which they are embodied.

I have only to add, that I shall lose no time in remonstrating with the Executive Government of Maine against any overt act which I may deem an infringement of the existing relations betwixt the two countries as respects the "disputed territory" on the part of any of the citizens of the United States, at the same time apprizing your Excellency of the circumstances which have appeared to me to call for such protest on my part.

Inclosure 14 in No. 2.

The Attorney General of New Brunswick to Sir. J. H

May it please your Excellency,

Fredericton, July 6, 1837.

I HAVE the honor herewith to inclose to your Excellency, copies from the original warrant, both of arrest and commitment, under which Ebenezer S. Greely, the prisoner, confined in the gaol of the county of York, has been taken into custody on a charge of misprision of treason, and seditious conduct committed in the parish of Madawaska, in the county of Carleton, in this Province, together with a copy of the deposition of Daniel Mechaw, under which the last arrest and commitment by Mr. Justice Maclaughlan was made.

No. 1. Original warrant for the arrest of Ebenezer S. Greely, issued by Justices Coombes and Rice.

No. 2. Original warrant of commitment of the keeper of the gaol at Woodstock, in the county of Carleton.

No. 3. A letter from the said Justices to Clerk of the Peace, of the same county.

No. 4. Copy of a deposition sworn to by Daniel Mechaw, before Mr. Justice Maclaughlan.

No. 5. Copy of the warrant issued by Mr. Justice Maclaughlan for his committal to the keeper of the gaol at Fredericton.

The deposition under which the warrant of apprehension was issued in the first instance by Justices Coombs and Rice, being with those gentlemen at Madawaska, I have it not in my power at present to furnish the same.

I have, &c.

Sir John Harvey.

&c. &c. &c.

(Signed)

CHARLES J. PETERS.
Attorney General.

VII.

1. *Warrant for the arrest of Ebenezer Greely.*

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William the Fourth, by the Grace of God, of Great Britain and Ireland, King, Defender of the Faith, and so forth, to any of the constables of the parish of Madawaska, in said county, Greeting.

For as much as Daniel Mechaw, of the said parish and county aforesaid, came before us, Francis Rice and L. R. Coombes, Esquires, two of His Majesty's Justices of the Peace, in and for the said county, and sayeth, that one Ebenezer Greely, a citizen of the State of Maine, one of the United States of America, is now in the act of taking the census of the same parish of Madawaska, county Carleton, and province of New Brunswick, and at the same time stating to the people of the said parish, that by complying to his request, they will be paid a sum of money not exceeding twelve shillings and sixpence per head, in each family, on or before the 1st day of September next, and also troubling the peace of His Majesty's subjects, by persuading and holding out to the people that they are American citizens, and living in the county of Penobscot.

These are therefore in His Majesty's name to command you, forthwith, to take the body of said Ebenezer S. Greely, and bring him before us the said Justices, to be forthwith dealt with according to law.

Given under our hands and seals, the 29th day of May, 1837, and the seventh year of His Majesty's reign.

(Signed) FRANCIS RICE, J. P. (L. S.)
L. R. COOMBES, J. P. (L. S.)

2. *Warrant of Commitment of Ebenezer Greely, to the Gaol of Woodstock.*

CARLETON, S. S.

Francis Rice and L. R. Coombes, Esquires, two of the Justices of our Lord the King, assigned to keep the peace in the said county, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the said county committed.

To the keeper of the gaol of our said Lord the King at Woodstock, in the said county, or to his deputy there, and to each of them greeting. Whereas Ebenezer S. Greely, of the town of Dover, county of Penobscot and State of Maine, one of the United States of America, was arrested by one of the constables of the parish of Madawaska, in said county of Carleton, on the oaths of Daniel Mechaw and others, who sayeth that the above Ebenezer S. Greely is now in the act of taking the census of the inhabitants of the parish, county, and Province aforesaid, and at the same time proposing to the people of said parish, that by complying to his request they would be paid a sum of money out of the surplus of the revenue of the United States of America, and that the people of this parish of Madawaska, are citizens of the State of Maine, and fully entitled to a full proportion of the said money, and also troubling the peace of the subjects of our said Lord the King, his crown and dignity. Therefore, on behalf of our said Lord the King, we command you and each of you, that you or one of you receive the said Ebenezer S. Greely into your custody, in the said gaol, there to remain till he be delivered from your custody according to law. Given under our hands and seals, at Madawaska, in the said county, the 29th day of May, in the seventh year of the reign of our said Lord William the Fourth, and in the year 1837.

(Signed) FRANCES RICE, J. P. (L. S.)
(Signed) L. R. COOMBES, J. P. (L. S.)

3. *Messrs. Rice and Coombes to Smedes Wetmon, Esq.*

Sir,

Madawaska, May 29, 1837.

Ebenezer S. Greely, an American, came to Madawaska and proceeded in taking the census of the people of Madawaska, as you will see by the commitment. We called upon him and requested him not to proceed any further, otherwise we would be under the necessity of arresting him; he replied, I shall not stop, but will go straight a-head, and his orders were such as to go on until he was arrested, we therefore committed him to gaol; you will be pleased to examine Daniel Mechaw, as he is a chief witness, being his hired man and interpreter, and report to head-quarters forthwith.

We write this in haste, therefore wish you to do the needfull.

We remain, &c.

(Signed) FRANCIS RICE.
L. R. COOMBES, Justice of Peace.

Smedes Wetmon, Esq.

4. *Deposition of Daniel Mechaw.*

CARLETON, S. S.

BE it remembered, that on the 8th day of June, in the year of our Lord 1837, personally appeared before me, James A. Maclauchlan, Esquire, one of His Majesty's Justices of the Peace for the county of Carleton and province of New Brunswick; Daniel Mechaw, who made oath, that on Tuesday the 23rd day of May past, an American named Ebenezer S. Greely, came to his house, nearly a mile above the Great Falls, parish of Madawaska, and hired him (Mechaw) by the day. That on reaching the different houses in the Madawaska settlement, deponent saith, he, Greely, required the name and number of the family, under authority of the county of Penobscot, State of Maine, and telling said inhabitants they would shortly receive two or three dollars a head of family out of the surplus revenue of the United States. This duty, deponent saith, was followed up by the said Greely until the day, Saturday the 27th May last, he Greely went to Francis Rice, Esquire, a Magistrate, when he, Greely, went through a mere form by demanding of him, Mr. Rice, in the name of the State of Maine and county of Penobscot, his name and the number of his family, which, he, Rice, did not give. That on Monday the 29th day of May past, deponent saith in his affidavit, the said Greely was arrested and taken before Justices Rice and Coombes, and then given in charge to deponent to convey to the Woodstock gaol with a commitment, which commitment deponent gave the Sheriff, who declined acting in the business, and told Greely he might go about his business, which he did.

Deponent further saith, he did not see Greely again till he came to his, deponent's, house, on Saturday the 4th June, where he, Greely, remained the night. That the next morning, Monday, he, Greely, hired deponent again by the day, and proceeded through the settlement as before, taking the name and number of the family and explaining the object of his duty and what he intended to do, until he was arrested by James A. Maclauchlan, Esquire, on Monday morning the 7th June.

his
DAN. X MECHAW.
mark.

Sworn before me at the Great Falls, on Thursday the 8th of June, 1837.

(Signed)

JAMES A. MACLAUHLAN.

Justice Peace.

5. *Warrant issued by Mr. Justice Maclauchlan for committal of Ebenezer Greely to the Gaol at Fredericton.*

County of York. s.s.

WILLIAM the FOURTH by the Grace of God of the United Kingdom of Great Britain and Ireland, King, defender of the faith, &c., to the keeper of our gaol at Fredericton, in our said county of York, or to his deputy, greeting.

Whereas, Ebenezer S. Greely, of the parish of Madawaska, in the county of Carleton, labourer, is arrested for being guilty of a high misdemeanour by taking a census of the inhabitants of the said parish of Madawaska, and holding out to the said inhabitants that they are citizens of the State of Maine, and entitled to a proportion of the surplus revenue of the United States of America; I therefore command you and each of you, that you receive him the said Ebenezer S. Greely into your custody in our said gaol, or that one of you do receive him, there to remain till he be delivered from your custody according to the law of our province of New Brunswick.

Witness, James A. Maclauchlan, one of His Majesty's Justices of the Peace, assigned to keep the peace in the counties of Carleton and York.

Given under my hand and seal, this 10th day of June in the year of our Lord 1837, and in the 7th year of His Majesty's reign.

(Signed)

J. A. MACLAUHLAN. J. P.

No. 3.—*Viscount Palmerston to Henry S. Fox, Esq.*

Sir,

Foreign Office, August 31, 1837.

I TRANSMIT herewith, for your information and guidance, copies of a letter and of its inclosures which I had received from the Colonial Office relative to the arrest of Ebenezer Greely, a citizen of the State of Maine, for attempting to assert the sovereignty of that State over the Madawaska settlement, and respecting the intention of the State of Maine to justify and support the attempt in question.

I have to instruct you to lose no time in bringing this matter, with which it appears Sir J. Harvey has already made you acquainted, before the notice of the American Government for their serious consideration. It may not be necessary for you to enter at present into the question of the invalidity of the pretensions advanced by the authorities of the State of Maine; but you will point out to Mr. Forsyth, that those pretensions, if persevered in, must lead to hostile collisions between that State and the Government of New Brunswick, and you will express the conviction of Her Majesty's Government, that the

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President of the United States will immediately interpose his authority for the repression of any proceedings on the part of the State of Maine, which may be likely to give rise to such disastrous consequences.

You will state to Mr. Forsyth, that Her Majesty's Government will feel it to be their duty to oppose a temperate and firm resistance to any aggression of American citizens, and to employ constitutional powers for the protection of Her Majesty's subjects, and for the punishment of such persons as may be duly convicted before the legal tribunals of Her Majesty's possessions in North America.

Although you are instructed by this despatch not to provoke a discussion with the American Government upon the question of the right of Her Majesty's Government to exercise jurisdiction within the disputed territory until the boundary question is settled between the two Governments, yet, if Mr. Forsyth should reassert the pretensions which have of late years been advanced by the American Government with regard to the jurisdiction in question, with a view to justify the proceedings of Ebenezer Greely, and of the State of Maine, you will, in replying to such pretensions, avail yourself of the unanswerable arguments upon that subject contained in the note from the Earl of Aberdeen to Mr. Lawrence of the 14th August, 1828. Lord Aberdeen's note formed part of the correspondence between the British and American Governments upon the subject of the arrest and trial of John Baker by the authorities of New Brunswick, and will be found in the archives of your mission as an inclosure in Lord Aberdeen's despatch to Mr. Vaughan, of the 14th August, 1828.

I further inclose to you copies of a note and its inclosures which I have subsequently received from Mr. Stevenson, complaining of the arrest of Ebenezer Greely, and demanding the liberation of that individual, and compensation for his alleged wrongs; and I shall not fail to communicate to you the answer which I may return to that note.

In conclusion I have to instruct you to acquaint the Lieutenant-Governor of New Brunswick with whatever steps you may take upon the subject to which this dispatch relates.

I am, &c.

H. S. Fox, Esq.,
&c. &c. &c.

(Signed)

PALMERSTON.

No. 4.—*J. Stephen Esq. to the Hon. W. Fox Strangways.*

(Extract.)

Downing Street, September 29, 1827.

I AM directed by Lord Glenelg to transmit to you, for the information of Viscount Palmerston, copies of despatches which have been received from the Lieutenant-Governor of New Brunswick, reporting his further proceedings with reference to Ebenezer Greely.

Inclosure 1 in No. 4.

Sir John Harvey to Lord Glenelg.

(Extract.)

Government House, Fredericton, New Brunswick, July 31, 1837.

WITH reference to my despatch, (No. 22), I have the honor to acquaint your Lordship, that I have this morning received a visit from two gentlemen of the State of Maine (one of them a Mr. Parkes, the Representative of the State of Maine in Congress, the other a Colonel Webster, a very large landholder, and connected with this Province), requesting my permission to visit Ebenezer Greely, within the limits of the jail of this place, a permission which it can scarcely be necessary for me to add was freely granted.

August 3.

P. S. At the personal request of Mr. Parkes, who pledged his word to me for E. Greely's strict observance of his parole, I have had pleasure in extending the limits of Greely's restraint to the precincts of this town, Mr. Parkes having assured me that this additional air and exercise was necessary for his health.

(Signed) J. H.

August 8.

I add an additional P. S. to say, that in consequence of a despatch which I have this day received from Her Majesty's Minister at Washington, I have had pleasure in enlarging Ebenezer Greely.

(Signed) J. H.

Inclosure 2 in No. 4.

Sir John Harvey to Lord Glenelg.

My Lord,

Government House, Fredericton, August 18, 1837.

WITH reference to my despatch of the 31st ult. I have the honor to transmit a copy of my letter and inclosure to Mr. Fox, by which your Lordship will be more fully possessed of the grounds on which E. S. Greely was enlarged by me.

I have, &c.

The Lord Glenelg.

(Signed) J. HARVEY.

&c. &c. &c.

Inclosure 3 in No. 4.

Sir J. Harvey to the Henry S. Fox Esq.

Sir,

Government House, Fredericton, New Brunswick, August 10, 1837.

I HAD the honor of receiving your Excellency's communication of the 24th ult. on the morning of Tuesday the 8th instant. By a singular coincidence, Mr. Ebenezer S. Greely, the subject of it, presented himself for the first time at the Government House very shortly afterwards, for the purpose of expressing to me his acknowledgments for the attention to his comfort and convenience which had been shewn to him by my directions, and particularly for the indulgence which he had recently experienced in being allowed to walk about this town.

The accompanying paper will possess your Excellency of the general purport of the interviews which I had with Mr. Greely, as well as of my having immediately complied with your Excellency's wish relative to his enlargement, to which I am now enabled to add, that he actually left Fredericton this morning on his return to the State of Maine. The report of what passed betwixt Mr. Greely and myself, in the presence of my Provincial Aide-de-Camp, I have considered it of some importance to forward to your Excellency, in order that you may be prepared to state the grounds, officially, if necessary, on which I acted in releasing Mr. Greely, a measure of which I was quite rejoiced to receive not only your Excellency's approbation, but strong recommendation.

Trusting that the proceeding which it has been my duty to report to your Excellency may tend to allay any existing irritation on the part of the people and authorities of the State of Maine, and dispose them to consider the questions at issue in a more temperate and reasonable state of feeling,

I have, &c.

(Signed)

J. HARVEY.

Henry S. Fox Esq.
&c. &c. &c.

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Inclosure 4 in No. 4.

Deposition of the Hon. W. H. Robinson.

The Hon. W. H. Robinson, Legislative Counsellor and Provincial Aide-de-Camp to His Excellency the Lieut.-Governor,—states.

THAT he introduced Mr. Ebenezer Greely, citizen of the State of Maine, to an audience of His Excellency, the Lieut.-Governor, on Tuesday the 8th instant. His Excellency received Mr. Greely very civilly; stated to him that he had always regretted the necessity for the arrest and detention of Mr. Greely; said that necessity was imposed on him for the assertion of the principle, which it was his duty to maintain, of the right of jurisdiction and possession of the disputed territory on the part of the British Government: but that he considered enough had been done for that purpose, especially as Mr. G.'s commission had ceased. That he had always wished and directed Mr. Greely to be treated with every degree of attention to his comfort and convenience, and that his restraint should be merely nominal; that he had been happy to attend to Mr. Gorham Parke's request that Mr. Greely should have free liberty to walk about the town—and, in fact, thought he always had had that indulgence; and having yesterday morning received an application for his enlargement, he the Lieut.-Governor had much pleasure in complying with that request. His Excellency then inquired of Mr. Greely when he wished to proceed on his return to the States? he answered on Thursday morning the 10th inst. His Excellency said that Mr. Greely might make his arrangements accordingly, and that the necessary order should be sent to the sheriff so as to allow him to proceed at that time.

Some complimentary observations then occurred, respecting some newspapers which Mr. Greely had left for His Excellency's perusal, but which His Excellency said he had been so much engaged in despatching a mail to England that he had not had time to look at.

Deponent further states that, on the following morning he was made the bearer of an order to the Sheriff for the enlargement of Mr. Greely, of which the following is a copy.

On this occasion Mr. Greely repeated his acknowledgments, and expressed to deponent a wish that His Excellency would accept the newspapers from him, which His Excellency did.

Inclosure 5 in No. 4.

Order for the Release of Mr. Greely.

Sir,

Government House, August 8, 1837.

AN application having been made to me for the liberation of Mr. E. Greely, I have much pleasure in complying with that request. You will accordingly release Mr. Greely from all further restraint.

I am, &c.

(Signed)

J. HARVEY.

Mr. Sheriff Miller,
County of York.



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SECOND MISSION OF EBENEZAR GREELY.

No. 1—*J. Stephen, Esq. to the Hon. W. Fox Strangways.*

Sir,

Downing Street, October 10, 1837.

WITH reference to my letter of the 29th ultimo, I am directed by Lord Glenelg to transmit to you, for the information and consideration of Viscount Palmerston, the copy of a dispatch which has this day been received from the Lieut.-Governor of New Brunswick, reporting the return of Mr. Ebenezer Greely to that province, with the avowed intention of resuming the proceedings which, in the former instance, had led to his arrest at Madawaska, and the measures which have been adopted by the authorities of New Brunswick for vindicating the rights of Great Britain over the territory in dispute between the State of Maine and that province.

The Hon. W. Fox Strangways,
&c. &c. &c.

I have the honor to be, &c.
(Signed)

JAS. STEPHEN.

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disputed territory.

Second Mission of
Ebenezer Greely.

Inclosure 1 in No. 1.

Sir J. Harvey to Lord Glenelg.

(Extract.)

Government House, Fredericton, New Brunswick, September 5, 1837.

THE enclosed copy of a letter, which I have addressed to Her Majesty's Minister at Washington, will inform your Lordship that Mr. E. S. Greely, who was liberated by me on the 5th ultimo, has returned into this province, for the avowed purpose of resuming the proceedings which led to his arrest at Madawaska.

Mr. Greely having himself apprized me, by a note addressed to myself, of his arrival and intentions, I immediately placed that communication in the hands of the Solicitor-General, (the Attorney-General being absent), and directed him to proceed into the county of Carleton, in order to communicate with and instruct the Magistrates in their proper line of duty, and with a view to prevent the adoption of any measures against Mr. Greely, until some overt illegal act had been committed by him.

I will take care to keep your Lordship, and Her Majesty's Minister at Washington, promptly informed of all that may occur connected with these vexatious proceedings, to which, I have been assured, some (doubtless wilful) misconception on the part of the people of Maine, of a declaration imputed to Lord Palmerston in his place in the House of Commons some months ago, if it did not actually give rise, yet is believed to have given an increased degree of confidence on their part.

Inclosure 2 in No. 1.

Sir J. Harvey to H. S. Fox, Esq.

Sir,

Fredericton, New Brunswick, August 29, 1837.

WITH much concern I hasten to inform your Excellency, that Mr. E. S. Greely has returned into this province, professing his determination to proceed into the Madawaska settlement, there to resume taking the census, in which he was interrupted by his arrest. If he persists in doing this he will subject himself to immediate arrest by the local authorities, by which, excitement, and probably, collision may be produced, as rumours have reached me of an intended mustering of militia volunteers on the frontiers of Maine.

I should much regret any occurrence of this kind, and should be glad to be favoured with your advice and opinion at as early a period as may be practicable.

I have the honour to be, &c.

H. S. Fox, Esq.
&c. &c. &c.

(Signed)

J. HARVEY,
Lieutenant-Governor.

Inclosure 3 in No. 1.

The Solicitor-General to Sir. J. Harvey.

(Extract.)

Fredericton, September 5, 1837.

I HAVE the honor to report that in pursuance of your Excellency's directions, I set out from this place for Madawaska, on Thursday morning last, for the purpose of ascertaining the object Mr. Greely had in view in returning to this province, after having been discharged from custody by your Excellency, under the expectation that he would not again attempt to persist in the measure for which he had been imprisoned. On my arrival at Woodstock I found Mr. Greely there, and had an interview with him in the presence of Mr. Maclauchlan, the warden of the disputed territory. I first presented him with the letter he had addressed to your Excellency, of the 26th August last, apprizing your Excellency of his return and intention of proceeding to Madawaska, "to close up the census

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which he commenced last May;" and enquired of him if that was his letter; he replied it was. I then enquired of him what his object was, in proceeding to take a census of the inhabitants of the parish of Madawaska, whether from mere curiosity, or for any other object: his reply was that the inhabitants of that parish being on the banks of the River St. John were inhabitants and citizens of the State of Maine, being within the territory of and belonging to, that State; and that he was acting under the authority of the Government of that State in taking their numbers, in order that they should participate in, or receive a portion of, the surplus revenues of the United States appropriated to the State of Maine. I asked him if he meant to tell those inhabitants that they were citizens and inhabitants of the State of Maine. He replied, if they asked him the question, he certainly should tell them so. I then told him that the territory and the inhabitants of the parish of Madawaska had hitherto been under the dominion of the British Government, and still continued so as part of this province; and that until the Government of the mother country ordered otherwise, the Governor of this province was bound to, and would necessarily retain the possession and hold jurisdiction over that territory; and, therefore, any assumption of a right, such as he talked of, that is, the claiming it as part of the territory of the State of Maine, and under the dominion of that State, could not, and would not be allowed by the provincial authorities; and I, therefore, in the name of your Excellency, as Governor of this province and of the provincial authorities in general, forbid him to proceed in the measure he talked of; and gave him notice that if he did so proceed he would be immediately apprehended and committed to prison. I, at the same time, told him that the act which he intimated his intention of doing, was one that no British subject would be allowed to do, or could do without being subject to a severe and heavy punishment, as a crime of a very heinous nature; and, therefore, he could not for a moment suppose that he, a foreigner, would be allowed to do that which would not be tolerated in a British subject. He said, in his reply, he understood all that, and he expected and was prepared to be taken prisoner; but should, notwithstanding, proceed until he was so stopped, and that we might depend upon it that as soon as he was taken prisoner, his Government would appoint another person to succeed him, who would be sent on for the purpose with a sufficient force to protect and support him in the act. I suggested to him that it would answer his purpose equally well, after the notice I had given him, to go back and inform his Government that he was met by the provincial authorities at Woodstock, and stopped in his proceedings, and I would give him a written certificate to that effect if he wished it, and this course would prevent the necessity of taking him prisoner; but he declined acceding to this proposition, declaring he would proceed in his object, until he was taken prisoner. This ended our interview; much more passed in the course of our conversation, but what I have related is the substance of it. I proceeded the next morning on for the Grand Falls; and on my arrival there sent for the Magistrates living in the Madawaska Settlement; and having given them the necessary instructions as to apprehending Mr. Greely in case he came there, and commenced again to take the census for the purpose he stated to me, I returned to this place. On my way back, I learnt at Woodstock that Mr. Greely had left that place for Madawaska on Saturday morning last, and, therefore, I presume he will proceed in the way he stated it was his intention to do, in which case the Magistrates will, under the instructions I left with them, apprehend him and send him to Carleton jail.

No. 2.—*J. Stephen, Esq., to the Hon. W. Fox Strangways.*

Sir,

Downing Street, October 12, 1837.

WITH reference to my letter of the 10th instant, I am directed by Lord Glenelg to transmit to you for the information and consideration of Viscount Palmerston, the enclosed copies of two despatches from the Lieut.-Governor of New Brunswick, reporting the arrest of Ebenezer Greely, and the measures which he has taken for repelling the attack meditated by the State of Maine on the British authorities at Madawaska.

The Hon. W. Fox Strangways,
 &c. &c. &c.

I am, &c.,
 (Signed) JAS. STEPHEN.

Inclosure 2 in No. 1.

Sir, J. Harvey to Lord Glenelg.

(Extract.)

Government House, Fredericton, September 11, 1837.

HEREWITH I hasten to transmit to your Lordship a copy of a letter which I have felt it my duty to address to the Governor of the State of Maine in consequence of information communicated without the least reserve or hesitation by the agent of the State, Mr. Ebenezer S. Greely, now in confinement in the gaol of this place, under a warrant issued by me pursuant to the advice of the Solicitor-General, (in the absence of the Attorney-General) and confirmed by rumours from all quarters: copy of the warrant under which Mr. Greely was committed is enclosed.

I have transmitted copy of my letter to the Governor of Maine, to Her Majesty's Ambassador at Washington, and shall take care to keep him and your Lordship regularly and promptly apprized of any occurrence of importance which may arise out of the present vexatious state of things.

Inclosure 2 in No. 3.

*Sir John Harvey to the Governor of the State of Maine.**Government House, Fredericton, New Brunswick,**September 10, 1837.*

Sir,

Mr. E. S. GREELY having again come into this Province and resumed the exercise of jurisdiction within it, and having declared that it is your Excellency's intention to support him or some other agent (in the event of his arrest) by force, it becomes my duty to lose time in apprizing your Excellency of what you may not be aware, viz. that I hold positive instructions from my Government not to suffer any act of sovereignty or jurisdiction to be exercised by any foreign Power within the territory in dispute betwixt Great Britain and the United States, until the right to that territory shall have been determined by negotiation betwixt the two general Governments. I am further to apprize your Excellency, that the Central Government of the United States having distinctly acquiesced in this arrangement, I consider that, in fulfilling it, I am acting in accordance with the declared wishes of that Government, as well as in obedience to the orders of my own.

From this explanation your Excellency will perceive, that until I may be relieved from the obligation imposed on me by my instructions, I possess no discretionary power whatever on the subject; and that if the whole military force of British America should be necessary to enable me to give effect to those instructions, that force would be placed at my disposal.

Under these embarrassing circumstances, and in a spirit of the utmost anxiety so to act as not to make myself instrumental in disturbing or endangering those friendly relations now happily subsisting betwixt the two nations, I appeal to your Excellency so far to co-operate with me in respect to this most important object as to prevent the adoption, on the part of any of the citizens of the State of Maine, of any overt act which may, by possibility, lead to collision, and thereby, by engendering angry feelings, retard instead of accelerate the attainment of that object which we all have so much at heart, viz., the early and satisfactory adjustment of the boundary betwixt the State of Maine and this Province, for a time which may be sufficient to enable me to refer to my Government and to Her Majesty's Minister at Washington to relieve me from the obligation at present imposed on me of repelling by force any act of invasion or foreign jurisdiction which may be attempted within the disputed territory, and to furnish me with such further instructions on the subject as any more recent arrangement which may have taken place since the date of those instructions may render necessary. From the line of conduct pursued by your Excellency in the case of Mr. Greeley's mission, and from the language of the letter which your Excellency did me the honour to address to me, under the date 20th June last, I am necessarily led to infer that some arrangement regarding the disputed territory of which I am wholly ignorant, of which your Excellency must have been apprized and I have not, must have been entered into. In this view, I do not allow myself to entertain any doubt as to your Excellency's desire not to interrupt the good understanding which now happily subsists between England and the United States. I am induced confidently to hope, that on the explanation which I have thus frankly given to your Excellency, you will readily consent to meet my earnest request by preventing any proceedings which your Excellency is now apprized it is at present imposed on me as a duty to resist.

I have, &c.

(Signed) J. HARVEY.

*Major-General, Lieut.-Governor.**The Governor of the State of Maine.*

P.S.—I add a postscript to say, with reference to the mere question of ascertaining the number of the inhabitants of the Madawaska Settlement, that if your Excellency had done me the honour of applying to me to furnish you with such information, I should have had the greatest pleasure in doing so, or in permitting any person deputed by your Excellency to inform himself on this subject on the spot. It was the assumption of the right to adopt this proceeding independent of the authorities of this province that it was, and as at present instructed is my duty to resist until the question of claim to the territory in dispute is decided, or my instructions modified by competent authority.

(Signed) J. H.

I send this letter by a special messenger, John Shore, Esq., by whom I shall feel much obliged by your Excellency's answer.

Inclosure 4 in No. 2.

Warrant of Commitment of Ebenezer Greely.

(L. S.)

To J. A. Maclauchlan, Esq., Warden of the disputed territory now in the possession of, and under the Government of, the the British local authorities of this province of New

(Signed) J. HARVEY.

Lieutenant-Governor. Brunswick.

WHEREAS it has been sufficiently made to appear to me, that one Ebenezer S. Greely, a foreigner, and citizen of the United States, acting under the authority and direction of the Government of the State of Maine, one of the subordinate states of the United States of America, has been apprehended and taken into custody by the magistrates of the parish of Madawaska, in the county of Carleton, in this province, for attempt-

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ing to take a census of the inhabitants of that parish, under the pretence that they are citizens of, and belong to, the said State of Maine, and that the territory in which they live is part of the said State of Maine, and subject to that Government; and whereas the offence for which the said Ebenezer S. Greely has been so apprehended is an act of foreign power against the jurisdiction of the British Government over a part of her colonial territory, I hereby command you to take the said E. S. Greely into your custody and to bring him to Fredericton, and then deliver him into the charge and custody of the sheriff of the county of York, as keeper of the county gaol at Fredericton; and I further command the said sheriff of the county of York to receive the said E. S. Greely into his custody, and him safely and securely to keep until my further order or the further order of the Lieutenant-Governor or Commander-in-Chief of this province for the time being shall be given according to Her Majesty's pleasure thereon; and I further command that any sheriff, constable, or other officer, into whose hands or custody the said E. S. Greely has been delivered or committed by any of the magistrates of the said parish of Madawaska, do forthwith, upon sight hereof, deliver the said Ebenezer S. Greely over into your charge, of which all magistrates, sheriffs, officers, and other persons and subjects of Her Majesty in this province, are to take due notice and to be aiding and assisting you so far as you may require the same in the due execution of this my warrant.

Given under my hand and seal at Government House, Fredericton, in the province of New Brunswick, this 6th day of September, in the first year of the reign of our Sovereign Lady Queen Victoria, and in the year of our Lord 1837.

By His Excellency's command,

(Signed)

W. F. ODELL.

Inclosure 5 in No. 2.

The Governor of the State of Maine to Sir J. Harvey.

Sir,

State of Maine, Executive Department, Augusta, September 27, 1837.

I HAVE had the honour to receive your Excellency's letter of the 10th instant. It informs me that you hold positive instructions from your Government, not to suffer any act of sovereignty or jurisdiction to be exercised by any foreign power within the territory in dispute betwixt Great Britain and the United States, until the right to that territory shall have been determined by negociation; and that, if necessary to the enforcement of those instructions, the whole military force of British America will be placed at your disposal.

Your Excellency having expressed the belief that these facts were previously unknown to me, will not, of course, view as unexpected, the surprise which this information has created, announced as it is through an official organ by a Government profoundly pacific in its professions, and at a time of almost universal peace throughout the civilized world.

Your Excellency's communication having left no room for doubt as to the people against whom the note of alarm is sounded, my surprise is greater inasmuch as that people, even while suffering long-continued privation of their rights, and enduring accumulated indignities, have made no other returns than those of forbearance.

May there not be something peculiar in the character of that claim which can thus incite its advocates to anticipate from a peaceful people such measures as to justify the preparations referred to? Might it not be fairly deduced from these arrangements, that there exists some conscious weakness as to the foundation on which that claim is made to rest?

Your Excellency observes, that the subject of this controversy is now under negotiation. It would seem that among nations desirous of ascertaining and respecting each other's just rights, proofs and reasonings, as the means of bringing this subject to a satisfactory result, might be more appropriate than exhibitions of military power.

But whatever may be the considerations in which your Excellency's instructions have originated, I take pleasure in the conviction which I entertain, that your Excellency would gladly avoid becoming "an instrument of disturbing or endangering the friendly relations now so happily subsisting between the two nations." And I beg your Excellency to be assured of the sincerity of my desires, that every occasion of collision or jealousy may be avoided.

But while it gives me unfeigned pleasure to reciprocate these desires for the continued harmony of the two nations, duty requires me to say, that the citizens of Maine are actuated by a conviction *which can never be shaken*, that their territorial limits on their northern frontier do of right, and in fact, extend to the highlands which divide the waters of the St. Lawrence from those of the St. Johns.

I am informed by your Excellency that Ebenezer S. Greely has returned to the province of New Brunswick, and there resumed the exercise of jurisdiction; and your Excellency requests an interposition on my part to prevent the adoption, by any citizens of this state, of any overt act which may by possibility lead to collision, and thereby by engendering angry feelings, retard instead of accelerate the settlement of that object which we all have so much at heart, to wit, the satisfactory adjustment of the question of boundary, for a time sufficient to enable your Excellency to refer to your Government, and to Her Majesty's Minister at Washington, to relieve your Excellency from the existing obligations of repelling by force any active invasion of a foreign jurisdiction which may be attempted within the disputed territory.

By the renewed exercise of jurisdiction on the part of Greeley, to which your Excellency refers, I understand is meant his attempt to complete the census of Madawaska, which was unfinished at the time of his arrest.

Happy as I should certainly feel in complying with any request made by the Executive of New Brunswick, I am precluded from any action in relation to Greeley. His authority to take the census was derived from an act of the Legislature of this State, and he received his appointment, not from this department, but from the county commissioners of the county of Penobscot. However desirous the Executive of this state may be to acquiesce in your Excellency's wishes, it would therefore be beyond their power to interdict the proceedings of Greeley.

Please accept my acknowledgements for the frankness with which your Excellency has made known the instructions of your Government.

His Excellency, Sir John Harvey,
 &c. &c. &c.

(Signed)

I am, &c,
 ROBERT P. DUNLAP.

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No. 3.—*Sir J. Harvey to Lord Glenelg.*—(Received from the Colonial Office.)

(Extract)

Government House, Fredericton, October 10, 1837.

P.S.—I ANNEX for your Lordship's information, extract of a report received by me this morning from the warden of the "Disputed Territory," dated Grand Falls, October 8, by which it will be seen that the exploring party adverted to in my despatch No. 48, have returned to the State of Maine through the woods (an undertaking of great difficulty and fatigue, being *up stream*) for fear of being arrested by the Madawaska magistrates, to whom, however, no such instructions had been given, as there is every difference betwixt merely *passing through* a projected line of road, and cutting and opening such a road.

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Extract from a Report from the Warden of the Disputed Territory, dated Great Falls, Sunday, October 8, 1837.

THE Americans who made their appearance at or near the Fish River, previous to your Excellency's leaving this have returned. It appears there were eight or nine of them, which formed the party to explore the line of road from the Little Machias on the Restook, to intersect the St. John River between Baker's and Fish River, six miles apart; and having accomplished this duty, which they report favourably upon, have now returned by the same route, supposing, I imagine, that the authorities here would have arrested them if they had come this way, particularly as the Bangor people speak confidently that such was the tenor of your Excellency's instructions to the magistrates.

Inclosure 2 in No. 3.

Sir. J. Harvey to Lord Glenelg.

(Extract)

Government House, Fredericton, October 17, 1837.

I HAVE the honour to transmit a copy of a communication which I felt it proper to address to the Governor of the State of Maine, in acknowledgement of his letter to me of the 27th ultimo, of which a copy was transmitted to your Lordship in my despatch, of the 7th instant.

Inclosure 3 in No. 3.

Sir J. Harvey to the Governor of the State of Maine.

Government House, Fredericton, New Brunswick.

October 12, 1837.

Sir,

I HAVE the honour to acknowledge your Excellency's communication of the 27th ultimo, in answer to mine of the 10th, and to assure you that the recent change in the quarters of a small portion of Her Majesty's troops in this province was a strictly defensive, and precautionary measure, and had no other object than give protection and support to the civil authorities of the province, in enabling them to resist any attempts which might be made by "armed" citizens of the State of Maine to renew the exercise of jurisdiction within the "Disputed Territory," a purpose distinctly intimated by Mr. E. S. Greeley, and loudly threatened by the public press within the state.

On the receipt of your Excellency's letter I had great pleasure in recalling the detachments of troops which had moved towards the boundary line of the territory in question, as I now have in renewing to your Excellency the assurance that I am desirous of nothing so much as to convince your excellency, and our neighbours of the State of Maine, that it is the anxious wish of myself and Her Majesty's subjects in this province to cultivate the most friendly feelings and intercourse with them, provided they will abstain from any acts which I may be compelled to view as disturbing the existing jurisdiction of this province within the territory claimed by the two nations until the definitive right to it can be amicably determined.

I have, &c.

The Governor of the State of Maine.

(Signed) J. HARVEY.

No. 4.—*Henry S. Fox, Esq. to Viscount Palmerston. (Received Nov. 25.)*

My Lord,

Washington, Nov. 5, 1837.

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I HAVE had the honor, this day, to receive your Lordship's despatch of the 31st of August, with its several important inclosures. The despatch was forwarded to me by Her Majesty's Consul at Boston, by a special messenger, according to directions from your Lordship's office. It was received by the Consul at Boston by the way of Halifax, on the 3rd instant.

I shall have the honor to address your Lordship at large by the return of the special messenger, whom I shall despatch in time to enable him to reach Boston before the departure of the British mail boat for Halifax. But I hasten, in the meantime, to acknowledge the due receipt of your Lordship's communication; and to state that I had already, upon occasion of the second offence, and consequent second arrest of Mr. Greely, anticipated to a certain extent that portion of your Lordship's instructions which is contained in the third and fourth paragraphs of your Lordship's despatch. I transmit the present letter by the ordinary post by the way of New York.

I have the honor to be, &c.

Viscount Palmerston,
&c. &c. &c.

(Signed) H. S. FOX.

No. 5.—*A. Stevenson, Esq. to Viscount Palmerston.—(Received November 21.)*

23, Portland Place, November 18, 1837.

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary from the United States, had the honor on the 10th of August last, of addressing to Lord Viscount Palmerston, Her Majesty's Principal Secretary of State for Foreign Affairs, an official note, complaining of the arrest and imprisonment of Ebenezer S. Greely, a citizen of the United States, by the provincial authorities of New Brunswick, and demanding, by order of his Government, the immediate release of Mr. Greely from imprisonment, with suitable indemnity for the wrongs he had sustained.

To this communication a note was received from his Lordship, under date of the 22nd of the same month, in which an assurance was given that an early answer to the complaint might be expected. No answer, however, has yet been received, and it is with unfeigned regret, that the Undersigned finds himself constrained, in again inviting the attention of Her Majesty's Government to the subject, to accompany it with another complaint of a second outrage committed by the authorities of New Brunswick upon the rights and liberty of this individual.

From recent information received, it appears, that shortly after the first arrest and imprisonment of Mr. Greely, he was, by the orders of the Lieutenant-Governor of New Brunswick, released from confinement, but was immediately thereafter again taken into custody by his authority, and recommitted to the gaol of Fredericton, where he is now detained. This fact having been communicated by the Governor of Maine to the President of the United States, (in an official communication setting forth the circumstances under which it was done, a copy of which is herewith transmitted) the Undersigned has received the special instructions of his Government to bring the subject without delay to the notice of Her Majesty's Government, in order that immediate steps may be taken for the liberation of Mr. Greely and indemnity made for the injuries he has suffered.

Having in the first note which he had the honour of addressing to Lord Palmerston stated the grounds upon which the release of this individual was demanded, and the expectations of his Government in relation to the subject, and having waved the discussion of the questions of right and jurisdiction, which he still intends doing, it will not be needful to do more on this occasion, than express to his Lordship the painful surprise and regret with which the President has received information of this second outrage on the part of the authorities of New Brunswick, and to repeat the assurances heretofore given, that such proceeding can be regarded in no other light than a violation of the rights and sovereignty of the United States, and entirely irreconcilable with that mutual forbearance, which it was understood would be practised by both Governments pending the negotiation.

The circumstances under which these recent attempts to enforce jurisdiction have been made, show, that in the most favorable aspect in which they can be regarded they were wholly indefensible.

The act for which Greely was arrested and imprisoned, so far from having been committed within the acknowledged dominions of the British crown, and beyond the limits of the disputed territory, and therefore liable to be treated as a violation of territorial jurisdiction, took place, as appears by the statement of the Governor of Maine, whilst he was employed within the limits of that State and under its authority, in enumerating the inhabitants of the county of Penobscot.

By what authority then the provincial Government of New Brunswick felt itself

justified in exercising such acts of sovereign power, the Undersigned is at a loss to conceive, unless indeed, upon the ground, that the jurisdiction and sovereignty over the disputed territory, pending the controversy, rests exclusively with Great Britain. If such should turn out to be the fact, it can hardly be necessary again to repeat the assurances which have been heretofore given, that in any such claim of power the Government of the United States cannot acquiesce.

Upon the consequences which would unavoidably result from attempting to exercise such jurisdiction, it is needless to enlarge. It must now be apparent that all such attempts, if persevered in, can produce only feuds and collisions of the most painful character; and besides increasing the feelings of international discord, which have already been excited between the contending parties, they will close every avenue to an amicable adjustment of a controversy which it is so much the desire and interest of both Governments to accomplish. Ought it not then to be the earnest endeavor of the two Governments to avoid doing any thing which can have a tendency to lead to such mischievous consequences?

It is under this view of the subject, that the Undersigned has been instructed again to remonstrate against these proceedings of the authorities of New Brunswick, as a violation of the rights of Maine, in the person of her agent, and to protest in the most solemn manner against the future exercise of all such acts of jurisdiction and sovereignty over the disputed territory, or the citizens of the United States, residing within its limits, until a final adjustment of the controversy takes place.

The Undersigned therefore cannot and ought not to close this note without again invoking the early and earnest attention of Lord Palmerston, and that of Her Majesty's Government to this painful subject.

It is one of deep and mutual interest, to the parties concerned, and the delicacy and embarrassments which surround it, are justly appreciated by the Government of the United States. Deeply regretting, as that Government does, the collisions of authority to which both countries have been so repeatedly exposed by the delay that has taken place in the final settlement of the main question, it is sincerely desirous, as the undersigned has taken occasion repeatedly to assure Lord Palmerston, to have it brought to a speedy and amicable termination. This can only be done, by measures of mutual forbearance and moderation, on the part of both Governments. To this end, the efforts of the American Government, have been earnest, persevering and constant. It has done, as it will continue to do, every thing in its power to induce the State of Maine to pursue a course best calculated to avoid all excitement and collision between the citizens of that State and the inhabitants of New Brunswick; or which would tend in any manner, to embarrass the mediatorial action of their two Governments on the subject; but it cannot be expected, if the authorities of New Brunswick still persevere in attempting to exercise jurisdiction over the disputed territory, by the arrest and imprisonment in foreign jails of citizens of Maine for performing their duty under the laws of their own State, and within what is believed to be her territorial limits, that measures of retaliation will not be resorted to by Maine, and great mischiefs ensue. Indeed, under existing circumstances, and in the nature of human connections, it is not possible, should such a course of violence be continued, to avoid collisions of the most painful character, for which the Government of the United States cannot be responsible, but which both Governments would equally deplore.

It was doubtless with a view of guarding against these consequences that the understanding took place, that each Government should abstain from exercising jurisdiction within the limits of the disputed territory, pending the settlement of the main question.

The Undersigned, therefore, persuades himself, that these proceedings of the Colonial Government may have taken place, without a careful examination of the important questions involved in them, or the consequences to which they might lead; rather than under instructions from Her Majesty's Government, or with a deliberate view of asserting and enforcing territorial and jurisdictional rights, over the contested territory.

In looking back, as he does with satisfaction to the conciliatory spirit in which the negotiation has heretofore been conducted, and the moderation which both Governments have observed, the Undersigned cannot permit himself to doubt, but that upon a careful review of the whole subject, Her Majesty's Government will see fit not only to mark with its disapprobation this last proceeding of her Colonial Government, and direct the immediate liberation of Mr. Greely from imprisonment, with ample indemnity for the wrongs he may have sustained, but that it will see the propriety of giving suitable instructions to the authorities of New Brunswick, to abstain for the future from all acts of that character; which can have no other tendency than to increase the excitement and jealousies which already prevail, and retard the final and amicable adjustment of this painful controversy.

The Undersigned requests Lord Palmerston to accept, &c.

Viscount Palmerston.
&c. &c. &c.

(Signed) A. STEVENSON.

Inclosure in No. 5.

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

*State of Maine, Executive Department,
September 18, 1837.*

Sir,

I LOSE no time in advising your Excellency that Ebenezer S. Greely, Esquire, a citizen

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of this State, while employed within its limits, and under its authority, in taking an enumeration of the inhabitants of the county of Penobscot residing north of the surveyed and located townships, has been arrested a second time by the provincial authorities of New Brunswick, and is now in confinement in the jail at Frederickton. It becomes my duty to request that prompt measures be adopted by the Government of the United States to effect the release of Mr. Greely.

I have the honor to be, &c.

His Excellency Martin van Buren.

(Signed)

ROBERT P. DUNLOP.

&c. &c. &c.

No. 6.—*J. Stephen, Esq., to J. Backhouse, Esq.*

Sir,

Downing Street, December 14, 1837.

I AM directed by Lord Glenelg to acknowledge your letter of the 29th ultimo, transmitting the copy of a note from Mr. Stevenson, the Minister of the United States, on the subject of the arrest and continued imprisonment in New Brunswick of Ebenezer Greely. In forwarding this letter you express Lord Palmerston's desire to be furnished with Lord Glenelg's opinion as to the answer to be returned to it.

It appears to Lord Glenelg that in the note under consideration, Mr. Stevenson has himself supplied the grounds on which his demand for the liberation and indemnification of Greely should be determined.

After describing the disastrous results of collisions between the citizens of Maine and the inhabitants of New Brunswick, Mr. Stevenson observes, "it was doubtless with a view of guarding against these consequences that the understanding took place that each should abstain from exercising jurisdiction within the limits of the disputed territory, pending the settlement of the main question." To the justice of this observation Lord Glenelg entirely subscribes, and he would remark that Her Majesty's Government, have always endeavoured faithfully to act up to this agreement, even on occasions when that course, as in the recent instance of the Quebec and St. Andrews railroad, involved a considerable sacrifice.

But while they are thus scrupulous in fulfilling their part of the existing arrangement, they have a right to insist on an equal observance of it by the Government of the United States, and if necessary, to enforce such observance by compulsory measures. Now it cannot be denied, that the act for which Greely was arrested, was a very serious infringement of the understanding in question. It was in fact a summons to the inhabitants of Madawaska to renounce their allegiance to Great Britain, and to acknowledge themselves citizens of Maine. To have acquiesced, knowingly, in such a proceeding, would not only have been to betray the people of Madawaska, who, it is evident, from their addresses to Sir J. Harvey, are anxious to continue under the British Government, but would have established a precedent most detrimental to the claims of Great Britain.

It became therefore, the imperative duty of the British authorities in New Brunswick, to put an immediate stop to it. In the execution of this duty, they appear to have acted with all possible consideration towards Greely. It was not, till after his repeated refusal to desist that he was arrested.

He was soon released on parole, and almost immediately afterwards was permitted, at the instance of the British Minister at Washington, to return to Maine. He again came to New Brunswick, and recommenced his operations, and thus by his own obstinacy compelled the Lieutenant-Governor to arrest him a second time. He has since been confined at Frederickton, where he will no doubt be brought to trial at the next Session of the Provincial Courts.

After fully considering the circumstances, Lord Glenelg can see no reason for complying with the demand for the liberation of Greely, and for an indemnity to him on account of his imprisonment.

The case is exactly parallel to that of Baker, who in the year 1828, was brought to trial at New Brunswick, for a similar offence in the same district.

In that instance also a demand for indemnification was preferred to the British Government, and was answered at great length by Lord Aberdeen, in a note, of which a copy was enclosed in your letter to Mr. Hay, of the 16th August, 1828. To that argument on the general question, Lord Glenelg feels that he could add nothing, and he would therefore refer Lord Palmerston to it, for a full explanation of the grounds, on which he conceives that the present demand should be resisted.

I have the honour to be, &c.,

John Backhouse, Esq.,
&c. &c. &c.

(Signed)

JAS. STEPHEN.

No. 7.—*A. Stevenson, Esq. to Viscount Palmerston.*

23, Portland Place, February 26, 1838.

THE Undersigned, Minister Plenipotentiary from the United States, has the honor to call the attention of Lord Palmerston, her Majesty's Principal Secretary of State for Foreign Affairs to the two communications which he had the honor heretofore of addressing to his Lordship, in relation to the arrest and imprisonment of Ebenezer S. Greely, a citizen of the United States, by the authorities of the Province of New Brunswick.

As the proceeding was one, which from its peculiar character justified the expectation of an early and favourable consideration by Her Majesty's Government, and as the first communication addressed to his Lordship was in the month of August last, and the second as far back as November, the Undersigned had flattered himself with the hope that he should long since have been enabled to have communicated to his Government the decision of the case and the release of Mr. Greely from confinement. Disappointed in this expectation it now becomes his duty again to address his Lordship on the subject, and urge its consideration upon her Majesty's Government.

Whilst the Undersigned is satisfied that there has been no disposition on the part of Her Majesty's Government to protract, unnecessarily, the decision of this case, he must yet be permitted to express his deep regret that it has been so long delayed, and to repeat to Lord Palmerston, what he has on several occasions had the honor of verbally stating, and of which his Lordship must be sensible, that any further delay in the adjustment of this matter by Her Majesty's Government, can have no other effect than to aggravate the injuries which Mr. Greely has already been doomed to suffer, and increase the excitement which unhappily exists between the inhabitants of the two countries contiguous to the disputed territory.

The representations which the Undersigned has heretofore had the honor of making to his Lordship will render it unnecessary to add any further remarks upon the merits of the case. He will therefore content himself with again invoking the early and favourable consideration of Her Majesty's Government to this painful subject, and asking, as he respectfully begs leave to do, that he may, with as little delay as possible, be made acquainted, for the information of his Government, with the final determination of that of Her Majesty.

The Undersigned avails himself, &c.

Viscount Palmerston, G.C.B.
&c. &c. &c.

(Signed) A. STEVENSON.

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No. 8.—*Viscount Palmerston to Andrew Stevenson, Esq.*

Foreign Office, March 12, 1838.

THE Undersigned, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs, had the honour to acknowledge, on the 22nd of August, 1837, the receipt of the note dated the 10th of the same month, which Mr. Stevenson, Envoy Extraordinary and Minister Plenipotentiary from the United States of America, addressed to the Undersigned complaining of the arrest and imprisonment of Mr. Ebenezer Greely, a citizen of the United States, by the authorities of New Brunswick; and demanding the release of Mr. Greely, and suitable indemnity for the wrongs which he was alleged to have sustained by those proceedings.

The Undersigned had afterwards the honor duly to receive Mr. Stevenson's second note, dated the 22d of November, 1837, referring to his previous note above-mentioned, and complaining that Mr. Greely had been a second time arrested under circumstances similar to the first; and the Undersigned has now the honor to acknowledge the receipt of Mr. Stevenson's further note, dated the 26th ult., referring to the two former, and pressing for an answer thereupon.

The Undersigned regrets extremely that any delay should have taken place in replying to Mr. Stevenson's representations upon this subject, and he trusts that Mr. Stevenson will readily believe the assurance that the delay has not been occasioned by any indifference to the matter of his complaint, or by any insensibility to the importance of the question which that complaint involves. In fact, nearly at the same time that the Undersigned received Mr. Stevenson's first note, he received from Her Majesty's Secretary of State for the Colonial Department the official documents which had arrived from New Brunswick concerning the arrest of Mr. Greely, upon the occasion to which Mr. Stevenson's note referred; and thereupon the Undersigned forthwith transmitted to Mr. Fox, Her Majesty's Minister at Washington, instructions directing him to lose no time in bringing the matter under the notice of the American Government for their serious consideration. It is unnecessary for the Undersigned here to repeat, in detail, the circumstances under which the arrest of Mr. Greely took place, as Mr. Stevenson and the Government of the United States are fully acquainted with the facts of the case. But the Undersigned must observe that the offence for which Mr. Greely was arrested and imprisoned on the first occasion, and which was a second time committed under aggravated circumstances, with the knowledge and sanction of the authorities of the State of Maine, amounted to an attempt on the part of that State, to assert, in the Madawaska settlement, an act of sovereignty, wholly incompatible with the rights and the duties of the British Government in the disputed territory pending the final settlement of the boundary between the two countries; and that the pretensions advanced by the authorities of Maine on this occasion, if persevered in, must lead to hostile collisions between that State and the Government of New Brunswick. Mr. Fox accordingly was instructed to address himself to this effect to the Secretary of State of the United States, and at the same time to express the conviction of Her Majesty's Government that the President would immediately interpose his authority, for the repression of any proceedings on the part of the State of Maine, which might be likely to give rise to disastrous consequences. Mr. Fox was further directed to state that the British Government would feel it to be their duty to oppose a temperate and firm resistance to any aggressions of American citizens; and to employ constitutional powers for the pro-

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tection of British subjects, and for the punishment of such persons as might be duly convicted before the legal tribunals of Her Majesty's possessions in North America, of any attempt to interfere with the provisional exercise of jurisdiction by Great Britain, or to disturb the public peace within the disputed territory.

It was only a few days after the receipt of Mr. Stevenson's note of the 18th of Nov. last, relative to the second arrest of Mr. Greely, that the Undersigned received from Mr. Fox a despatch, acknowledging the instructions above referred to; in which despatch Mr. Fox stated that he had already, on the occasion of the second offence, and consequent second arrest of Mr. Greely, anticipated, to a certain extent, those instructions, and that he would shortly send home a full report upon the subject.

The Undersigned having been in constant expectation of receiving this report, has delayed to answer Mr. Stevenson's second note, as well as the first, conceiving that he would be enabled to do so more satisfactorily after he had been made acquainted with the result of Mr. Fox's communications at Washington upon the same subject. Mr. Fox's expected report, however, has not yet been received, and the Undersigned will no longer delay to answer Mr. Stevenson's representations. In performing this task, the Undersigned regrets, that his duty compels him at once, distinctly to deny the pretensions which the Government of the United States have of late years advanced, and which, it would appear, from Mr. Stevenson's notes, they reassert on the present occasion, in derogation of the right of the British Government to exercise jurisdiction within the disputed territory, until the boundary question is settled.

The case of the arrest and trial of Mr. Greely is precisely parallel to that of the arrest and trial of Mr. Joseph Baker, an American citizen, by the authorities of New Brunswick, in the year 1827; which, as Mr. Stevenson is aware, subsequently became the subject of a correspondence between the Representative of the United States in London, and the Secretary of State for Foreign Affairs. The right of the British Government provisionally to exercise jurisdiction over the disputed territory, was on that occasion fully and clearly, and in the opinion of the Undersigned, unanswerably laid down in the note of the Earl of Aberdeen to Mr. Lawrence, dated the 14th of August, 1828; to which note the Undersigned takes the liberty of referring Mr. Stevenson on the present occasion.

The Undersigned has the honor to renew to Mr. Stevenson the assurances of his high consideration.

Andrew Stevenson, Esq.

(Signed)

PALMERSTON.

No. 9.—*A Stevenson, Esq. to Viscount Palmerston.*

23, Portland Place, March 20, 1838.

THE Undersigned, Envoy Extraordinary and Minister Plenipotentiary from the United States, has now the honor of acknowledging the receipt of the note addressed to him by Lord Palmerston, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs, under date of the 12th instant, in reply to the official communications made by the Undersigned to his Lordship on the 18th of November and 26th of February last, upon the subject of the late proceedings of the Colonial Authorities of New Brunswick against Mr. Ebenezer S. Greely, a citizen of the state of Maine, and for which the Government of the United States, regarding them as an infringement of national and individual rights, had instructed the Undersigned to demand reparation from the Government of Her Britannic Majesty.

The Undersigned can but express his extreme and unfeigned regret, in now learning from Lord Palmerston, that these proceedings of the Authorities of New Brunswick are not only approved and justified, and all reparation for the wrongs inflicted on Mr. Greely denied; but that it is the settled determination of Her Majesty's Government to continue to assert and enforce, by all the constitutional means in its power, its exercise of Jurisdiction within the disputed Territory, until the question of Boundary, under the stipulations of the Treaty, shall be definitively settled. That this determination on the part of Her Majesty's Government will be received with painful surprise and concern by that of the United States, the Undersigned need hardly assure Lord Palmerston.

In communicating this decision, Lord Palmerston asserts, that the case of Mr. Greely is precisely parallel to that of Mr. John Baker, an American citizen who was arrested and imprisoned by the Authorities of New Brunswick in the year 1827, for a similar offence, and which became, at the time, the subject of a correspondence between the Representatives of the two countries, and was approved and justified by Her Majesty's Government. His Lordship moreover is pleased to say that, upon that occasion, the right of Jurisdiction on the part of Great Britain was unanswerably maintained by the Earl of Aberdeen (the then Principal Secretary of State for Foreign Affairs) in the Note addressed by him to Mr. Lawrence the American Chargé d'Affaires, in London, on the 14th of August, 1828, to which Lord Palmerston refers, as rendering unnecessary on his part, any further discussion of the merits of the present case. Under such circumstances, the Undersigned is not aware that it would be either necessary or proper for him to do more than to transmit his Lordship's note to his Government, and again protest, as it is his duty to do, as well against the decision which has been made, as the doctrines contained in the Earl of Aberdeen's note, now re-affirmed by Her Majesty's Government, as the basis of its present decision.

In the principles and doctrines laid down in this Note of the Earl of Aberdeen,

it is proper that the Undersigned should state in the most explicit manner, that the Government of the United States neither have or can consent to acquiesce; on the contrary, he begs to assure Lord Palmerston, that both before and subsequent to the arrest and imprisonment of Mr. Baker, the Government of the United States not only resisted the right of Jurisdiction asserted by Great Britain over this Territory, but declared its fixed determination not to acquiesce in its exercise. In proof of this, the Undersigned need only refer his Lordship to the past history of the negotiation, and more particularly to the correspondence which took place between the Representatives of the two Governments in London and Washington.

However strong then the convictions of Lord Palmerston may be, as to the unanswerable character of Lord Aberdeen's vindication of the claim of Her Majesty's Government to the Jurisdiction over this Territory, the Undersigned, after the most careful review of the arguments contained in that note, must be permitted to say, that his are not the less so as to the just claims of his own Government. In the principles assumed by the Earl of Aberdeen, as to the foundation of his argument, his Lordship seems to have entirely misapprehended, as well the grounds upon which the United States rest their claim to their property in contest, as those upon which it resists that of Her Majesty's Government. This will be made quite apparent, by a brief examination of his Lordship's Note and the history of the negotiation.

Lord Aberdeen's remarks are comprehended under three heads. In the first place, his Lordship assumes that the United States derive their claim to this Territory, under the provisions of the Treaty of 1783, by which their Sovereignty and Independence were acknowledged by Great Britain, and thereby in effect admitting (as his Lordship supposes), the prior title of the British Crown to the property.

Secondly.—That Great Britain had never parted with the Possession of the Territory, and there had been no actual delivery of it into the possession of the United States under the Treaty, and consequently, whatever rights of Sovereignty and Jurisdiction had been exercised since its execution have (until the recent attempts on the part of the State of Maine) been exercised by Her Majesty's Government, and that, consequently, Great Britain never having been divested of her ancient right of jurisdiction, the character of the Territory had undergone no change since the period antecedent to the Treaty of 1783; and,

Thirdly, that the question of eventual Sovereignty being in doubt, it was consistent with the acknowledged rule of law, that where such doubts existed, the party who had once clearly the right, and had retained the actual possession, should continue to hold it until the question was finally settled.

Now upon the first point assumed by Lord Aberdeen, it is proper to remark, that the United States do not rest their claim of right upon the provisional Treaty of 1782, or the definitive one of 1783, by which their Sovereignty and Independence was acknowledged. The provisions of the Treaty of 1783, as to Title and Boundaries, are not to be, nor have they ever been regarded by the United States, as matters of Grant or Cession on the part of the British Government. The rights of the United States, as Independent and Sovereign States, although acknowledged by that Treaty, were not acquired under it, but by a long and bloody war waged for Independence. The Treaty of 1783 was, in fact, a Treaty of peace and dismemberment, forming two Empires out of one, and laying down the fundamental rights of each. The thirteen States composing the Union at the period of their separation, had been from their first establishment, Separate and Independent States, with Separate and Independent Governments, and in this state their several Boundaries were fixed. By the Treaty of Peace, their Boundaries, like their Independence, were not granted, but acknowledged, and the acknowledgment on the part of Great Britain, was like that of other Nations. It was therefore a Treaty for the division of coeval rights, and not a grant or cession of property, and each State of course became entitled to the rights enjoyed by it before the separation.

The limits of the several States, and of course those of Massachusetts, having been fixed before the Revolution, remained the same after, and were consequently not derived from the Treaty stipulations, but from the fact of declaring themselves Independent.

The Rights and Sovereignty of the United States were therefore not granted, but acknowledged by the Treaty, and as such cannot be considered in the light of a Grant or cession of Territory, but simply, what it was intended to be, an acknowledgment of previously existing rights.

And here the Undersigned will take occasion to remark, that this is no new doctrine on the part of the American Government, asserted now for the first time in relation to the subject of their North-eastern Boundary. It is the doctrine which the United States have always maintained in their intercourse with foreign nations, and with none more so than Great Britain. In the important negotiation between the two Governments in the year 1815, in relation to the Fisheries, the Treaty of 1783 became incidentally the subject of a correspondence between Mr. John Quincy Adams, the then Minister of the United States, in London, and Earl Bathurst. Upon that occasion, the nature and character of that Treaty, and the rights secured under it, were discussed and elucidated by Mr. Adams, with a power and ability of argument, which the Undersigned can neither add to or improve. To that correspondence he now begs leave to refer Lord Palmerston.

There is no foundation then for Lord Aberdeen's supposing, that the claim of the United States rests upon the stipulations of the Treaty of 1783.

Nor is his Lordship more fortunate in the other grounds relied on as to the Possession

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of the Territory by Great Britain, before the war of the Revolution, and there having been no actual delivery of Possession to the United States at the time of the execution of the Treaty. There was in fact no Settlement within the limits of the disputed Territory, before the American Revolution. It was first settled by the French from Nova Scotia after that period, and the greater part of it was admitted by Great Britain as late as 1814, to have been actually unoccupied and waste, before the Separation between the two Countries. Indeed, the right of Jurisdiction over the country watered by the Madawaska and the Aroostook, commenced with the period of the Settlement of the Boundaries of the State of Massachusetts. That State conceiving her right of sovereignty and Jurisdiction co-extensive with her title, took steps from time to time to dispose of her unappropriated and waste lands; and more than thirty years ago she made large Grants of land within the disputed Territory, for public and private uses, and would doubtless have continued to do so, until the whole was exhausted, if it had been applied for and deemed beneficial.

To this proceeding on the part of the State of Massachusetts, it is believed, no objection was interposed at the time by the British Government. In fact, to a large portion of the Territory over which Her Majesty's Government now asserts the right of Jurisdiction, no claim was set up by Great Britain, until after the Treaty of Ghent, and the commission organized under it in 1814, and it was after that period, that the British Jurisdiction invaded the Aroostook Settlement. Under these circumstances, it is not without surprize and regret, that the Undersigned now learns from Lord Palmerston's Note, that in denying the right of jurisdiction on the part of Great Britain over this Territory, and claiming it as the rightful property of Maine, the Government of the United States are considered by that of Her Majesty, as advancing pretensions of a recent character, in derogation of the just rights of Her Britannic Majesty. Whether such a charge is justly attributable to the Government of the United States, or that of Great Britain, it does not belong to the Undersigned to discuss or decide.

These are the explanations which the Undersigned has felt it his duty to make in vindication of the principles upon which the claim of his Government rests, and under which it has acted. He will forbear however to press the subject upon Lord Palmerston's attention, satisfied as he is, after the determination announced in his Lordship's note, that any farther discussion at this time can be productive of no practical benefit.

The Undersigned, therefore, has no other duty to perform, than to forward to his Government his Lordship's Note, and again solemnly protest against the whole proceeding on the part of Her Majesty's Government, as an infringement of the Rights and Sovereignty of the United States; and to assure Lord Palmerston, that whilst the Government of the United States is most sincerely desirous to settle this controversy, in relation to the North eastern Boundary, and will be, as it has been, at all times prepared to listen to any suggestion for its adjustment in an amicable and advantageous manner; yet if Her Majesty's Government shall continue to enforce in the manner indicated in Lord Palmerston's Note, a claim of power so questionable, both in principle and practicability, one so deeply affecting the peace and friendly relations of the two Countries, and so injurious to its consequences; it cannot but be expected that suitable measures will be adopted by the Government of the United States, for the purpose of maintaining, not only its own rights of Sovereignty and Jurisdiction, but protecting from aggression and outrage, the Citizens of the United States residing within the disputed Territory.

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

Viscount Palmerston, G.C.B.
&c. &c. &c.

(Signed) A. STEVENSON.

No. 10.—Viscount Palmerston to A. Stevenson, Esq.

Foreign Office, April 16, 1838.

THE Undersigned, Her Majesty's Principal Secretary of State for Foreign Affairs, has the honour to acknowledge the receipt of the Note of Mr. Stevenson, Minister Plenipotentiary of the United States of America, dated the 20th ultimo, in reply to the Note of the Undersigned, dated the 12th ultimo, relative to the proceedings of the Authorities of New Brunswick towards Mr. Ebenezer Greely, a Citizen of the United States.

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 the geographical description contained in the Treaty itself; and therefore the question, whether any particular district is or is not comprised within the limits of the United States, cannot be determined by reference to what was, or was not the extent of any particular State, when that State was a British Province; but can only be decided by a reference to the geographical description of the Boundary contained in the Treaty; and, consequently, the argument used in Lord Aberdeen's Note of the 14th of August, 1828, appears to the Undersigned to stand good and conclusive.

With respect also to Mr. Stevenson's statement, as to the origin of the claim of right to exercise, pending the negotiations between the two Countries, Jurisdiction over the Country watered by the Madawaska and the Aroostock, the Undersigned must beg leave to repeat, what has been already stated in Lord Aberdeen's Note just referred to, that until a

very recent period, the right of Great Britain to exercise acts of Sovereignty within the disputed Territory had never been called in question by the Government of the United States; that the representation which was addressed by Mr. Clay to the British Chargé d'Affaires at Washington, on the 27th of March, 1826, was the first occasion when an objection of any kind was advanced by the Government of the United States, to the proceedings of the British in the District jointly claimed by the two Governments; and that even the objection then made was not directed against the exercise of Jurisdiction on the part of Great Britain, which was then, and had long been notorious, but against the depredations committed by individuals, who, by cutting wood, and by other acts, were rendering this District of less value to the party to whom it should finally be assigned.

The Undersigned, &c.

Andrew Stevenson, Esq.
&c. &c. &c.

(Signed)

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No. 11.—*A. Stevenson, Esq. to Viscount Palmerston.*

23, Portland Place, April 21, 1838.

THE Undersigned, Minister Plenipotentiary of the United States, has the honor to acknowledge the receipt of the Note of Lord Palmerston, Her Majesty's Principal Secretary of State for Foreign Affairs, under date of the 16th instant, in answer to that of the Undersigned of the 20th ultimo, relative to the proceedings of the Authorities of New Brunswick towards Mr. Ebenezer S. Greely, a Citizen of the United States.

The Undersigned is not aware, that it is necessary for him to make any reply to the observations contained in Lord Palmerston's Note, further than to correct the mis-apprehension into which his Lordship seems to have fallen, in relation to some of the arguments which the Undersigned has heretofore had the honor of submitting, and to add such explanatory observations as have been suggested by his Lordship's last Note.

In the first place it is proper to remark, that Lord Palmerston mis-apprehends entirely that part of the argument intended as a reply to the Earl of Aberdeen's Note to Mr. Lawrence of the 14th of August, 1828.

In discussing the propositions put forth by Lord Aberdeen, the Undersigned did not mean to be understood, as denying that the Treaty of 1783 provided for the settlement of the question of Territorial Boundaries between Great Britain and the United States by reference to a *geographical description*. The fact is readily admitted, as Lord Palmerston states it; but it is not perceived how the admission can in any manner be made to diminish the force of the argument which the Undersigned has had the honor of offering or strengthen that of the Earl of Aberdeen, which Lord Palmerston re-affirms.

By the Treaty of 1783, Great Britain not only acknowledged the several States to be Sovereign and Independent, but relinquished all claim to their Government *property and territorial rights and every part thereof*. Now the enquiry which naturally suggests itself in connection with this provision is this: what territorial rights were thus intended to be relinquished, but those which had previously existed, and were enjoyed by the respective States at the time of the adoption of the Treaty.

The United States were described severally, and by name, and Massachusetts (Maine at that time not having been created a separate State) was of course the sole proprietor, as one party in severalty of her own Soil and Territory. It must evidently then have been the intention of the contracting parties to the Treaty, to conform the territorial limits of the States to those which existed before, or at the time the Treaty was made. With this view, doubtless, the geographical description was agreed upon as the best means of effecting it, and fixing the limits of their respective Possessions. The Treaty accordingly declares, that the point of commencement shall be "*from the north-west angle of Nova Scotia*" and then calls for "*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 Saint Lawrence, from those which fall into the Atlantic Ocean to the northwestern-most head of Connecticut river.*" The easternly part of the line contested, is then declared to be "*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 which flow into the Atlantic Ocean from those which fall into the River St. Lawrence.*"

Now the Boundaries thus settled and fixed by the Treaty are to be regarded, or they are not. If the geographical lines which it describes are laid down, and the angle which it describes be found, the right of the United States to the whole Territory within its limits is indisputable, and is not denied by Great Britain; but she now contends, that the *geographical line* of the Treaty is impracticable, and cannot be found; that the description is imperfect; that there is no north-west angle of Nova Scotia, and no highlands conforming to the terms of the Treaty; therefore, that nothing can be done but to establish *another Boundary* by agreement of the two nations having no reference to that supposed to have been fixed in 1783. If then the provisions of the Treaty are to be disregarded, and the two Governments are to negotiate and adjust their Boundaries, whence does Her Majesty's Government derive the right of Jurisdiction and Sovereignty pending the negotiation. Until the question be settled either according to the lines of the Treaty or other wise, neither Government has the right of exclusively judging. Such a power in either Government, the Undersigned must again repeat, would be wholly incompatible with the just rights of the other.

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In favor of this claim of Jurisdiction, on the part of Great Britain, the doctrine asserted by Lord Aberdeen and Lord Palmerston amounts to this, that the whole of Massachusetts belonged to the British Crown prior to the Treaty of 1783, and was a part of her possessions: that as the Treaty called for certain geographical lines or boundaries, which have not been defined, but remain unadjusted, the Sovereignty and Jurisdiction over the whole Territory necessarily remains with Great Britain, until the portion designated by the Treaty stipulations shall be set apart from the British possessions and assigned to the United States, and that consequently some other act of setting apart the Territories of the United States from those of Great Britain, must be performed to divest her of Sovereignty and Jurisdiction.

Now if this doctrine be tested by its consequences, to what would it lead? If the right was yielded to Great Britain, is it not apparent that the claim asserted on the part of Her Majesty's Government, instead of being limited in its operation to the territory in dispute, might, upon the principles, assumed be made to reach to the entire State of Maine, or any other portion of the United States? If yielded to the United States, what part of the province of New Brunswick or Nova Scotia (upon which Massachusetts once had some claim) might not, on like principles, be annexed to the United States? Besides, would not the argument by which the claim of Her Majesty's Government is supported, prove that the United States are not now in possession of any portion of the territory acquired by the war of their Independence, if the Treaty of 1783 be as Lord Aberdeen and Lord Palmerston both suppose, the only act of Separation, in virtue of which they are in possession of their territory.

Whether the geographical lines called for by the Treaty will give the territory in dispute to Great Britain or to the United States, is the question at issue. Each claim it: and until it is finally adjusted, neither Government can or ought to attempt the exercise of Sovereignty, and Jurisdiction over it. This is the ground which the Undersigned has felt it his duty to maintain in his correspondence with Lord Palmerston, and which he feels quite confident his Government will never consent to surrender.

In relation to the question of Title, he will take this occasion again to repeat, that it was not until after the year 1814, that the claim to the extent now asserted, was made on the part of Her Majesty's Government. This will appear by reference to the correspondence which preceded the Treaty of Ghent. By that correspondence it will be seen, that the British Commissioners expressly disclaimed any desire or intention on the part of Great Britain, to acquire any increase of Territory as such, under the stipulations of the Treaty of 1783. The first proposition submitted by them on behalf of their Government, was for a revision of the Boundary line between the British and American territories, with a view to prevent future uncertainty and dispute. This proposition was afterwards renewed, and instead of confining it to a revision of the lines, as a means of guarding against misunderstandings on the subject of Boundary, the proposition was varied, so-as to secure a direct communication from Halifax and New Brunswick to Quebec, by a cession of that part of the district of Maine (then the state of Massachusetts) which intervened between New Brunswick and Quebec and prevented a direct communication.

The proposition was more than once repeated under different forms. It was however rejected by the American Commissioners upon the ground, that as Great Britain required a cession of territory forming a part of one of the States, it was not within the constitutional competency of the national Government to cede any portion of the territory of one of the States of the confederacy.

It was, moreover, admitted by the British Commissioners, that their proposal left it open to the American Commissioners to demand an equivalent for such cession in Territory or otherwise.

Now, by the submission of these propositions for a Cession of this Territory; is it not sufficiently obvious, that the British Commissioners believed that the Title was not in Great Britain, but the United States. Indeed, it can hardly be supposed that they would have proposed or consented to purchase it, if they had supposed that the British Title was what it is now asserted to be.

Nor can it be believed, that after those repeated propositions for a Cession of portions of the very Territory now claimed, and offers of an equivalent, and repeated rejections, it was the intention of the Commissioners to do more in the Treaty of Ghent, than provide simply for surveying and ascertaining the lines and guarding against possible difficulties.

It has, moreover, only been since the Treaty of 1814, and the failure to obtain the Territory by cession and purchase, that a claim has been set up, extending so much further south and west, than was necessary to secure a communication between the British provinces contiguous to the United States.

In relation to the question of Possession, upon which Her Majesty's Government now so much rely, the Undersigned will only add to his former statement on this subject, that it was expressly admitted by the British Commissioners pending the negotiation in 1814, that the greater part of the Territory in dispute was actually unoccupied.

These are the observations which the Undersigned has deemed it necessary to make in reply to his Lordship's last Note. He has not felt authorised to discuss the question of Title and eventual Sovereignty further than was necessary to meet the case of Mr. Greely, and show that the proceedings towards him were wholly unjustifiable. Having, as he believes, accomplished this, he begs to say that all further discussion on his part will now cease, unless under Instructions from his Government, or the course taken by Her Majesty's Government, it should become necessary to continue it. The Undersigned renews, &c.

Viscount Palmerston, G.C.B.

&c. &c. &c.

(Signed) A. STEVENSON.

No. 12.—*H. S. Fox, Esq. to Viscount Palmerston.*—(Received March 25, 1838.)

VIII.

(Extract)

Washington, November 24, 1837.

Further attempt of
Maine to exercise
jurisdiction in the
disputed territory.

Second Mission of
Ebenezer Greely.

IN my Despatch of the 5th instant, I had the honor to acknowledge the receipt, on that day, by a special messenger from Boston, of your Lordship's despatch of the 31st of last August, with its several inclosures, relative to the arrest and imprisonment, by the authorities of New Brunswick, of Ebenezer Greely, citizen of the State of Maine, for attempting to assert the Sovereignty of that State over the Madawaska Settlement; and respecting the reported intention of the State Government of Maine, to justify and support the attempt in question.

Her Majesty's Government will have been informed by the Lieutenant Governor of New Brunswick, of the circumstances under which Greely was released from his first arrest, after a short, and very mild form of detention at Fredericton. I addressed at the time a letter to Sir John Harvey, recommending, under the then circumstances of the case, —that Greely should be set at liberty; which recommendation, I was gratified to find, coincided with the sentiments and opinions already entertained by Sir John Harvey.

One of the chief grounds, upon which Greely was then liberated, was this: that, as Sir John Harvey had in the first instance offered to release Greely, if assured that he would desist from his unwarrantable commission: and that, as the term of that commission, under which he was taking the census of the population in the Madawaska Settlement, had expired during his detention; so the proceeding complained of could not, in the course of things, be resumed. The resumption by Greely of his unlawful attempt, (upon the plea of completing an unfinished commission,) which led to his second arrest, and to his present detention, was a surprise to Sir John Harvey, and to me; and Greely himself appears to have therein exceeded the authority, such as it was, under which he professed to be acting.

I here beg particularly to observe to your Lordship, that my interference; as far as it went, in recommending the liberation of Greely, was unofficial, and confidential; and that it has been expressly so understood by the United States Government, and as in no way weakening the case of right, as to the legality of Greely's arrest. The prisoner's liberation was solicited, informally, as an act of grace and indulgence, calculated to allay the angry feelings excited amongst the inhabitants of Maine, but which was not to be understood as touching the question of right, in any degree whatever. I must also state, on the other hand, that the United States Government, while urging me to solicit the release of Greely, as a favor, and as an act of goodwill which would relieve the future negotiation of the Boundary Question from difficulty and embarrassment, nevertheless reserved to themselves the right, even although that favor should be granted, of remonstrating against the act of the New Brunswick Authorities in ordering the arrest; which act the United States Government did then, and do still, profess to consider illegal. I did not fail duly to explain this state of the case to Sir John Harvey.

When I learned, that after a short interval, Greely had resumed his unlawful acts in the Madawaska Settlement, and had consequently been again arrested; and that threats were publicly used, that the authorities of Maine would now despatch another Agent upon the same commission, and would support that Agent with an armed escort,—a course which must unavoidably have led to immediate hostile collision with Her Majesty's forces, (and with all these things I was carefully and promptly made acquainted by Sir John Harvey.) I lost no time in invoking the interposition of the United States Government, to prevent the State of Maine from an attempt so wholly unjustifiable, and which might induce a train of lamentable and disastrous consequences; and I am happy to find, that in so doing I anticipated in part the instructions, which I have subsequently had the honor to receive from your Lordship. I had frequent and anxious conversations with Mr. Forsyth upon the subject. I found that he was altogether unwilling to admit the right of the authorities of New Brunswick, to arrest or proceed against Greely by law. Acquiescing, to a certain extent,—reluctantly and doubtfully,—in the claim of Great Britain to exercise jurisdiction within the disputed territory until the Boundary question shall be adjusted, and conceding this point only so far, as to recognize the British Jurisdiction as resting upon an "arrangement," and an "understanding," and not upon a right,—Mr. Forsyth yet contended, and still persists in contending, that the attempt of Greely did not constitute an invasion or encroachment upon that arrangement or understanding. It was not my immediate duty to enter into this part of the argument; as the case is about to be brought before a legal tribunal. But I continued earnestly to invoke the interference of the United States Government to stop the proceedings of Maine, upon the following ground; that, as the question of the legality of Greely's arrest and prosecution was already in the hands of the General Government, and the United States' Minister in London, charged officially to discuss the same with the Government of Her Majesty, no possible justification could be set up for the Authorities of Maine, if they should resort in the mean time to acts of violence; but that the whole blame of whatever disaster might result from the threatened collision, must rest with the Government and people of that state, who in the eyes of the whole world would be considered as the aggressors. I believe that this argument produced a favorable effect; and that Mr. Forsyth used such means as were in his power, without receding from the ground of right which he had taken up,—to deprecate any act of violence on the part of Maine: both by direct representations to the Executive Government of that State; and indirectly by verbal communication with the Administration Members from Maine in Congress, who were at that time in Washington, attending the Extraordinary Session.

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The alarm of collision has now fortunately passed away; and I cannot distinctly pronounce, to what extent of aggression the Authorities of Maine did really intend to proceed; or how far their ill intentions were made to yield, at the instance of the President's Government.

I must do Mr. Forsyth the justice to say, that it has throughout, appeared to be his sincere and anxious wish to avert all motive for collision.

Since the receipt of your Lordship's despatch of the 31st of August, I have held some further conversation with Mr. Forsyth. Although the danger of immediate collision has, I hope, passed away, and although I had already in part, anticipated your Lordship's Instructions, I have thought it best to read to Mr. Forsyth the principal contents of your Lordship's Despatch in order that no doubt might remain respecting the acknowledged duty, and the fixed purpose of Her Majesty's Government, to protect Her Majesty's subjects and Her Majesty's territories, from aggression of whatever sort. I also took occasion, upon the question of Jurisdiction over the disputed Territory, to refer Mr. Forsyth, according to your Lordship's directions, to the Earl of Aberdeen's despatch to Mr. Lawrence, of the 14th of August, 1828. It appears that this document, which is of a date previous to Mr. Forsyth's entrance into office, had not before come under his observation.

I have further the honor to inclose, in the present Despatch, a set of printed Documents relating to the Boundary Question, which were communicated by the President to the House of Representatives, at the close of the late extraordinary Session of Congress. These documents comprise a series of correspondence between the President's Government and the State Government of Maine, upon the subjects, severally, of the Boundary question in general,—of the arrest and imprisonment of Ebenezer Greely,—and of the projected railroad between the Cities of Quebec and St. Andrews. The correspondence between the department of state and this legation, upon the subject of the aforesaid railroad, is also printed in this set of Documents.*

In concluding this despatch, I beg to state to your Lordship, that I have reason to be greatly obliged to Major General Sir John Harvey, for the full and satisfactory manner in which he has kept me acquainted with the proceedings in New Brunswick, and in Maine, from the period of the first arrest of Greely, down to the present time. These communications have materially assisted me in my intercourse with the United States' Government.

No. 13.—*James Stephen, Esq. to John Backhouse, Esq.*

(Extract.)

Downing Street, May 10, 1838.

I AM directed by Lord Glenelg to transmit to you an Extract of a Despatch from Sir John Harvey, reporting the grounds on which he had deemed it advisable to liberate Mr. Greely; and I am to request that in laying this despatch before Viscount Palmerston, you will inform him, that Lord Glenelg proposes to convey to Sir John Harvey the approval by Her Majesty's Government of his conduct in setting Mr. Greely at liberty.

No. 14.—*Sir John Harvey to Lord Glenelg.*

(Extract.)

Fredericton, New Brunswick, February 2, 1838.

I FEEL it to be an act of justice, which I have the greatest pleasure in performing towards the people of the neighbouring State of Maine, to state, that not one single act of border inroad or encroachment, or indicating any wish to take advantage of the circumstances in which this and the neighbouring Province of Lower Canada were placed by the outbreak in the latter Province, has been committed, to my knowledge, by any citizen of the State of Maine, or by any other citizens of the United States upon the frontiers of that State.

I am gratefully sensible of this forbearance, and most willing to impute it to the best motives, viz. those by which one friendly Government and people should be actuated towards another; and under these feelings I have taken upon myself to accede to a request privately proposed to me from the Governor and other influential Members of the Legislature of the State of Maine, by permitting the enlargement of Mr. Ebenezer Greely, leaving the question of his arrest and detention to be disposed of in discussion betwixt the two general Governments.

* For these Inclosures see Papers No. XI.

IX.

Attempt of the Authorities of New Hampshire, to exercise Jurisdiction within the Disputed Territory, 1835.

No. 1.—*Sir C. R. Vaughan to the Duke of Wellington.*

(Extract.)

Washington, April 20, 1835.

I HAVE the honour to inclose a copy of a letter, which I have received from His Majesty's Governor-General of Canada, calling my attention, to the exercise of judicial authority, by magistrates of the State of New Hampshire, in territory, near one of the sources of the river Connecticut, to which the United States cannot have any title, until the final settlement of the boundary.

It appears that the people of some settlements upon "Indian Stream," a branch of the Connecticut, not having been mindful that they were under the jurisdiction of Lower Canada, created for themselves a provisional Government. As many of the settlers were from the United States, New Hampshire has taken occasion to assert its jurisdiction, by sending a sheriff of an adjoining county, to arrest and carry to a prison, in New Hampshire, one of the settlers.

As the title of New Hampshire to any territory upon the "Indian Stream" cannot be admitted, in the present state of the boundary question, I have addressed a note, a copy of which is inclosed, to the Secretary of State of the United States, and his answer, a copy of which is also inclosed, is at present confined to a promise, to inquire immediately into the circumstances of the case.

Inclosure 1 in No. 1.

Lord Aylmer to Sir C. R. Vaughan.

Sir,

Castle of St. Lewis, Quebec, April 6, 1835.

I BEG leave to call your Excellency's attention to the accompanying documents, relating to a late instance of an exercise of judicial authority, on the part of the State of New Hampshire, over a portion of the country, near the sources of the Connecticut River, which, I apprehend, is still subject of discussion between His Majesty's Government, and the General Government of the United States of America.

The territory in question is situated upon, and near a small river, called the Indian Stream, which falls into the Connecticut River; and the inhabitants of it are chiefly settlers from the neighbouring states.

Pending the negotiation, which has been so long going forward between the two Governments, these people, finding themselves in a disputed territory, wherein no jurisdiction existed, created for themselves a provisional Government of their own, which they have continued to exercise, without interruption, until a late occasion, when, as it is asserted by them, the authorities of New Hampshire, under the pretext, that their territory forms part of that State, have entered it, and carried off an individual, named Enos Rowell, for the purpose of lodging him in prison, within the State of New Hampshire.

As this proceeding cannot be acquiesced in, without prejudice to the pretensions of Great Britain to the possession of the territory of the Indian Stream, as a portion of the province of Lower Canada, I now have the honor of soliciting the interference of your Excellency with the General Government of the United States, for the release of the individual, named Enos Rowell, and for the prevention of future acts of authority, on the part of the State of New Hampshire, within the disputed territory.

From the commencement of my administration, I have considered it a very essential part of my duty, as Governor-in-Chief of His Majesty's North American possessions, to cultivate the good-will of the neighbouring States of the American Union: being assured, that in so doing, I have been acting in accordance with the well-known friendly disposition of His Majesty's Government, towards the United States. I entertain, therefore, very sanguine hopes, that the General Government of the United States will feel disposed, to interpose its influence, with the State of New Hampshire, with the view of preventing any further interference with the inhabitants of the Indian Stream territory. Such interference, I apprehend, cannot, in any event, be productive of advantage to the State of New Hampshire, for it establishes no proof of right, on behalf of that State; and if the territory in dispute should be hereafter adjudged to it, possession will follow as a matter of course.

I have the honor, &c.

(Signed)

AYLMER.

Sir Charles R. Vaughan,
&c. &c. &c.

IX.

Attempt of Authorities of New Hampshire to exercise jurisdiction in the disputed territory.

Inclosure 2 in No. 1.

*Sir C. R. Vaughan to the Hon. John Forsyth.**Washington, April 18, 1835.*

IX.

Attempt of Authorities of New Hampshire to exercise jurisdiction in the disputed territory.

THE Undersigned, &c., has the honour to submit to the consideration of the Secretary of State of the United States, a copy of a letter, and of its inclosures, which he has received from His Excellency the Governor-General of Canada, complaining of the arrest and carrying to prison, in New Hampshire, by the authorities of that State, of an individual, named Enos Rowell, having his residence in a settlement upon Indian Stream, one of the sources of the Connecticut River, and which territory is involved in the second branch of difference between the two countries, respecting the north-eastern boundary of the United States.

New Hampshire, it appears, has carried jurisdiction into this part of the territory in dispute, between the two countries, under the pretext, that the settlements upon Indian Stream, are within the limits of that State. Now, it is well known, that the British Government contend, that the north-westernmost head of the Connecticut River, ought to be established at the source of a stream which flows into a lake above Connecticut Lake, while the American Government contend for the source of Hall's River, or of the Indian Stream. The arbiter decided positively that point of the controversy, in favour of the British claim. It is, however, only necessary to refer the Secretary of State, to the map A., laid before the arbiter to shew, that the jurisdiction of New Hampshire has been exercised, by the arrest of Enos Rowell, in territory in dispute, ever since the Treaty of 1783, between Great Britain and the United States. It is irrelevant to the question, to inquire whence the settlers upon Indian Stream may have derived their title to the lands they occupy, and into the form of government, which they may have established amongst themselves, upon territory which has not yet been detached from the original jurisdiction of Canada. The Undersigned is convinced, that it is only necessary to shew, that Indian Stream is yet an unsettled part of the boundary, to insure that redress, on the present occasion, which the Undersigned has had the satisfaction to acknowledge on the part of the President, whenever there have been just grounds for his interference to prevent collision on the disputed frontier.

The Undersigned, &c.

(Signed) CHAS. R. VAUGHAN.

The Hon. John Forsyth.
&c. &c. &c.

Inclosure 3 in No. 1.

The Hon. John Forsyth to the Right Hon. Sir Charles R. Vaughan.

Sir,

Department of State, Washington, April 18, 1835.

I HAVE the honor to acknowledge the receipt of your note of this morning, submitting the copy of a letter and its inclosures, just received from the Governor-General of Canada, who complains of the exercise of jurisdiction by the authorities of New Hampshire, in a part of the territory in controversy between the United States and Great Britain, and claiming the interference of the executive to prevent collisions.

An inquiry will be immediately instituted, and a further communication be made to you on the subject, as soon as all the circumstances of the case can be ascertained.

I have the honor, &c.

(Signed) JOHN FORSYTH.

Sir Charles R. Vaughan,
&c. &c. &c.

No 2.—*Sir Charles R. Vaughan to Viscount Palmerston.—(Received August 25.)*

My Lord,

Washington, July 29, 1835.

I HAVE the honor to inclose a copy of a note which I have received from the Secretary of State, containing the explanations given by the Governor of New Hampshire, of the undue exercise of jurisdiction on the part of that State, in disputed territory on the River Connecticut, of which His Majesty's Governor of Lower Canada complained, as stated in my dispatch of April 20.

The explanation amounts to an explicit declaration on the part of the Governor and Legislature of New Hampshire, that that State has long held quiet and peaceable possession of the territory in question; and that a resolution passed the Legislature on the 8th of June, after having taken under consideration my note to Mr. Forsyth of the 18th April last, to continue possession, and to maintain jurisdiction over it, until the boundary is settled. At the same time, the Secretary of State is required by the Governor to obtain the release of a person named Luther Parker, who was arrested for resisting the jurisdiction of the British authorities, by a magistrate of Lower Canada.

I have thought it my duty, in a note, a copy of which is inclosed, to point out to Mr. Forsyth that the territory upon Indian Stream, where this unfortunate collision of jurisdiction has taken place, is clearly within the limits of Lower Canada, until the settlement of the boundary shall end, in both parties agreeing to adopt the sources of the Connecticut River, for which the Americans contend in preference to the branch claimed by Great Britain, which the arbiter has decided to be the source intended in the Treaty; and, according to a note received from Mr. McLane, the United States were willing to adopt it, provided Great Britain would accede to the last proposal of the President, to send out a commission in search of the highlands of the Treaty. On these grounds I have protested against the assumption of possession and jurisdiction over that territory by the State of New Hampshire.

I have communicated in a letter, a copy of which is enclosed, the explanation which I have received from Mr. Forsyth, to the Governor of Lower Canada, and I have transmitted to His Excellency a copy of my note in answer.

I observe that there is a disposition to excite some popular feeling in the northern States about the boundary, by the articles which appear in the newspapers; and I have the honour to inclose one of these articles which has been in circulation. Your Lordship will have collected from my informal communication with the President, stated in my despatch No. 29, how much the settlement of the boundary is already embarrassed, by the necessity which the President is under of consulting the people of Maine, about any step which he may take for bringing the question to an adjustment; and now Massachusetts and Maine will be joined by New Hampshire, in support of all the exaggerated pretensions which their respective local interests can suggest.

Viscount Palmerston, G. C. B.
&c. &c. &c.

I have the honor to be, &c.

(Signed)

CHAS. R. VAUGHAN.

IX.

Attempt of authorities of New Hampshire of exercise jurisdiction in the disputed territory.

Inclosure 1 in No. 2.

The Hon. John Forsyth to Sir C. R. Vaughan.

Sir,

Department of State, Washington, July 22, 1835.

I HAVE the honor to transmit a copy of a communication from his Excellency, the Governor of New Hampshire, dated the 13th instant, relative to the exercise of jurisdiction by that State, within what is commonly called the Indian Stream territory; being a portion of the territory in dispute between the United States and Great Britain. This communication has been made in answer to a representation contained in your note of the 18th of April last, as to the alleged arrest and imprisonment, by the authorities of that State, of a person named "Rowell," residing within that territory. By the copy of the Governor's message to the Legislature, on the 8th of June last, (a copy of which accompanies his letter) it appears that the territory referred to has been always considered as included within the limits of New Hampshire; and that the State has held actual and continual possession of it, from soon after the Treaty of 1783, to the present time. And, by an act of New Hampshire, passed at the last Session of the Legislature, (a copy of which is also inclosed) it was resolved, that the State should continue the possession, and maintain jurisdiction over the territory, until the question of boundaries between the United States and Great Britain, affecting the limits of the territory, shall be finally settled. It is hoped that these documents will be found to afford a satisfactory explanation of the transaction referred to in your note.

I have, at the same time, to ask your attention to a complaint contained in the Governor's letter,—that Luther Parker, a resident of the Indian Stream territory, while pursuing his lawful calling therein, was lately arrested, under a warrant from a Magistrate in Lower Canada, and lodged in the prison of the county of Sherbrook, in that province. You will see by his Excellency's letter, that this act is viewed as an encroachment upon the rights of the State of New Hampshire, and that the interposition of the United States is claimed for obtaining redress.

With a view to that object, I have to request that you will transmit the complaint to his Excellency, the Governor of Lower Canada, with such representations as will produce an inquiry into the matter; and, if the facts be found, as they have been represented by his Excellency the Governor of New Hampshire, an immediate release and restoration of the prisoner.

I avail myself, &c.

(Signed)

JOHN FORSYTH.

Sir C. R. Vaughan,
&c. &c. &c.

Inclosure 2 in No. 2.

Mr. William Badger to the Hon. John Forsyth.

Dear Sir,

State of New Hampshire, Executive Department, July 13, 1835.

IN answer to your communication respecting the north-eastern boundary of the United States, I herewith transmit all the facts that have come to my knowledge, that have a bearing on the question of boundary between the United States and Great Britain, so far as relates to New Hampshire. These facts are embodied in a communication to the Legislature, at its late session, of which I have the honor to forward a copy, as also a copy of a resolution, which the Legislature passed at said session, and which has become a law.

Upon consideration of the facts relative to the Indian Stream territory, I presume your opinion will coincide with mine, that the State of New Hampshire has such a title, and has, for so lengthy a period, enjoyed quiet, peaceable, and continued possession, and extended her jurisdiction over said territory, in such a manner as fully to justify her in continuing it until a better title and claim is shown, and the question as to boundary finally settled between the two Governments, when New Hampshire will peaceably and quietly conform to that decision.

It has been represented to me, that the authorities of the British Government in the province of Lower Canada have so far interfered in this part of the State of New Hampshire, as that one of her Magistrates has issued his warrant, caused the body of one Luther Parker, a resident of said territory, and while pursuing his lawful calling therein, to be arrested, and agreeable to the command, in said warrant, to be transported to the province of Lower

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Canada, and by the order of said Magistrate, lodged in the prison of the county of Sherbrook. As this indignity cannot be acquiesced in, without derogating from the honor and dignity of the State, as well as causing great injury and inflicting extreme cruelty upon one of her citizens, I have now the honor to solicit your interference with the Government of said province, for the release of the individual so imprisoned, and his restoration to the State of New Hampshire, and have full confidence to believe, that the Government of the United States will consider the proceedings, as above stated, a flagrant violation of the rights of this State, and will demand a redress of the grievance.

I have the honor, &c.

The Honn. J. Forsyth.
&c. &c. &c.

(Signed) WILLIAM BADGER.

Inclosure 3 in No. 2.

Message of the Governor of New Hampshire to the Legislature of that State.

Gentlemen of the Senate and House of Representatives,

I HEREWITH transmit for your consideration and disposal, the accompanying papers, drawing in question the right of jurisdiction, the State claims and has exercised over that part of the State, recently called the Indian Stream Territory, and lying north of the forty-fifth degree of north latitude. These papers go to show, that a portion of the settlers on this tract claim the protection of the State by its laws being extended over the territory, while another and probably the largest portion deny the State to have any right, it not being included within its limits, and remonstrate against the State extending her laws and jurisdiction over it, and have actually applied to the Governor of Lower Canada for relief; and the Governor of Canada, through His Britanic Majesty's Envoy, &c. has claimed the interference of the General Government, so far as that the enforcement of our laws may be suspended until the question as to boundary shall be settled.

I believe it is well established, and I have not learned that the fact is attempted to be controverted, either by the British Government or the inhabitants on that territory, that the northern boundary of New Hampshire extends to the highlands which divides the waters that fall into the St. Lawrence from those that fall into the Atlantic Ocean, and extending westerly along the highlands to the north-westernmost head of the Connecticut River, thence down said river to the forty-fifth degree of north latitude; and it appears in the Secret Journals of the old Congress, vol. 2, p. 225, that congress, in considering the instructions to be given to the Minister to be appointed for negotiating a Treaty of Peace, among other things unanimously agreed to the following draft of instructions:—

Sir,—You will herewith receive a communication giving you full powers to negotiate a Treaty of Peace with Great Britain; in doing which you will conform to the following instructions:—

The third article of the instructions is, “The boundaries of these States are as follows. viz.: These 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 St. Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of the Connecticut River, thence down along the middle of that river to the forty-fifth degree of north latitude, &c.” And that in forming the Treaty of 1783 these instructions were implicitly obeyed. The words of the Treaty are, Art. 2. “And that all disputes which might arise in future on this subject of the boundaries of the 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 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, thence down the middle of that river, to the forty-fifth degree of north latitude, &c.” (vol. 1, United States Laws, p. 203.)

It is evident that the United States, while struggling for independence, strenuously insisted on the above-described boundary, and so instructed their Minister, in negotiating with the British Government the Treaty of Peace, and that the British Government did so acknowledge their right to the said boundary, by ratifying the Treaty, which seems to supersede the necessity of going back to the original grants, or letters patent to Mason and Georges, covering different tracts and under different names, as Mariana LaCoeur, New Hampshire, &c., or to the proclamation of the British King, describing the boundaries of the provinces, or to the commissions of the Provincial Governors of the Province of New Hampshire, wherein the boundaries were in some measure expressed.

After the conquest of Canada by the British in 1759, and upon the conclusion of the Treaty of Paris 1763, when the French surrendered the Canadas, the British King, in forming the new province of Quebec, described in his proclamation, the southern boundary, so far as it relates to this question, as crossing the Champlain on, and following the forty-fifth degree of north latitude, and so along the highlands which divide the waters that empty themselves into the River St. Lawrence from those which fall into the sea. (vol. 6, Annual Register, page 209.) evidently leaving all we claim, and considerable more, within the now United States.

By an extract from the copy of a letter, from the Secretary of State of the United States, to the Council of Indian Stream, dated September 23, 1834, you will find his opinion to be, that if this territory is found to be within the limits of the United States, it is within the limits of New Hampshire, for he thus writes to the Council, “I think it proper to

"inform you, that if you are within the limits of the United, as has been always maintained by this Government, it is because you are within the limits of New Hampshire."

I have adverted to most of the facts that have come to my knowledge and that have an immediate bearing on the question of boundary, other than that claimed by possession, and the only question that can now be raised as to boundary is, which is the north-westernmost head of the Connecticut River; and I would now respectfully invite your attention to the claims, the State may have to extend her jurisdiction over this section of it, by the actual possession that was taken soon after the ratification of the definitive Treaty of Peace, and has constantly been continued up to this time. Also our obligations to those citizens of the State, settled on this territory and who claim our protection. And whether our possession has not been such as to justify the State in enforcing her laws and continuing her possession, until the General Government effect a decision as to its northern boundary, so far as relates to New Hampshire.

To shew which branch has been invariably considered the north-westernmost head of the Connecticut River by this State, I would refer you to the several acts or resolves of the Legislature, the reports and doings of the committees, and some of the proceedings of the judicial courts.

The Legislature, the 7th February, 1789, voted that the Hon. John Sullivan, Ebenezer Smith, Nathan Hoit, Joseph Cram, and Jeremiah Eames, Esquires, be, and they are hereby appointed a Committee to ascertain the unlocated lands within this State, by running the line between this State and that part of the commonwealth of Massachusetts, formerly called the province of Maine, and the line between the northerly part of this State and the province of Lower Canada, and return a descriptive plan. January 6, 1790, the committee made the following report, among other things: that after running the line between this State and Maine, "we continued on our line measured and spotted to the highlands which divide the waters that fall into the River St. Lawrence and the waters that fall into the Atlantic Ocean, where we marked a large birch tree that stands on said highlands, thus, N. E. 54. M. New Hampshire, 1789, for the north-east corner of New Hampshire, and piled stones round said tree, then from said north-east corner, where we marked the birch, we measured and spotted south-westerly and westerly, along on said highlands, about six miles, then we run about west, measured and marked a tree at the end of every mile from said birch, from one to seventeen miles and two hundred rods, to the head of the north-west branch of Connecticut River; and marked a fir-tree N. H. N. W. 1789, for the north-west corner of New Hampshire, then down said river, or north-west branch, to the main river, about half a mile below latitude forty-five degrees north."

On the trial of an information by the State, *v.* highlands, A. D. 1823, Coos *y.*, it appeared in evidence from Jeremiah Eames, one of the above committee and surveyor, that the north-west branch, examined and described by them in running the line as aforesaid, was Hall's Stream. Vol. 2. N. H. Hist. S.

For further continuance of possession, I would refer you to the report of a committee of the Legislature, November Session, 1820, Journals of the House, page 60, and the accompanying resolves, authorizing and requiring the Attorney-General to institute due proceedings in law against such of said persons as he shall deem proper, in the name and behalf of the State, and the same to prosecute to find judgment, to the end that the said persons, in case it shall be found that they have unlawfully entered and intruded upon lands may be removed therefrom, which report was accepted.

At the 341st page of the Appendix to the Journal of the House of Representatives, November Session, 1824, the committee, to whom was referred certain duties as to the territory now in question, reported among other things, that the Attorney-General, in compliance with the foregoing resolution, did institute legal proceedings against certain of the settlers in the superior court, in and for the county of Coos, which the records of that court no doubt shew, but which I have had no opportunity to examine.

I would further refer you to the doings of a committee of the Legislature, as by their report, December 6, 1824, made by their Chairman, Mr. Wilson, of Lancaster. They report "that in exploring this tract, the committee began at the mouth of Hall's Stream, so called, thence up said stream on the main easterly branch of the highlands, dividing the waters of the Connecticut and St. Francois rivers, thence following said highlands to the westerly line of the State of Maine, thence southerly on said line to the tract of land granted by this State, to Gilmanton and Atkinson Academies, thence westerly on the line of said grant, to the easterly line of the first grant to Dartmouth College, thence on the east and northerly lines of said grant to Dartmouth College, to Connecticut river, thence down said river to the first-mentioned bound." This Committee were directed by the Legislature to estimate the quantity of land contained in this tract and its value, and to ascertain the number of inhabitants, all of which they say, in their report, they did do.

It is important, and much to be desired, that the Legislature should go into a full investigation of this subject, and that it should decide the question, whether the State has or has not such a title, and taken and continued such a possession and so extended her jurisdiction over this territory, as to justify a continuance of it, as that the officers of the Government may have no hesitation in knowing their duty, whether peaceably to withdraw and leave the territory unmolested, until the controversy as to boundary is settled by the two Governments, or boldly and fearlessly discharge their duties in good faith to the State and all its citizens, by a prompt and efficient administration of her laws.

(Signed) WILLIAM BADGER.

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(C.)

Executive Department, June 8, 1835.

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RESOLVED, by the Senate and House of Representatives, in general court convened, that the State of New Hampshire should continue the possession of the Indian Stream Territory, and maintain the jurisdiction of the State over the same, until the question of boundaries now in dispute between the United States and Great Britain, affecting the limits of said territory, shall be finally settled. And his Excellency the Governor be requested to render all necessary aid to the executive officers of the county of Coos, in causing the laws of said State to be duly executed within the limits of said territory.

Inclosure 4 in No. 2.

Sir C. R. Vaughan to the Hon. John Forsyth.

Washington, July 26, 1835.

THE Undersigned, &c. &c. regrets that the note which he has had the honour to receive from the Secretary of State of the United States, in answer to the representations made by His Majesty's Governor of Lower Canada, of the exercise of jurisdiction in the disputed territory, situated upon Indian Stream, by the authorities of the State of New Hampshire, does not afford that satisfactory explanation of the transaction referred to, which the Secretary of State expresses a hope would be afforded, by the documents which were enclosed in his note.

Those documents consist of a letter from the Governor of New Hampshire, containing a message to the Legislature of that State, followed by a resolution passed by the latter, by which it appears that on the 8th June, and subsequently to having considered the note of the Undersigned, dated the 18th April, the Legislature resolved, in conformity with the message of the Governor, that the State of New Hampshire should continue the possession of the Indian Stream Territory, and maintain the jurisdiction of the State over the same, until the question of boundaries, now in dispute between Great Britain and the United States, affecting the limits of the said territory, shall be finally settled. The Governor was requested to render all necessary aid to the executive officers, in causing the laws of the State to be duly executed, within the limits of the said territory.

The Governor of New Hampshire, in a letter to the Secretary of State, declares that quiet, peaceable, and continued possession has, for a long period, been enjoyed by that State, which justifies continuing possession, until a better title is shown, and the question as to boundary is settled.

The position of the territory upon Indian Stream was pointed out by the Undersigned, in his note of the 18th April. It lies between a stream to the east of it, claimed by Great Britain, and a stream to the west of it, claimed by the United States, as the north-westernmost head of the Connecticut River, to which the line of boundary is to be traced, according to the Treaty of 1783. The conflicting claim about the sources of the Connecticut forms a distinct point of controversy in the boundary question. The title of New Hampshire to the territory upon Indian Stream, therefore, depends upon the parties finally agreeing, to adopt the western or Hall's Stream, for which the United States contend.

An impartial judge, the King of the Netherlands, before whom the question was solemnly argued, decided in favour of the source of the Connecticut River, contended for by Great Britain, and according to the note of Mr. McLane, dated 11th March, 1834. the Government of the United States were willing to adopt it, provided Great Britain should accede to the proposal of the President, to send out a new commission in search of the highlands of the Treaty of 1783.

The Undersigned is at a loss to know, under what title, New Hampshire can claim, as the Governor states, long, quiet, and peaceable possession of the territory in question, which, owing to the difficulty of ascertaining the position of the natural objects by which the line of boundary is to be traced, according to the Treaty of 1783, has never yet been detached from the original possession of Great Britain.

It appears from the letter of the Governor of Lower Canada, a copy of which the Undersigned had the honor to submit to the Secretary of State, in his note of the 18th April, that the territory in question has been chiefly settled by people from the neighbouring States, and as the Government of Canada had not been called upon to assert jurisdiction, until the person, named "Rowell," was arrested and carried off prisoner by the authorities of New Hampshire, the settlers had established amongst themselves, a local and provisional Government,—a state of things which seems to prove that they did not know to which of the neighbouring Governments they belonged.

Under this view of the question, it appears to the Undersigned that it is his duty to protest against the possession of the territory on Indian Stream, and the exercise of jurisdiction over it by New Hampshire, pending the settlement of the boundary; and he appeals with confidence to the President of the United States, to interpose his good offices, to prevent the misunderstanding which prevails in New Hampshire, from embarrassing the final settlement of the boundary.

The Undersigned has the honour to assure Mr. Forsyth, that he will immediately transmit to His Majesty's Governor of Lower Canada the representation of the Governor of New Hampshire, in behalf of Luther Parker, who has been arrested by a Canadian

magistrate. He regrets that he does not find in the note of the Secretary of State any mention of redress to be afforded by the Government of New Hampshire, to the person named Rowell, who was arrested on the Indian Stream, and carried off to prison by the authorities of New Hampshire, which was the subject of his note of the 18th April.

The Undersigned, &c.

(Signed)

CHAS. R. VAUGHAN.

The Hon. John Forsyth
&c. &c. &c.

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Sir C. R. Vaughan to Lord Aylmer.

My Lord,

Washington, July 29, 1835.

I HAVE the honour to enclose a copy of the answer which I have received from the American Secretary of State, to the representation which I made of undue exercise of jurisdiction, by the State of New Hampshire, in the disputed territory upon Indian Stream.

My note upon this subject having been referred to the Governor of New Hampshire, he laid it before the Legislature of the State, accompanied by a message, in which he seeks to justify the exercise of jurisdiction upon the evidence of persons employed to run the line of boundary of New Hampshire, according, of course, to the interpretation which the Legislature then put upon the Treaty of 1783, without any reference to that line having been disputed ever since by Great Britain. The Governor having invited the Legislature to investigate the question, the latter have unfortunately passed a resolution to keep possession of the territory, and to maintain jurisdiction over it. I have the honour to enclose a copy of a note, which I have addressed to Mr. Forsyth, pointing out the position of Indian Stream, shewing that it has not yet been detached from Lower Canada, and protesting against the resolve of the Legislature of New Hampshire.

The American Secretary of State, your Excellency will find on referring to his note to me, instead of noticing the redress due for the arrest by a Magistrate of New Hampshire, of the person named "Rowell," has requested me to forward a request to your Excellency, for the release of "Luther Parker," arrested by a Canadian Magistrate. Your Excellency best knows what claims this individual may have to any indulgence, and I have no doubt but that in the collisions of jurisdiction, you are inclined to mitigate the sufferings of individuals, as much as is consistent with the due assertion of British authority. The impatience of the States of Maine, Massachusetts, and New Hampshire, to obtain the construction they put upon the terms of the Treaty, threatens to be productive of frequent cause of complaint on both sides, upon that frontier.

I have the honour, &c.,

(Signed)

CHAS. R. VAUGHAN.

Lord Aylmer,
&c. &c. &c.

Inclosure 6. in No. 2.

Article extracted from a New Hampshire Newspaper.

OUR NORTHERN BOUNDARY.

IT would seem from what is below, that our good friends the British are so satisfied of the friendly disposition of our present administration, and so encouraged by the impunity with which they have been permitted to take possession of one third of the State of Maine, that they are disposed to make the same experiment in relation to New Hampshire. The case in Maine holds out to New Hampshire a poor prospect of a settlement of the question. General Jackson has been near seven years in office, and the Maine boundary question is just where it was. The settlement of the question has been sacrificed to the *more important* subject of making Van Buren President.

A SPECK OF WAR.

Further dispute on the subject of the eastern boundary, it seems, is about being added to those which have already occasioned so much unprofitable excitement. Indian Stream, embracing a portion of territory heretofore considered within the jurisdiction of New Hampshire, we learn from the Concord Statesman, is now claimed as being within the jurisdiction of the British authorities, and measures have actually been taken for carrying the claim into practical operation, placing the territory of New Hampshire, in a situation similar to that of Maine at Madawaska, about which so much has been said. The inhabitants have heretofore been numbered with the population of the State, and the resident authorities have always acted under the authority of New Hampshire. The following letter which we copy from the Statesman will shew the nature of the dispute, as well as the spirit in which the controversy is maintained. Major Downing must take the matter in hand, and the sooner he gets upon the ground the better will it be for all parties. The letter is dated, Stewartstown, Saturday, July 4th.

"On Sunday last, Mr. Luther Parker, of Indian Stream, by assumed authority from the Province of Lower Canada, was arrested on a charge of having furnished a neighbor of his, Mr. Sampson Thurston, with weapons of defence, with an intent to resist the laws of

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Indian Stream, since which for that offence he has been lodged in Sherbrooke gaol to await his trial in October next.

For the further information of the public, it may not be improper to add, that the inhabitants of Indian Stream, with the exception of Mr. Parker, and a few others, have zealously contended for laws of their own make,—and by which they attempted to arrest the body of Mr. Thurston, who with no less zeal contended that that place was within the jurisdiction of the State of New Hampshire,—but he being well armed defeated their design. After this repulse, application was made to a Magistrate of the Province of Lower Canada, for assistance, who issued a warrant against Mr. Parker, as before stated, and one against Mr. Thurston, but he has not been arrested, in consequence of his leaving the place. The person who acted as Sheriff in the affair, and also those who assisted him reside at Indian Stream, and are in open rebellion to the laws of New Hampshire. How long shall affairs thus remain?"—*United States Gazette*.

No. 3.—*Sir C. R. Vaughan to Viscount Palmerston.*—(Received October 15.)

My Lord,

Washington, September 20, 1835.

IN my despatch, of July 29, I had the honour to state, that I had referred to His Majesty's Governor-General of Canada, a complaint received from the Secretary of State, of the United States, of the arrest of a person, in the settlement upon Indian Stream, by the Magistrates, acting under the authority of the Government of Lower Canada.

I have received from Lord Gosford an explanation of that exercise of jurisdiction by Canadian Magistrates, and I have transmitted copies of the papers received, to the Secretary of State, in a note, a copy of which is inclosed, in which I have protested against the disposition, which has been manifested by the State of New Hampshire on the one hand, and the settlers on Indian Stream on the other, to decide the question of territorial jurisdiction, which depends entirely upon the settlement of the boundary question now in progress between the two Governments.

I have the honour to inclose a copy of Mr. Forsyth's note, acknowledging the receipt of the papers received from Lord Gosford, and informing me that they will be referred to the Governor of New Hampshire.

Viscount Palmerston, G.C.B.
&c. &c. &c.

I have the honour to be, &c.

(Signed) CHAS. R. VAUGHAN.

Inclosure 1 in No. 3.

Sir Charles R. Vaughan to the Hon. John Forsyth.

Washington, September 15, 1835.

THE Undersigned, &c., has the honour to transmit to the Secretary of State of the United States, a copy of a letter which he has received from Lord Gosford, who has recently assumed the Government of the Province of Lower Canada, explaining the arrest of Luther Parker, in the Indian Stream territory, by the Canadian authorities, the inquiries of the Undersigned upon that subject, having been called for, by a note received from the Secretary of State, in the month of July last.

It appears by the inclosed letter from the Governor-General of Canada, that Luther Parker is now at liberty, having given bail to appear at the sessions for the county of Sherbrooke, for a violation of the law, in having aided and abetted Sampson Thurton, in a breach of the peace, against Jonathan C. L. Knight, a resident of the same settlement.

The Governor-General regrets, that he cannot, consistently, with what he conceives to be his duty; prevent the law from taking its course, as it regards Luther Parker, but the general question of disputed territory will be immediately referred to His Majesty's Government.

The Undersigned cannot call the attention of the Secretary of State to the inclosures No. 4 and 5 in Lord Gosford's letter, without protesting against the disposition, which has been manifested by the State of New Hampshire on the one hand, and the settlers of Indian Stream on the other, to decide the question of territorial jurisdiction, according to their respective wishes and inclinations, which entirely depends upon the arrangement respecting boundary, now in progress between the two Governments.

The Hon. John Forsyth.
&c. &c. &c.

The Undersigned, &c.

(Signed) CHAS. R. VAUGHAN.

Inclosure 2 in No. 3.

Lord Gosford to Sir C. R. Vaughan.

Sir,

Castle of St. Lewis, Québec, September 5, 1835

HAVING but recently assumed the Government of this Province, the various arrangements consequent on a change of Governors, have prevented my sooner acknowledging the

receipt of your despatch, of the 29th July last, with its four inclosures, on the subject of the Indian Stream territory, and the arrest of Luther Parker by the Canadian authorities. I have now the honor of transmitting for your information, a copy of a letter from my predecessor to Mr. Justice Fletcher, with his answer thereto, inclosing a copy of the warrant, under which Luther Parker was arrested, together with a copy of another letter from Mr. Fletcher, inclosing a communication from some of the inhabitants of the Indian Stream settlement. From Mr. Fletcher's first letter, and the warrant, you will perceive that Luther Parker was, on the 2d July last, committed to Sherbrooke jail in this province, on the complaint of Jonathan C. L. Knight, a resident in the settlement, for a breach of the peace, in aiding and abetting one Sampson Thurton, in acts of violence against Knight; and that he is now at liberty, having given bail to appear at the ensuing October sessions for the county of Sherbrooke, to answer for his alleged violation of the law.

Although my earnest endeavours, while I continue to administer the affairs of this province, shall always be directed to promoting the good understanding, which so happily exists between the Governments of Great Britain and the United States, yet pending the settlement of the boundary question, I do not feel myself authorized in taking any steps which may be considered as compromising the right claimed by Great Britain to exercise jurisdiction over the territory now in dispute. I regret, therefore, that I cannot consistently with what I conceive to be my duty, interfere to prevent the law taking its course, as it regards Luther Parker; but I shall lose no time in laying the whole of this transaction before His Majesty's Government, where alone the general question of disputed territory can be finally determined.

I regret that your representations on behalf of Eneas Rowell have not led to his release.

Sir C. R. Vaughan,
&c. &c. &c.

I have the honour, &c.
(Signed)

GOSFORD.

Inclosure 3 in No. 3.

Lieut.-Colonel Craig to Mr. Justice Fletcher.

Sir,
I AM commanded by His Excellency the Governor-in-Chief, to convey to you his desire to be informed whether there is now, or has been at any time within the last year, a person confined in the common gaol at Sherbrooke of the name of Luther Parker, and if so that you will please to state where, and the authority under which, he was apprehended, together with any other circumstances connected with the case of Luther Parker, and the cause of his apprehension, which you may have it in your power to communicate.

Mr. Justice Fletcher,
&c. &c. &c.

I have the honor, &c.,
(Signed) H. CRAIG, Civil Secretary.

Inclosure 4 in No. 3.

Mr. Justice Fletcher to Lieut.-Colonel Craig.

Sir,
I HAVE to acknowledge the receipt of your letter of the 8th instant, requesting on the part of his Excellency the Governor-in-Chief, to be informed whether there is now, or has been at any time within the last year, a person confined in the common gaol at Sherbrooke, of the name of Luther Parker, and if so, that I would state the place where, and the authority under which, he was apprehended, together with any other circumstances connected with the case which I may have it in my power to communicate.

I have accordingly sent for the gaoler, from whose statement it appears that a person of the name of Luther Parker was received into the common gaol of this district, on the 2d of July last, under a warrant of commitment, which he produced, and of which I enclose you a copy; and that the prisoner was admitted to bail, on the 6th by Dr. Moses Nichols, a magistrate residing in the neighbourhood. I was myself absent from Sherbrooke, during the whole of that period, on my half-yearly circuit, and consequently heard nothing of the matter; nor is it, indeed, by any means probable that I should have heard of it, if I had been at home at the time, unless the prisoner had felt it necessary to apply for a writ of *habeas corpus* which would of course have been granted to him.

Mr. Rea, the Magistrate by whom the commitment appears to have been signed, resides in the township of Hereford, between thirty and forty miles from this place, and I have consequently had no opportunity of applying to him for any information with regard to the circumstances of the case. Dr. Nichols has, however, called on me to-day, in consequence of a note which I sent to him this morning, requesting him to do so, but I find that he can give me no information on the subject of your enquiry. He states that he admitted the defendant to bail, in compliance with the desire expressed in a note from Mr. Rea, the committing Magistrate, addressed to himself, and Captain Colelough, and Mr. Rea, the three magistrates residing nearest to this place, requesting that some one of them would do so on the defendant's producing responsible sureties—which was probably written for the purpose of saving further trouble and expense to the prisoner. It appears that Lewis Lomes, Esq., a gentleman, who is, as Dr. Nichols under-

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stands, well known in the northern part of the State of New Hampshire, became one of the defendant's bail, and that Levi Nichols, an inkeeper in this neighbourhood, (and who is, as I think, a son of Dr. Nichols,) was the other, and the recognizances will, as I suppose, be duly filed with the clerk of the peace previous to the next session.

Lieut.-Colonel Craig,
&c. &c. &c.

I have the honour, &c.,

(Signed) J. FLETCHER.

Inclosure 5 in No. 3.

Province of Lower Canada, County of Sherbrooke, District of St. Francis,

TO WIT,

To Charles Whitcher, Esq., Sheriff of the district of St. Francis, his Deputy, or the Keeper of the Goal at Sherbrook, for the time being, greeting.—

YOU are hereby required to receive at the hands of Reuben Sawyer, of the township of Drayton, known as Indian Stream, authorized by me to act as a peace officer in this case, by virtue of a warrant from under my hand and seal, (bearing date the 26th day of June, 1835,) the person of Luther Parker, trader, of said Drayton, in this district and county, and him safely keep, so that he may be forthcoming to answer to our Lord the King (at the next Court of Sessions of the Peace, to be holden at Sherbrooke, in the month of October next) on a complaint of Jonathan C. L. Knight, Farmer, of Drayton aforesaid, for a breach of the peace in aiding and abetting one Sampson Thurton in acts of violence against said Knight, thereby violating the laws of this Province, and furthermore for resistance of the laws of this Province, made by said Luther Parker, while under keepers.

Given under my hand and seal, at Hereford, this first day of July, A. D. eighteen hundred and thirty-five, and in the fifth year of the reign of our Sovereign Lord King William the Fourth.

(Signed) ALEXANDER REA, Justice of the Peace.

Inclosure 6 in No. 3.

Mr. Justice Fletcher to Lieutenant-Colonel Craig.

Sir,

Sherbrooke, August 19, 1835.

HAVING yesterday received the enclosed letter, I have thought it right to transmit it to you for communication to his Excellency, the Governor-in-Chief. I am not aware that I have even the slightest acquaintance with any of the persons by whom it appears to have been signed.

I have, &c.

Lieut.-Col. Craig.
&c. &c. &c.

(Signed) J. FLETCHER.

Inclosure 7 in No. 3.

To the Honorable Justice Fletcher.

Sir,

Indian Stream, August 5, 1835.

WE, the inhabitants of Indian Stream, beg the liberty to inform your honor of our present situation. The Governor of New Hampshire having of late ordered the High Sheriff of the county of Coos, in said State, to proceed to serve precepts in this place, and to order what military force he thought proper, to aid him in the execution of his office, consequently the said Sheriff having ordered out a heavy force, we thought proper to submit to a much superior force, without the shedding of blood, and after repeatedly soliciting the aid of your Government, and receiving no encouragement of any assistance, we have acknowledged the jurisdiction of the State of New Hampshire.

Will your honour have the goodness to inform your Government of those circumstances relative to our territory.

(Signed)

RICHARD BLANCHARD.
JOHN HAINES.
WM. WHITE.
WM. FESSENDEN.
WM. PATTER.

Hon. Justice Fletcher.

Inclosure 8 in No. 3.

The Hon. John Forsyth to Sir. C. R. Vaughan.

Sir,

Department of State, Washington, September 19, 1835.

I HAVE the honour to acknowledge the receipt of your note of the 15th inst., transmitting a copy of a letter, addressed to you by Lord Gosford, the present Governor of the Province of Lower Canada, explanatory of the arrest of Luther Parker, in the Indian Stream Territory, by the Canadian authorities, in answer to certain inquiries upon the subject, to which your attention had been asked by a communication from this Department in the month of July last, and to inform you that transcripts of your note and its enclosures will, without delay, be forwarded to his Excellency the Governor of New Hampshire.

I avail myself, &c.

Sir C. R. Vaughan.
&c. &c. &c.

(Signed)

JOHN FORSYTH

X.

Aggression and Violation of Territory of Lower Canada by Citizens
of New Hampshire.—1836.

No. 1.—*Charles Bankhead, Esq., to Viscount Palmerston.*—(Received March 17.)

My Lord,

Washington, February 21, 1836.

ON the 17th instant I received a letter from Lord Gosford, His Majesty's Governor-in-Chief of Canada, inclosing a variety of documents in support of a complaint of an assault and gross violation of territory which have been committed by several armed citizens from the State of New Hampshire.

The assault was made upon Mr. Rea, a Magistrate of the district of St. Francis, and upon a peace-officer, named Young, who accompanied him. The latter was severely wounded, and the former forcibly carried over the frontier, and placed in temporary custody.

This act of violence was occasioned in consequence of the arrest, under a warrant signed by Mr. Rea, of a man named Blanchard, who lives in the Indian Stream Settlement, which forms a part of the territory at present in dispute between Great Britain and the United States. Blanchard was apprehended for having before arrested another inhabitant of the same settlement, under the authority of the Sheriff of Coos, in New Hampshire. While the constables were bringing him to Mr. Rea's, the Magistrate's, house, he was rescued by several armed citizens of New Hampshire. Mr. Rea remonstrated with these persons against this unwarrantable and illegal act, when he was attacked and captured on his endeavouring to make his escape, and his officer fired at and wounded.

What gives to this proceeding so grave a character is, that the rescue of the prisoner and the attack and abduction of the Magistrate took place, not in the disputed territory, but within the acknowledged limits of the Province of Lower Canada. It all arises from the attempts made by the State of New Hampshire, notwithstanding the repeated remonstrances of His Majesty's Government, to exercise jurisdiction in the disputed territory.

That State has lately taken military occupation of the territory in question; and the officer commanding the detachment of militia was one of the persons engaged in the violation of the acknowledged territory of His Majesty, and the attack upon the British Magistrate.

I lost no time in communicating these facts to the Secretary of State in a note, a copy of which I have the honour to inclose, and I therein submitted, for the serious consideration of the President, the necessity of a full and prompt redress for this gross violation of territory, and the unprovoked attack upon two of His Majesty's subjects. I also urged the expediency of the Federal Government using its influence and power to prevent a repetition of occurrences which must tend to disturb the present happy relations which subsist between Great Britain and the United States.

As soon as I receive Mr. Forsyth's answer, I shall communicate its contents to Lord Gosford.

Viscount Palmerston, G.C.B.
&c. &c. &c.

I have the honor to be, &c.,
(Signed) CHARLES BANKHEAD.

Inclosure 1 in No. 1.

Charles Bankhead, Esq. to the Hon. John Forsyth.

Washington, February 18, 1836.

THE Undersigned, &c., has the honor to submit to the Secretary of State of the United States the copy of a letter which he has received from the Earl of Gosford,

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inclosing a variety of documents relative to a complaint of no ordinary character, which His Excellency has preferred against certain citizens of the United States, residing in the State of New Hampshire.

The letter of Lord Gosford indeed, embraces two subjects of complaint, which the Undersigned thinks it right immediately to communicate to Mr. Forsyth, in the full persuasion, which he entertains in common with the Governor-General, that the American Government will afford full redress, and adopt such measures thereupon, as shall prevent a recurrence of similar irregularities for the future.

It appears that in October last, Mr. Rea, a Magistrate for the district of St. Francis, issued his warrant for the apprehension of two citizens of the United States, named Smith and Harvey, and one individual (J. C. Blanchard) belonging to the Indian Stream territory, at present in dispute between the United States and Great Britain. This proceeding took place in consequence of the arrest of another inhabitant, called Tyler, of the same settlement, by these three persons, under the authority of the Sheriff of Coos, in New Hampshire.

Blanchard only, however, was arrested, and while the constables were bringing him to Mr. Rea's (the Magistrate's) house, he was forcibly rescued in the highway, by a body of armed men, citizens of New Hampshire.

Lord Gosford's letter contains the particulars of a gross outrage, which was committed on the persons of Mr. Rea and of a peace-officer, named Young, by two armed citizens of the United States, named Hurlburt and Aldrich. They were fired at, and Young was wounded both by the fire-arms and the cut of a sabre; and upon Mr. Rea's endeavouring to make his escape from these persons, whose number was now increased by the arrival of several other armed citizens, he was overtaken and carried prisoner into Canaan, in Vermont, where he was detained some hours in custody.

It appears that one of the party concerned in this attack and abduction of Mr. Rea is a captain in the New Hampshire militia, named Mooney; and that the scene of the rescue of Blanchard, and of the outrage on Mr. Rea, is not in the disputed territory, but is clearly within the limits of the Province of Lower Canada. This violation of territory on the part of certain armed citizens of New Hampshire, under the command of, or countenanced by, an officer holding a commission in their militia, for the avowed purpose of attacking and forcibly carrying out of the Province of Lower Canada several of His Majesty's subjects, is of so gross a nature, that the Undersigned feels himself called upon to bring the case under the serious consideration of the President of the United States. It has grown out of the repeated attempts of the State of New Hampshire, notwithstanding the renewed remonstrances of His Majesty's Government, to exercise jurisdiction, and to enforce its laws within a territory, the sovereignty of which has never been yielded by Great Britain, its original possessor. The Undersigned thinks it his duty likewise to represent to the Secretary of State the extreme embarrassment which must arise to the two Governments from the military occupation by the State of New Hampshire of the territory in question. It is a proceeding, which if persevered in, will oblige His Majesty's Governor of Lower Canada to take measures to repel; but which his Excellency would be very loath to have recourse to, if it could possibly be avoided.

The Undersigned begs leave to place this statement of facts before the Secretary of State, under the confident hope that the President will obtain for the gross violation of territory which has been committed by the officers of the State of New Hampshire a full and prompt redress; and that he will use the influence and power of the Federal Government, to prevent a repetition of occurrences which tend to disturb the harmony and good understanding so happily subsisting between Great Britain and the United States, which it is the constant aim of His Majesty's Government to foster and increase, and which they doubt not is fully participated by that of the United States.

The Undersigned, &c.

(Signed) CHARLES BANKHEAD.

The Hon. John Forsyth,
&c. &c. &c.

Inclosure 2 in No. 1.

The Earl of Gosford to Charles Bankhead, Esq.

Sir,

Caste of St. Lewis, Quebec, February 6, 1836.

IT has become my duty to communicate to you the details of an outrage of a very grave character, which has recently been committed within the undoubted limits of this province, by an armed body, consisting principally of citizens of New Hampshire, on two of His Majesty's subjects, the one a Justice of the Peace, and the other a Peace-officer, while in the execution of their official duties; and I have to request that you will take such steps, as you may judge advisable, to obtain immediate redress from the justice of the Central Government of the United States, for this infraction of the law of nations, accompanied by acts endangering the lives and violating the liberties of His Majesty's Canadian subjects.

Before entering into the details of the case, it is proper to inform you that they were collected under a commission, which I appointed for the purpose, consisting of three gentlemen who were expressly made Justices of the Peace, in order that all the evidence might be taken (as it was) under the sanction of an oath, so as to render the information obtained as formal and accurate as possible.

From the copies of the documents, nineteen in number, which I have the honour herewith to transmit, and especially from the Report of the Commissioners, No. 1., and the affidavit No. 5, of Mr. Rea, you will perceive that the origin of the present affair may be traced to the assumption of jurisdiction by the State of New Hampshire, over the township of Drayton, or as it is otherwise called, the Indian Stream Settlement, and which has more than once formed the subject of remonstrance with the Government of the United States, through His Majesty's Minister at Washington. You will further perceive that on the 15th of October last Mr. Rea, who is a Justice of the Peace for the district of St. Francis, residing in the township of Hereford, in this province, issued his warrant upon the sworn information of one John H. Tyler, an inhabitant of the township of Drayton, for the apprehension of William Smith, John Milton Harvey, (American citizens) and Richard J. Blanchard, of Drayton, for having arrested the said John Tyler, under the authority of the Sheriff of Coos, in New Hampshire.

Under this warrant Richard J. Blanchard only was arrested on the 22nd of October at his residence in Drayton, and while the constables were conveying him to Mr. Rea's, he was forcibly rescued in the highway by a body of armed men, citizens of New Hampshire. The constables and others who had assisted in the arrest, immediately proceeded to inform the Magistrate of the rescue, and on their return home, when about fifty rods from his house, were again stopped on the public highway by one Miles Hurlburt, of Stuartstown, New Hampshire, and Ephraim Aldrich, of Drayton, two of the armed body, and both on horseback. On observing this, Mr. Rea, to avoid even the appearance of force, laid aside the stick which his lameness obliges him in general to use, and proceeded to remonstrate against this unwarrantable and illegal act, when Hurlburt presented a large pistol or carbine and threatened to fire upon him if he continued to advance. Mr. Rea, after frequently exhorting them without success, to retire, and receiving in return only threats and abusive language, directed Bernard Young, a peace-officer of the township of Hereford, to arrest Aldrich, who was apparently unarmed. On Young's attempting to execute the order, Aldrich drew a horseman's sabre from under his cloak and struck him a violent blow on the neck. At the same instant Hurlburt, who was about five yards distant, fired his carbine or pistol at Mr. Rea; the ball missing this gentleman, took effect on Young, and wounded him in a very dangerous manner. Immediately afterwards Aldrich inflicted a deep wound on Mr. Rea's head; and about this time, others of the armed party coming up, Mr. Rea attempted to make his escape, but was overtaken, nearly murdered, and eventually carried prisoner into Canaan, in Vermont, where, after being detained some hours, he was enabled, through the interference of Herman Nichols, a Magistrate of that State, to return to his own home.

The scene of these violent proceedings is not on the disputed territory, but clearly within the limits of this province. The party engaged therein consisted of about fifty or sixty persons, although not more than eighteen or twenty appear to have taken an active part in the attack upon Mr. Rea, and in his subsequent abduction, of this number three only were inhabitants of Drayton, the remainder citizens of the United States, of whom one was a captain in the 24th regiment of the New Hampshire militia, named James Mooney, then in command of a detachment of fifty men quartered in the township of Drayton.

On a perusal of the accompanying documents you cannot fail to observe that His Majesty's Government has more than one distinct cause of complaint to bring under the notice of the American Government, arising out of these transactions. The first and most serious is the irruption within the undisputed limits of this province of armed citizens of the United States, under the command of, or countenanced by, an officer holding a commission in their militia, for the avowed purpose of attacking and forcibly carrying out of the province several of His Majesty's subjects. Secondly, the continued attempts of the State of New Hampshire, notwithstanding the repeated remonstrances of His Majesty's Government, to exercise jurisdiction and enforce its laws within a territory, which, until it shall be formally adjudged, to be part of the United States, under the Treaty of 1783, must be considered as still undetached from the original possession of Great Britain, and its inhabitants consequently within the protection of her Government. And thirdly, the military occupation by the State of New Hampshire of the territory in question; a proceeding which can be productive only of embarrassment to the two Governments, without varying in any respect the rights of either.

Having thus put you in possession of the principal features of this transaction, I feel it unnecessary to offer any suggestions, as to the specific redress, that ought to be demanded on the present occasion; and I the more readily abstain from this, under the persuasion that it requires nothing but a knowledge of the facts to induce the Government of the United States to adopt measures which will at once prove satisfactory to His Majesty's Government, and prevent the repetition of occurrences, tending to disturb the harmony and good understanding which now exists with so much advantage to both nations.

I have the honour, &c.

(Signed) GOSFORD.

Charles Bankhead, Esq.

&c.

&c.

&c.

Inclosure 3 in No. 1.

Report of Commissioners of enquiry into the Outrage at Hereford.

Lennoxville, January 1, 1836.

X.

Aggression and violation of territory by citizens of New Hampshire.

WE the Undersigned Commissioners appointed by your Excellency to inquire into and investigate certain offences alleged to have been committed by Ephraim H. Mahurin, Thos. B. Blodget, and other citizens of the United States of America, against Alexander Rea, Esq. and other subjects of His Majesty, in the province of Lower Canada, to examine witnesses under oath, touching the said complaints and to report what felonies, misdemeanors, breaches of the peace, and other offences, if any should appear to have been committed, by the said persons with the said Province of Lower Canada, having visited the townships of Hereford, Drayton, and Compton, and examined divers witnesses, have the honour to report, that it appears from the depositions taken before us, and herewith transmitted to your Excellency, that for a length of time attempts have been occasionally made, without success, by the authorities of New Hampshire, to exercise jurisdiction over the Indian Stream Settlement, in the township of Drayton, and that during the last twelvemonths, a disposition to reduce that settlement by force, under the controul of New Hampshire, has been more fully evinced by numerous acts of violence and oppression committed on the inhabitants, by persons professing to act under authority from the State of New Hampshire. It further appears that serious offences have been recently committed against the laws of this province, within its undoubted boundary, by armed parties from the State of New Hampshire; in the first place, by the forcible rescue of one Richard J. Blanchard, while he was being conducted to Hereford, under arrest, in virtue of a warrant from Alexander Rea, Esq. a justice of the peace, for the district of St. Francis, at a spot within the limits of the said township of Hereford, as will be seen, on reference to the accompany diagram and map, in which the same has been accurately marked by Captain Hayne, after actual survey; and secondly, by a violent attack on the peaceable and unprotected inhabitants of Hereford, by an armed body, acting under the directions of an officer in the New Hampshire Militia, of the name of James Mooney, in which Alexander Rea, Esq. and Bernard Young, inhabitants of Hereford, were severely wounded, and the former forcibly conveyed over the boundary into the State of Vermont, where, after having been subjected to much abuse and ill-treatment, he was released by a magistrate of that state. It appears to us that no satisfactory reason can be adduced in justification of these outrages, and that the only excuse offered in palliation is, that Alexander Rea, exercised undue authority in granting a warrant for the arrest of said Blanchard, and one Luther Parker, of Indian Stream, although at the time, he was acting in the course of his duty, as a magistrate, in consequence of the assurance given to the inhabitants of Indian Stream, that they should be protected by the government of this province. It also appears that no fair argument can be advanced in favour of the pretensions of New Hampshire to the Indian Stream territory, the words of the Treaty of 1783 being clear, and the boundary defined by the Connecticut River in that part, but it is attempted to substitute a tributary known by the name of Hall's Stream for the Connecticut River, although each of these has been known by the name, which it now bears, for upwards of fifty years. It moreover appears that Governor Badger of New Hampshire is connected with a company of land speculators, who claim the territory of Indian Stream, as their private property, under a pretended title from one King Philip, an Indian, which might possibly induce a belief that he is actuated, by other motives than state policy, in his attempts to annex it to the State of New Hampshire. It appears also that the inhabitants of Indian Stream Settlement, situated on the territory in dispute, between both countries, and over which jurisdiction had been occasionally exercised by each, formed and adopted a constitution for themselves for their better government, which was to become null and void on the final settlement of the boundary question. Amongst others, one Luther Parker took the oath to support this constitution, and was elected a member of the executive council, but having, through misconduct, forfeited the confidence of the inhabitants, they ceased to elect him, or to promote him to any office under the constitution, in consequence of which, he became dissatisfied, transferred his allegiance to the Government of New Hampshire, and has ever since, by misrepresentation to that Government and by other means in his power, continued to harass and disturb the peace of the inhabitants of Indian Stream, and leagued with five others, he forwarded a petition for protection to the Government of New Hampshire, falsely purporting to be a petition from the inhabitants of Indian Stream, but in reality signed by certain inhabitants of Colebrook, Stewartstown, and Clarkesville, in the State of New Hampshire. This Luther Parker was subsequently arrested under a warrant issued by Mr. Rea, for an assault on one Jonathan C. L. Knight, and conveyed to Sherbrooke county gaol, whence he was discharged on giving bail.

We have further to report to your Excellency, that several of the inhabitants of Indian Stream, obnoxious to the authorities of New Hampshire, on account of their attachment to the British Government, have been driven from their homes, that their houses have been rifled, their females abused, and their property sacrificed, and that the territory is now in the possession of a body of New Hampshire militia, consisting of fifty men, under the immediate orders of the same James Mooney, who was conspicuous in the affray at Hereford; that in our progress through the Indian Stream Settlement, in the prosecution of our en-

quiries, we were stopped on the highway, near the house of one Fletcher, (also marked on the accompanying figurative plan) by a military guard, composing a part of the force above-mentioned, who, at the point of the bayonet, commanded us to stand, and would not permit us to pass, although made aware of the authority under which we were acting: and we further report that several of the inhabitants of Indian Stream have been lately carried prisoners to Lancaster gaol, in the State of New Hampshire, for rebellion against the laws of that State, some of whom have been liberated on bail, but two of the number, viz. Emer Appleby and Ben. Appleby still remain incarcerated. Amongst those who were most active in the commission of the outrages above-mentioned, we would direct your Excellency's attention in an especial manner to Aldrich and Luther Parker, inhabitants of Indian Stream, the former being the person who cut Mr. Rea over the head with a sabre, and who afterwards attempted to take his life, and the latter who has acted as a spy and general disturber of the peace; as also to Miles Hurlburt, of Stewartstown, New Hampshire, who shot Bernard Young; James Mooney, the captain of the guard stationed at Indian Stream, Ephraim H. Mahurin, Thomas B. Blodget, and James L. Hillyard, who were the leaders of the party which rescued Blanchard; and to Joseph P. Wisnell; and we do further report, that from the disposition manifested by the authorities of New Hampshire, to oppress the inhabitants of Indian Stream, and the threats which are daily made of again offering violence to Mr. Rea, and others of His Majesty's subjects in that quarter, there appears to exist an absolute necessity for speedy measures being taken by the British Government for their relief and protection. We should humbly recommend to the favourable consideration of your Excellency, Bernard Young, who was severely wounded while acting as a peace officer, in the execution of his duty, under Mr. Rea, he being still incapacitated for labour, and much injured in his general health, and having no means of paying the fees of his medical attendant, or of earning a livelihood, except by the work of his hands; and in conclusion, we beg leave to observe, that we are indebted to Captain Hayne for his assistance in ascertaining and marking in the diagram and plan the situation of the different places referred to in the deposition of the witnesses, and in this our report, which is humbly submitted.

(Signed)

EDWARD SHORT.
J. MCKENZIE.
BENJAMIN POMROY.

The Earl of Gosford,
&c. &c. &c.

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Inclosure 4 in No. 1.

Report of the Survey of Hereford, by Captain Hayne.

Gentlemen,

Lennoxville, January 5, 1836.

AGREEABLY to your desire, I proceeded to Hereford on the 18th ultimo, for the purpose of holding myself in readiness for the performance of any professional duty which you might deem it necessary to require of me, and in conformity with your after instructions, I made surveys of the roads in the immediate neighbourhood of the residence of A. Rae, Esquire, those passing over the mountain which separates Hall's from Leeche's Stream, as well as those which run along the west bank of the River Connecticut, commencing from the south-east angle of the township of Hereford, and terminating at a house now occupied by a detachment of the 24th regiment of the State of New Hampshire United States Militia, which said house or barrack is situated in the township of Drayton, or, as it is commonly called, in the "Indian Stream Settlement."

In the diagram handed to me for my further guidance, I have conspicuously marked the places to which you have called my particular attention, but having discovered several remarkable inaccuracies in the same, I have thought proper to furnish you with a plan of my work, constructed on a scale similar to that of the diagram above alluded to.

Having observed that the south outline of the township of Hereford, or province line, as delineated on the diagram, did not agree with that on the figurative plan, (herewith returned), I endeavoured to ascertain as accurately as the extremely unfavourable weather would allow, the point of intersection of the forty-fifth parallel of north latitude with the Connecticut River; the result of my operations you will find traced on the accompanying plan; I have, however, much reason to regret, that time and the circumstance before mentioned, prevented me from determining the point in question in a more satisfactory manner.

On the west bank of the Connecticut, I found a boundary post, having the names of "J. Carden and J. Collins, Quebec," carved thereon. This post has hitherto been considered and acknowledged by the neighbouring inhabitants as the south-east angle of the township of Hereford, and from which a line nominally due east and west has been traced in the field; this line, therefore, not only represents the southern outline of the township, but also the provincial boundary, according to the diagram and survey of the above-named individuals.

With respect to the line which indicates the forty-fifth degree of north latitude, on the figurative plan, I have every reason to believe it to be that which was determined by Dr. Tiarks, in the year 1818; no visible land-mark or boundary line, however, now exists to shew the point of intersection of the said parallel of latitude with the Connecticut River; I was shewn the spot near to which the said line is supposed to strike the Connecticut, and

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should have made search for some of the marks which I presume Dr. Tiarks must have made of this remarkable site, had I been in the neighbourhood at a less disturbed period.

It becomes my duty to inform you, that while engaged in the performance of the latter part of my survey, and in coming within a few chains of the barracks, I was accosted by Lieutenant Drew, one of the officers of the detachment of the 24th regiment of New Hampshire militia, who demanded my business and by whose orders I surveyed that part of the country. Fully aware who this gentleman was, I declined making any reply, until I first learned that the authority by which my proceedings were questioned emanated from the State of New Hampshire. Such is the excitement and alarm which the presence of the New Hampshire troops have occasioned both in Hereford and Drayton, that I could procure but one man who would consent to cross the Indian Stream in my employ; two, indeed, left me on reaching Hall's Stream up to the eastern bank, of which the authorities of the State of New Hampshire appear disposed to make their encroachments.

With reference to my opinion respecting the portion of the "north-eastern boundary" immediately connected with the claims made by the State of New Hampshire, on the territory known by the name of the "Indian Stream Settlement," I shall merely make an extract from the second article of the Treaty, dated Paris, September 3, 1783, and add a few remarks on the same, in the hope of convincing you of the absurdity of the claims set forth.

(Extract.) "From the north-west angle of Nova Scotia, viz. that angle which is formed by a line drawn due north from the source of Saint 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 forty-fifth degree of north latitude, from thence by a line due west on said latitude until," &c. &c.

First, It appears to be well authenticated, that the waters which connect the lakes taking their rise at or near the point B, (vide the Surveyor-General's Figurative Plan), existed under the name of the "Connecticut River" prior to the date of the Treaty. As the middle of this river, therefore, forms the given boundary, no tributary can be claimed as the river itself; with equal justice, indeed, might the St. Francis, Chaudière, or any other of the tributaries of the St. Lawrence be now called, and bonâ fide considered, as that magnificent river itself.

Secondly, All the large streams flowing into the Connecticut, near the forty-fifth degree of north latitude, bear the same names at the present moment as they did in the year 1783; the Indian stream, therefore, can, under no pretext whatever, be styled the Connecticut River, neither can the claims of Hall's or Leech's Stream to the name of this river be considered in the least degree better grounded.

Thirdly, Hall's Stream unites with the Connecticut about two miles below the point of intersection of the forty-fifth parallel of north latitude with that river; it is clear, therefore, by the spirit of the Treaty, that Hall's Stream can have no title to the formation of any portion of the boundary, agreeable to the old and at present recognized point of intersection, and although the forty-fifth degree of north latitude, as more recently determined, will be found to strike the Connecticut about a mile below the junction of Hall's stream with the Connecticut River, it can in no wise strengthen the claims of the American Government, for the boundary line is to run down the middle of the Connecticut River to the forty-fifth degree of north latitude, and not down the middle of Hall's Stream to the same parallel of latitude.

In conclusion, I beg leave to observe, that the decisions of the arbiter in favor of the British claim on this particular point appears to justify the foregoing remarks, and further, that the non-settlement of this highly important question is peculiarly detrimental to the interests of Government, and particularly so to the poor settlers who have established themselves on or near the frontier.

I herewith enclose a pay-list of the men I have had occasion to employ on the late survey; my own travelling and contingent expences I must estimate at ten shillings per diem, and leave the remuneration for my services to the consideration and pleasure of his Excellency the Governor-in-Chief.

I have the honour, &c.
(Signed)

R. HAYNE, Capt. H.P.
Royal Staff Corps.

The Commissioners appointed to enquire into and investigate the outrages lately committed in the township of Hereford, Lower Canada.

Inclosure 5 in No. 1.

Deposition of Mr. Rea.

Province of Lower Canada, District of St. Francis.

I, Alexander Rea, Esquire, one of His Majesty's Justices of the Peace for the district of St. Francis, residing in the township of Hereford, being duly sworn, do depose and say,

that on the 26th day of June last past, in consequence of a complaint made to me by Jonathan C. L. Knight, of the township of Drayton, in the district of St. Francis, stating, that on the sixteenth day of the same month of June, Sampson Thurston, of Indian Stream Settlement, in the said township of Drayton, did make an assault on him, forbidding him to enter his own house, and threatening to kill and put an end to his life, with other abuses which caused him to fear that the said Sampson Thurston would shoot, kill, or otherwise destroy and murder him, the said Jonathan C. L. Knight; and that Luther Parker of the said Indian Stream Settlement was aiding and assisting the said Sampson Thurston, by furnishing him with fire arms, and other weapons, counselling and harbouring him; in my quality of a Magistrate, I issued my warrant to apprehend the said Sampson Thurston and Luther Parker, and addressed the same for execution to one Reuben Lawyer, of Drayton, aforesaid, who, in virtue of the said warrant, arrested the said Luther Parker, at the township of Drayton, aforesaid, on the twenty-eighth day of the said month of June, and on the twenty-ninth, the following day, in the afternoon, brought him before me for examination; that at the request of the said Luther Parker, I permitted him to remain at Hereford until the morning of the first day of July for the purpose of enabling him to procure bail, which not having been procured by him on the said first day of July, I made and signed a *mittimus* for his commitment to the common gaol of the district of St. Francis, to which gaol he was accordingly conveyed. Two or three days after this I was called upon by Lewis Loomes, of Colbrooke, in New Hampshire, who said he was employed by the friends and relatives of the said Parker's wife, to proceed to Sherbrooke to procure the enlargement of said Parker, on bail, and requested that I would assist in the execution of his design. I accordingly wrote a note to Messrs. Colclough, Nichols and Moe, Magistrates at Sherbrooke, requesting that they would facilitate the liberation of the said Luther Parker, as far as consistent with their duty, stating to them the amount of bail which I had demanded, and delivered the said note to the said Lewis Loomes. I was induced to write the said note, having heard that the wife of the said Luther Parker was in a distressed situation, owing to the imprisonment of her husband; and further for the purpose of saving him, the said Parker, from the expense attendant upon the obtaining a writ of *habeas corpus*.

Some time in the month of August last past, a petition signed by sixty-four persons residing in the said Indian Stream settlement, in the township of Drayton, complaining of an exercise of jurisdiction on the part of the State of New Hampshire, was brought to me by one Zebulon Flanders, to be forwarded to the Governor of the Province, which petition was accordingly forwarded by me through John Moore, Esquire, one of the Members of the Assembly of this Province for the county of Sherbrooke. On or about the twentieth day of September last past, I received a letter from the said John Moore, inclosing a copy of a letter signed by S. Walcott, the civil secretary of the province, in answer to said petition from the inhabitants of the said Indian Stream settlement. In consequence I addressed a letter to certain influential inhabitants of Indian Stream settlement, soliciting them to hold a meeting on the 26th day of the said month of September, at which I stated I should be present to acquaint them with the contents of the said communication, and to advise with them on their situation at that time. I accordingly attended at a meeting of the inhabitants of the said Indian Stream settlement on the twenty-sixth and twenty-seventh days of the said month of September, at which, having made known to them the said communication from the said civil secretary, recommended that committees should be appointed, one consisting of five persons to recommend two fit and proper persons to the Executive to be appointed Magistrates, and the other of three for the purpose of drawing up a statement for the information of His Excellency, the Governor-in-Chief, representing the outrages and encroachments committed by the inhabitants of the State of New Hampshire, under the pretended authority of that State upon them, the inhabitants of Indian Stream settlement.

Some days after this, the proceedings of the said meetings were handed to me by the clerk of the said meetings, and by me laid before the Bench of Magistrates sitting in general sessions of the peace at Sherbrooke, in the month of October last, and by them ordered to be forwarded to Government.

Afterwards, about the fifteenth day of October last, being at Compton on my way home from the sessions at Sherbrooke, I received a communication from certain inhabitants of Drayton, stating that John H. Tyler, one of the inhabitants of said Drayton, had been arrested by William Smith, John Milton Harvey, and Richard J. Blanchard, deputy sheriffs, the two former, citizens of the United States, residing at Colbrooke, in the State of New Hampshire, and the other an inhabitant of Indian Stream settlement, in the township of Drayton, all acting under the authority of the high-sheriff of the county of Coos, in the state of New Hampshire, stating also that they had rescued the said John H. Tyler and praying my interference and assistance; that I declined proceeding upon the said communication, the same not being under oath, but on my return home I informed one of the persons who had signed the said communication, that the complainant, John H. Tyler, must make affidavit of the facts before I could be justified in granting a warrant or interfering in any way in the matter; and that the said Tyler might make a necessary affidavit at any convenient opportunity, and that there did not appear to be any necessity to be in a hurry about it. Afterwards, in the said month of October, the said John H. Tyler appeared before me and made the necessary deposition, and demanded a warrant against the said Smith, Harvey and Blanchard, which I granted; the said John Tyler having informed me, that unless he procured the said warrant, and had it executed immediately, he would lose the opportunity of putting it into execution, as threats had been made that an armed force would come in from the State of New Hampshire, to take him and others who had rendered themselves obnoxious by claiming pro-

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tection from the authorities in Lower Canada. The said warrant was directed to Zacheus Clough and Zebulon Flanders, and delivered to them for execution. On the twenty-second day of the month of October last, in the afternoon, the said Zacheus Clough, one of the persons to whom the said warrant was addressed, accompanied by a number of persons, namely, John Parker, Zebulon Flanders, Bernard Young, Paschal G. Blood, Marcus Beecher and others of the township of Hereford; John H. Tyler, Alanson Cummings, John Smith and others of the Indian Stream settlement, in the township of Drayton, came to my house and informed me that the said Richard J. Blanchard had been arrested, in virtue of the said warrant, at his dwelling-house in the township of Drayton, and whilst he was being conveyed by them in the King's highway, leading from the township of Drayton to my house in Hereford, they were prevented proceeding by Ephraim H. Mahurin, Minor Hillyard, John Milton Harvey, and other inhabitants of New Hampshire, to the number of seventeen, all armed with guns, pistols, swords and other weapons, the greater number mounted on horseback who forcibly rescued and carried off the said prisoner Richard J. Blanchard, at a place a few rods west of the house of one Moses Perly, in the township of Hereford. Whilst I was receiving their statement, a person of the name of Emor Appleby, an inhabitant of the township of Drayton, who is now a prisoner in the Lancaster gaol, in the State of New Hampshire, came in and stated that he had been pursued by about twenty armed men of the State of New Hampshire, among them one Wiswell, a justice of the peace, and that he was obliged to take to the woods in the Tabor Settlement, in Drayton, to make his escape from them; having been summoned by them to surrender, he had threatened to shoot the first man that advanced upon him, being armed with a fowling piece. I requested him to lay by his arms in the corner of the room which he did, and there they remained.

After I had reduced to writing the depositions of the above named persons relative to the rescue of the said Blanchard, and was in the act of closing the same after the departure of some of these persons from my house, one of those who had departed returned again, and stated to me that they were coming; and upon my asking who were coming, stated, "the New Hampshire fellows." I observed that it could not be; that they would not have the assurance to come here. I looked out, and saw, about fifty rods from my house, the persons who had made their depositions before me, stopped in the highway. I thereupon went out to meet these people, with the intention of doing my duty as a Magistrate to keep the peace; and, contrary to my usual custom of wearing a stick, which I am obliged to do in consequence of lameness, I abstained from taking it with me on this occasion, least it should be imagined I intended to have recourse to any harsh measures. On my arrival at the above-mentioned spot in the King's highway, I found six or eight of the peaceable inhabitants of Hereford and Drayton pursuing their way home, some on foot and some on horseback, brought to a stand by two persons mounted on horseback; one of them, Miles Hurlburt, a citizen of Stuartstown, in the State of New Hampshire, posted across the road facing these individuals, with a brass barrelled carbine or horse-pistol in his hand levelled at them. When I came up in front of the persons who had been stopped, I was saluted by the said Hurlburt in these terms, at the same time presenting his pistol, "Stand off, or God damn you I'll blow you through." I continued to advance up to him, and enquired of him what he meant by such outrageous conduct in preventing the peaceable inhabitants from pursuing their way quietly on the King's highway, and told him that such proceedings could not be allowed on this side of the line, but to take himself over to the other side, and that he might conduct himself in any manner that the authorities there would allow him. He evidently appeared to be in a state of inebriety, and frequently repeated, "Stand off, God damn you, or I'll blow you through." The other individual, by the name of Ephraim Aldrich, an inhabitant of Drayton, one of the signers of the petition for protection to the Government of this province, whom I had not particularly noticed, and who had been up to my house in the course of the day, when I was not at the house, and who probably came as a spy to find out the unprotected state of the people on this side the line, spoke up and said, "Rea, you had better stand off, or he'll do you an injury." I turned round, and then for the first time recognizing who he was, said, "What, Sir, are you here on this business? if you have any influence with this drunken fellow, take him and yourself peaceably away over the line: we want nothing of you here, and we cannot allow the peaceable inhabitants to be stopped in the way in this manner." He gave me some abusive answer. As a Magistrate I commanded him to retire with his companion and suffer the peaceable inhabitants to pursue their course on the King's highway, as such conduct could not be permitted. He returned for answer that he would go when he had a mind to do so, and that I had better mind my own business. Not perceiving he was armed, I requested, as a Magistrate, Mr. Bernard Young, a peace-officer for the township for Hereford who was present, to take him into custody. Mr. Young took the horse by the bridle, and laid his hand on him for the purpose of making a prisoner of him; at that moment Aldrich drew a horseman's large sabre from under his coat, and I, perceiving that he was armed, made every exertion to arrest his motion by seizing his sabre arm, but too late to prevent a blow which he had aimed at Young the peace-officer from taking effect, which struck him on the neck, and nearly brought him to the ground. At the same instant Hurlburt, who was at the distance of about five yards on horseback, levelled his carbine at me and fired, but owing to its weight and his unsteady hand, the shot missed me, and took effect on Young, wounding him through the thigh and the private parts in a very dangerous manner. From the exertions Young made after the carbine was fired, I did not suppose that he had been wounded. At the same instant I seized on the bridle of Aldrich's horse. He, however, wheeled round, and broke from my grasp, giving me at the same time a deep cut on the head with his sabre cutting through a straw hat which I had on. The persons who had

been stopped, as well as myself, then took up stones and pelted Aldrich and Hurlburt, who made off on their horses, but on observing an armed party of five or six men coming out of the mill-yard at the back of the blacksmith's shop, where they had been in ambush, they wheeled round and returned with them. The party who came from the mill-yard at this time fired three shots from muskets with bayonets on them which did not take effect. One of the balls struck the knoll where I was standing, which ball I have now in my possession. At this moment I perceived another party coming round a point of hill below the mill, consisting of ten or twelve armed men, with a baggage waggon in their rear. This party fired two shots at us, which did not take effect, as they had not come within range at that time.

On perceiving this last party I observed to the persons with me, that they had better provide for their own safety by flight as we had no arms and could not resist such odds. From the threats I had heard made use of, and the brutal state of intoxication in which I supposed many of them to be in, I had every reason to expect that they were determined to have me, dead or alive. I consequently, with a view to divert the attention of this mob from my family and dwelling, passed through some bars that were down in the fence of my pasture field, and stopped to put up two of the bars to prevent the horsemen from overtaking me as soon as they otherwise would, and whilst putting up the bars, the said Ephraim C. Aldrich snapped two loaded pistols at me, which missing fire he threw at my head. I then made my escape into the bushes, but Aldrich having got off his horse pursued me on foot with his drawn sabre, followed by four or five others, and owing to my lameness I stumbled several times, and having fallen over a large log, Aldrich overtook me as I had fallen on my face, and grasped my neckhandkerchief and made a plunge at me with his sabre, but facing round in sufficient time to seize it, and in the struggle divert it from my person, it was forced into the ground about two feet where I managed to detain it until his followers came up, he in the mean time kicking and trampling on me, swearing that he would have my heart's blood; by this time three more of them came up, two with fixed bayonets, the third armed with a carbine and two pistols stuck in his belt; those with the bayonets threatened to run me through if I did not surrender. One of them I knew, Asa Parker, then living in Drayton, the other I have been informed was one Joseph Pope Wiswell, a citizen of Clerksville, in the State of New Hampshire. The person with the carbine and pistols was a doctor Terrill, of the last-mentioned place. I told them I did surrender; Aldrich still continuing to kick me, and endeavoured to choke me with my neckhandkerchief. The said doctor Terrill then advanced, and addressing himself to Aldrich said, "are you not ashamed to kick the man when he is down?" Aldrich still continued his violence notwithstanding, until another person, armed with a musket and bayonet, whose name I have since learnt is ——— Small, of the State of New Hampshire, who ordered Aldrich to desist as I had surrendered, and what more did he want. Aldrich refused until I should give up the sabre, which I declined doing until my personal safety was secured, which the said Small assured me should be the case, and Aldrich pledging himself to the same effect, I relinquished my hold of the sabre, Aldrich however still attempted to strangle me, and kicked me again several times in the side; being assisted by Small I got up, and they carried me off, Aldrich on one side, Small on the other, doctor Terrill in front brandishing his weapon, and Joseph Pope Wiswell and Asa Parker, with fixed bayonets, in the rear, threatening to run me through if I did not move on faster; when they got me as far as the highway, we were met by a person whom they styled Captain Mooney; Aldrich, said Captain Mooney, bring on the baggage waggon, and said Mooney called out, "bring on the baggage waggon," into which they thrust me. The waggon was drawn by two horses; I was placed alongside the driver, on the seat. Aldrich with his drawn sword in front, Wiswell with his fixed bayonet, and doctor Terrill armed in the rear. In this way I was carried down to the house of Josiah Parmely, and N. H. Joy, who keep a tavern and store in Canaan, in the State of Vermont. On the way down they abused and ill-treated me in various ways, threatening if I stirred or spoke they would run me through. On my arrival at the house of Parmely and Joy, in Canaan, I found a gathering of from sixty to a hundred armed persons, including those who had come across the line, the whole, with few exceptions, from the State of New Hampshire, more or less, in a state of intoxication. I was ordered to get out of the waggon, and then dragged in the store of Parmely and Joy. On getting into this store I went to the upper end of it, where I perceived six or seven persons, apparently strangers, and three or four of the inhabitants of Canaan, who appeared to have no connection with the mob from New Hampshire. Among these inhabitants of Canaan I recognized a young man of the name of Herman Nichols, I enquired of him whether he was a magistrate of Vermont, he answered that he was; I then told him that a most infamous outrage had been committed by this armed mob, in dragging me from my own farm and from my own country, and that as a magistrate of the State of Vermont, I claimed from him the protection of the laws of that state; he said as far as was in his power, I should have his protection. Whilst this conversation was going on, Aldrich called out to Mr. Joy, one of the proprietors of the house, "Joy, bring on the liquor." Joy observed that he had had enough, to which Aldrich replied "what do you mean? God damn you, bring on the liquor," repeating it several times, to which Mr. Joy again rejoined not so fast, not so fast, Mr. Aldrich you have had enough. Both Parmely and Joy, from their appearance and conduct, appeared fearful that some disclosure might take place and the impression on my mind was that they were in some way connected with the perpetrators of the outrage.

X.

Aggression and violation of territory by citizens of New Hampshire.

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Hearing the conversation I had with Mr. Nichols, Aldrich, and Wiswell, and a man of the name of Tuttel, assisting them, attempted to drag me out of the house, Aldrich saying "Come, come, it is time to be off;" I observed, that I should not willingly leave those premises, unless to return home, they having no authority from the State of Vermont to control me. Mr. Nicols, the magistrate to whom I had addressed myself on going into the house, interfered and stated that he forbid their having any control over me, unless they could shew their authority from the State. They continued, notwithstanding, to exercise force in dragging me towards the door; I caught hold of a person who was standing at the counter, and he caught hold of me, and by that means prevented their dragging me out. Parmely, one of the proprietors, stepped up and stated, that if they had any precept to control me or my actions, to produce it, and if they could not he should protect me as long as I chose to remain in his house. Mr. Nichols, the magistrate, requested me to go into another room, that he wished to speak to me, endeavouring to withdraw me from the mob. Aldrich followed, still claiming to have me in custody. Micajah Ingham, senior, Micajah Ingham, junior, Archilaus Cummings, senior, — Heaton, senior, — Heaton, junior, and Josiah Parmely and John James McKinnon came into the room also. Parmely, one of the proprietors of the house, wished to withdraw me into another inner room, which Aldrich wished to prevent, saying, that I was in his custody. Parmely said to him, "What do you mean? shew your precept; if you have any, produce it," and then said to him, "Walk out, sir, I want your room, and not your company," and with that opened the door, and made him walk out. Aldrich wanted to know whether he could not see me in half an hour. Parmely told him he did not know whether he had any right to see me or not. After this, James McKinnon assisted me to dress my wounds, and whilst he was so doing a good deal of conversation took place in regard to the propriety of using exertions to disperse the mob, some stating that there would be risk in so doing, they being armed. I told them I did not wish them to risk their lives or property on my account, but that I expected my personal protection from them, and the protection of the laws of Vermont, and that I was anxious to get home to my family as soon as possible, having heard that Young was laying dangerously wounded at my house, without medical assistance, and being apprehensive that some of the armed mob might have been about my premises, and might have frightened my family. It was by this time eight o'clock in the evening, and being faint and exhausted, I took some refreshment which was offered me. The mob having dispersed, I returned home accompanied by Mr. McKinnon of Canaan, and Mr. Dean of Hereford, who happened to be at Canaan, and on his way home. Near my house I met Zebulon Flanders, and two or three others, inhabitants of Hereford, who had been dispersed by the mob that afternoon; and when I arrived at my house, I found my family very much alarmed, and Mr. Young in a very dangerous state. Every thing had been done for him that could be done, and Dr. Heaton of Canaan sent for. I sat up with him the whole night notwithstanding my own wounds. Insulting messages were, at different times, sent to me after this, and messages threatening that I and others should be dragged over the line. From divers depositions and statements under oath made before me, it appears that since the twenty-second day of October last, until the present moment, there has been an armed mob stationed in the township of Drayton, under the command of the same Captain Mooney who ordered up the baggage waggon when the outrage was committed at Hereford. I do not know of any other cause for their committing this outrage on the twenty-second day of October last, except my having issued warrants as a Magistrate against Parker and Blanchard. To the best of my knowledge there were at least twenty persons actively concerned in the outrage at Hereford, on this side of the line. Whilst in Hereford when they were carrying me away in the waggon from the scene of action, they shouted, "Hurrah for Jackson, we have got the damned old he one;" and repeated the same exclamation as they passed the custom-house in Canaan. The reason I was conveyed into the State of Vermont instead of immediately into New Hampshire by the mob is owing to the circumstance of the road leading through a part of the State of Vermont to get into New Hampshire. They expressed their determination to carry me to Lancaster gaol, in the state of New Hampshire. Three of the party only were from the Indian Stream settlement, in the township of Drayton, namely, Ephraim C. Aldrich, Jeremiah Aldrich, and Asa Parker, the two former were signers of the petition to the Government of Lower Canada for protection; Bernard Young, who was dangerously wounded in the affray at Hereford, remained at my house for a fortnight before he could be removed home, and was attended by Dr. Watson of Sherbrooke, and Dr. Heaton from Canaan. He is still labouring under the effects of his wound, and unable to work. On Mr. Parmely interfering in my behalf, when at his house as aforesaid, one of the armed mob, Robert Terril, of Stewartstown, in the State of New Hampshire, called out, "No threats Old Parmely; God damn you, no threats." When we first arrived at Parmely's store in Canaan, among the most active I recognized one Hiram Fletcher, an attorney of Colbrook, in the State of New Hampshire, flourishing his rifle and shouting out, "Hurrah for Jackson; here is old Rea; we have got the damned old rascal." I saw also there, apparently intimately connected with the mob, Halsey Dunning, an inhabitant of the township of Hereford.

(Signed) ALEXR. REA, J. P.

Sworn before us at the township of Hereford, this 29th Dec., 1835.

(Signed) EDWARD SHORT.
BENJAMIN POMROY.
J. McKENZIE.

Inclosure 6 in No. 1.

*Deposition of Bernard Young.**Province of Lower Canada, District of Saint Francis.*

X.

Aggression and violation of territory by citizens of New Hampshire.

I Bernard Young, of the township of Hereford, in the district of Saint Francis, being duly sworn, do depose and say, that on the 22d day of October last, Zacheus Clough called at my father's house where I reside, with Richard J. Blanchard of the Indian Stream Settlement in Drayton, in his custody, and demanded my assistance, as a peace officer, to assist him in conducting the prisoner before Mr. Rea, a justice of the peace for the district of St. Francis, residing in the said township of Hereford; before I would go with said Clough, I requested to see his warrant which he shewed me, and I then accompanied him; previous, however, to leaving the house, Mr. Clough stepped over to the house of James Prouty, leaving the prisoner in charge of Mr. Benjamin Appleby, Zebulon Flanders and Alanson Cummings. The reason Mr. Clough assigned for requiring the assistance of so many persons was, that he was apprehensive that a rescue of the prisoner would be attempted by some persons from the State of New Hampshire. We proceeded quietly on without interruption until we had passed about forty rods beyond the house of Moses Perly, in the township of Hereford, on the road leading from Hall's Stream to Leach's Stream. Our party was then composed of Zacheus Clough, Zebulon Flanders, John Parker, James Prouty, Marcus Beecher, and myself, of the township of Hereford, and Alanson Cummins, Benjamin Appleby, and John H. Tyler of the Indian Stream Settlement, in the township of Drayton; we saw there a man on horseback coming up to us at a smart trot, who proved to be James Minor Hillyard, he passed us and immediately turned his horse round upon our rear, we then saw in front eight men on horseback armed with guns, pistols and bayonets, and I knew eight out of the nine forming their company, namely, Ephraim H. Mahurin of the town of Columbia, Horatio Tuttle, James M. Hillyard, Samuel Weeks, jun. of the town of Colbrook, Thomas Piper, and Thomas B. Blodget of Stuartstown, Joseph P. Wiswell and Miles Hurlburt of Clarksville, all in the State of New Hampshire, one of the United States of America. The first person who spoke I think was Horatio Tuttle, who, addressing me, said, "Young, you poor mean scoundrel, I am sorry to see you here," to which I answered "not sorrier than I am to see Mr. Tuttle." The said Tuttle then presented his gun at me, commanding me to stand, or fall in the rear, or that he would blow me through. I, with one of the others, being at the time a little in advance of the rest of our party, and they then came up to us and were ordered by the armed party to stand. Ephraim H. Mahurin dismounted and directed our prisoner Blanchard, and told him to mount his horse. Paschal G. Blood, who had been called upon to join our party then came up, Mahurin said, he was determined to take Blanchard even if blood should be spilt for it. Blood said to him that if he should do so, it would not be the first time, to which Mahurin rejoined, that he knew very well who that was meant for, and had in his hand at the time a double-barrelled fowling piece which was cocked. I was talking to Thomas Piper at the same time, and said to him, my good man you were not obliged to come here, to which he answered, he was obliged to come or pay fifty dollars fine, I told him that they could not compel him to come farther than Stuartstown Bridge, to which he made no reply. Tuttle and Blodget rode forward, and addressing their own party said, how many, and which persons do you wish to make prisoners and carry off; some of them answered we want Clough, Flanders, Tylers, and their prisoner Blanchard. I told Clough not to go by mere telling, that they had ordered me to go too, but not to do so unless they used force to compel us. There was a good deal of talking and I cannot remember every expression; I remember Hillyard saying, we have got Blanchard and we had better let the rest of them go; I remember perfectly that Blodget and Tuttle presented their guns at us, commanding us to stand or they would blow us through. The armed party carried off Blanchard by force, after they had left us they made off towards the State of Vermont, and a little time afterwards we heard them shouting, and at the same time saw six men coming out of a small wood on foot; five of them were armed, they took the direction of the others apparently to join them, we then proceeded to the house of Mr. Rea to make a statement under oath of what had occurred. One deposition was made out, which we all signed and swore to, when I was leaving Mr. Rea's house some of the persons who had made their depositions and had left before me, called out, "they are coming," I went to see who were coming, and I saw Ephraim C. Aldrich and Miles Hurlburt drawn up in the highway about fifty rods from Mr. Rea's house. Mr. Rea came out of his house and said to me, "you are not afraid to go down are you?" and I immediately with Mr. Clough followed him to the place where these persons were drawn up, Mr. Rea demanded of them what their reason was for stopping people on the highway, to which Mr. Hurlburt replied, stand back, or "I'll blow you through." Mr. Rea said he was not afraid of his missile, telling him, that as a magistrate he was bound to keep the peace, and wished him to take himself off. Ephraim C. Aldrich then said to Mr. Rea, you had better stand off, the man may do you an injury. Hurlburt kept his pistol presented at Mr. Rea during this time. Mr. Rea made some remark to Aldrich, and Aldrich replied, but what they said I do not remember. Mr. Rea, however, told me to take Aldrich in charge. I stepped forward and laid my hand on his horse's bridle, and at that moment he drew a sword which I had not seen until then, and with it struck me on the neck, which brought me into a stooping position, I then looked up to see whether he was about to strike me again, and saw him strike Mr. Rea over the head with his sword, and at the same moment I heard the report of a pistol and received its contents. I then saw Hurlburt making off in the direction of the line, shouting out,

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"Shoot them, damn them come on." I then saw a number of armed men coming out of Mr. Rea's Mill yard, upon which the persons who had accompanied Mr. Rea, left the ground and ran in different directions; previous, however, to the persons coming out of the mill yard, after Mr. Rea had been struck with the sword and the pistol had been fired which took effect on me, the persons with Mr. Rea took up stones and drove them off. As I was making towards Mr. Rea's house, I heard the report of three or four guns. I stopped a moment to examine the extent of the wound which I had received, and found that the ball had entered my right thigh and passed through, injuring one of my testicles. Looking up I saw Mr. Rea making through one of his fields towards the bushes, and saw Doctor Terril pursuing him, I then proceeded on to Mr. Rea's house, where I had just arrived, when two of the armed party came up the road in front of his house, asking for some person whose name I did not hear. One of these men I knew to be Robert Terril, of New Hampshire, the other I did not know; they were both armed. I was confined in bed for fifteen days at Mr. Rea's house, and was then removed to my own where I was confined to my bed for a fortnight longer. I am still unable to do much work, and feel great pain and inconvenience from my wound, my general health also has suffered in consequence. I have a wife and family to support, and have not the means to pay the charges of the medical gentlemen who attended me, amounting together to the sum of £9 18s. 9d. The medical gentlemen who attended me were Doctor Henry Watson of Sherbrooke, and Dr. Charles Heaton of Canaan, in Vermont. I know of no cause for the people of New Hampshire mal-treating Mr. Rea, but have heard it assigned as a reason that he exercised jurisdiction over the inhabitants of the Indian Stream Settlement in the township of Drayton, which the inhabitants of New Hampshire contend he has no right to do, but that they have it under their own jurisdiction.

(Signed)

BARNARD YOUNG.

Sworn before us at Hereford this 26th day of December, 1835.

(Signed)

EDWARD SHORT.

J. MCKENZIE.

BENJAMIN POMROY.

Copy.

Barnet Young to Charles Heaton for services in Surgery, Dr.

Fourteen visits

\$19 : 75

(Signed)

CHARLES HEATON, M.D.

Copy.

Sherbrooke.

Alexander Rea, Esq.

To H. Watson, Surgeon.

Two visits to Hereford to see Mr. Young

£5 0 0

Inclosure 7 in No. 1.

*Deposition of William White.**Province of Lower Canada, District of Saint Francis*

I, William White, of the township of Hereford, in the district of Saint Francis, farmer, being duly sworn, do depose and say, That two years ago last April I went to reside at Indian Stream Settlement, in the township of Drayton, and continued to reside there until about ten weeks ago; there were at the time I went to live there about four hundred and seventy inhabitants, they had about two years previous formed a constitution and code of laws for their own government. The execution of the laws was entrusted to a council elected by the inhabitants and the interpretation of them in the last resort. This council was elected annually; I was elected one of the council in the month of March, after my arrival in the settlement, and re-elected last March. Some time in January or February last, Eneas Rowell, an inhabitant of the Indian Stream Settlement, was arrested by William Smith of Colbrook, in New Hampshire, a deputy sheriff of the county of Coos, in the said State, and conveyed by him to Lancaster gaol, whence he was liberated on giving bail to stand his trial. This being the first instance in which the practical exercise of jurisdiction over the Indian Stream Settlement had been successfully attempted, excited considerable alarm among the inhabitants, and other attempts being afterwards made to enforce the laws of the State of New Hampshire among us, it was resolved upon to call a meeting of the inhabitants to devise means of protection, and the result of the meeting was a nomination of a committee of persons to draft a petition to his Excellency the Governor of Lower Canada, praying for protection, and to circulate the said petition for signatures. The petition was accordingly got up and signed by all the heads of families in the settlement, except four or five. I signed it myself, and the said petition was forwarded to Mr. Rea, to be forwarded to Government. Some time afterwards, before we had received any answer to our petition, having been informed that warrants had been issued by the authorities of the State of New Hampshire, for the apprehension of several of the inhabitants of Indian Stream, and that a militia force had been ordered out to assist the sheriffs and officers in the execution of the

said warrants, the inhabitants of Indian Stream met and resolved to despatch messengers to meet a Colonel White, high sheriff of the county of Coos, in New Hampshire, who it was understood was on his way to the settlement, to inform him, that although the inhabitants of the settlement would not acknowledge that the authorities of New Hampshire had any jurisdiction over them, yet they wished to prevent the coming of the militia, and would not resist the officer or officers who might be charged with the execution of the said warrants. John Haines and I were despatched for that purpose, and we met Colonel White, at Stuartstown, in New Hampshire, and made known to him our resolutions. Colonel White then informed us that if he could be satisfied that the inhabitants of Indian Stream would not resist the officers, he would countermand the militia, which he stated had orders to march with the officers on the second day after this interview, and said he would accompany us to Indian Stream to ascertain that point. He accompanied us to Clerksville, and there requested us to go forward and call together the inhabitants to receive him on the following morning. We accordingly did as he had desired, and he came to Indian Stream on the following morning, when the inhabitants agreed not to offer any resistance to the authorities of New Hampshire, but protested against the attempts which were made to exercise jurisdiction over them by that state.

Some time afterwards, in the month of August last, Alexander Rea, Esquire, a magistrate in Hereford, informed us that he had received an answer to our petition to the Government of Lower Canada, and advised a meeting to be called on the following Saturday, which he proposed to attend for the purpose of communicating that answer to the inhabitants and for other purposes. The meeting was called, at which Mr. Rea attended, and a committee named to recommend to the Government of Lower Canada fit and proper persons from among the inhabitants of Indian Stream to be appointed magistrates. A short time after having been informed that threats had been made by the inhabitants of New Hampshire to take me dead or alive, and being apprehensive of my personal safety, I left the settlement and came to Hereford, where I now reside. Since my departure I have been informed that my house has been rifled of nearly all its contents. I forgot to mention before, that some few of the inhabitants of Indian Stream refused altogether, upon any conditions, to submit to the authorities of the State of New Hampshire.

(Signed) WILLIAM WHITE.
Sworn before us, at Hereford, this day of December, 1835.
(Signed) EDWARD SHORT.
J. McKENZIE.
BENJAMIN POMROY.

Inclosure 8 in No. 1.
Deposition of Henry Watson.

Province of Lower Canada, District of St. Francis.

I, Henry Watson, of the village of Sherbrooke, in the township of Oxford, surgeon, being duly sworn, do depose and say, that I was called upon about the 25th of October last, to visit Mr. Bernard Young, who was lying wounded at the house of Alexander Rea, Esq. at Hereford; he had received a gun shot wound which had passed through the superficial integuments of the right thigh and scrotum, and wounded the testicle, the wound was a dangerous one, and would probably incapacitate him for labour for some time, perhaps six months; I at the same time examined a wound received by the said Alexander Rea, Esq., which had been inflicted by a sabre over the left parietal bone, which was of about an inch and a half in length, and down to the bone; I visited the said Young a second time on the 17th of November, and he had then improved a little; my charge for the two visits which I made to said Young at Hereford, a distance of thirty-five miles from my place of residence was £5; I examined him again this morning, and find that he is not yet fit for labour, for which I have charged him the further sum of 10s.

(Signed) HENRY WATSON.
Sworn before us at Lennoxville, this 31st December, 1835.
(Signed) EDWARD SHORT,
BENJAMIN POMROY,
J. McKENZIE.

Inclosure 9 in No. 1.

Deposition of Zebulon Flanders.

Province of Lower Canada, District of St. Francis.

I, Zebulon Flanders, of the township of Hereford, in the said district of St. Francis, farmer, being duly sworn, do depose and say, that some time in the month of October last, a man of the name of James H. Tyler, of the Indian Stream Settlement, in the township of

X.

Aggression and violation of territory by citizens of New Hampshire.

X.

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Drayton, came to my house with a warrant for the apprehension of Richard J. Blanchard, Wm. Smith and Milton Harvey, the former an inhabitant of the said Indian Stream Settlement, the two latter, inhabitants of Colbrooke, in the State of New Hampshire. The said warrant was addressed to me and Zacheus Clough, which he requested me to execute on the following day; I went with him to the Indian Stream Settlement, and on my way met with Z. Clough, to whom I shewed the warrant, and requested him to accompany me, which he stated he could not do at that time, but would meet me there in a short time; this was about twelve o'clock at noon. I then proceeded on to the house of Alanson Cummings, and staid there all night; Clough came there in the evening, as he had agreed to do; next morning Clough and I went to the said Blanchard's dwelling-house, and took him into custody; in about two hours afterwards he left the house accompanied by the said Blanchard, for the purpose of bringing him before Mr. Rea; when we had proceeded on the road about half a mile, we heard that Clark Haines had galloped off to New Hampshire for the purpose of procuring assistance to rescue Blanchard out of our custody; hearing of this, we requested Alanson Cummings, Benjamin Appleby, and Emor Appleby to bear us company, which they complied with; we had proceeded half a mile further, when we heard that Ephraim Aldrich had accompanied said Clark Haines over to the State of New Hampshire for the same purpose; and meeting with Jerry Aldrich and James Washburn, we ordered them to accompany us, which they did for about a mile and a half, when coming near Ebenezer Fletcher's house, in Drayton, they ran away from us; we then proceeded quietly to the house of Mr. Young, in Hereford, where we met with Ephraim C. Aldrich, Miles Hurlbert, and Joseph Pope Wiswell, who came in whilst we were there, and who wished us to compromise the matter. We stated that we had no authority to compromise the matter, and could not do so, and then left the house to proceed on our way to Hereford, accompanied by Bernard Young and Mr. Prouty, until we got to my house. Mr. Beecher joined us there, and we proceeded as far as Mr. Blood's. Clough went to Blood's house, to require his assistance; we proceeded, and Blood joined us in a few minutes; we had not gone far when we observed a man on horseback, galloping up to us; the man was Minor Hillyard, of Stuartstown, in the State of New Hampshire; he galloped past us, and then turned his horse, and we then perceived a number of men, nine or ten, armed with muskets, bayonets and pistols, mounted on horseback, drawn up in rank in the middle of the road; when we came up with them I recognised Joseph Pope Wiswell, Thomas Piper, Horatio Tuttle and Ephraim H. Mahurin, all of the State of New Hampshire. Among the party we advanced until we came up with them, when they commanded us to stand and surrender every damned one of us. I asked, by what authority, gentlemen? This is our authority, brandishing their weapons; we shall take you prisoners, because we are able; after some noise and conversation they agreed to let all go but John Tyler, Clough, Clough, Blanchard and myself, particularizing us by name: we none of us were willing to surrender, and said we would not, still keeping our prisoner, and they threatening to "blow us through" and commanding us to fall in. After some consultation among themselves they agreed to let all go, provided we would give up Blanchard, our prisoner; I said we should not, and told Prouty to keep fast hold of the prisoner, and that they should not have him unless by force of arms. Ephraim Mahurin thereupon dismounted, and walking round to where Prouty stood, cocked a double barrellled gun and levelled it at his breast, upon which I called out to Prouty to stand back and let go the prisoner, as that was force enough; Blanchard then mounted on Mahurin's horse, and so they went off, Mahurin walking among them. We saw at a distance at this time, six or seven armed men, who appeared to be a reinforcement for the same object. They all made off in the direction to Vermont, and shortly afterwards we heard shouting and cheering. About a quarter of an hour afterwards we went to Mr. Rea's house to make a statement upon oath, before him, of the occurrences that had taken place; when we had just closed our deposition, and were leaving his house for our respective homes, we saw Ephraim C. Aldrich and Miles Hurlbert drawn up in the middle of the road that leads from Mr. Rea's house to the province line, about fifty rods from the house, mounted on horses, and armed with a sword and pistols, with belts of white leather across their breasts. I went up to Aldrich: he was an old acquaintance of mine, and I asked him what he meant, when he said, "Damn you we will let you know what it means." I told him he was going too fast, when he replied, "Flanders, have I not always used you well?" to which I said, that I knew nothing to the contrary, and had I not used him well likewise. He said, yes, I had, until I had stolen one of their citizens, meaning Blanchard. I told him he lied; I had not stole one of their citizens. What made me angry and speak to him in this manner was, that a short time before he had been a staunch Canadian, and had given me some trouble in procuring the forwarding of a petition for protection for the inhabitants of the Indian stream settlement to our Government. By this time Mr. Rea, with the other persons who had been making their depositions, came up, not one of them with arms of any kind. Mr. Rea went up to Hurlbert and asked him what he meant by stopping people in the King's highway. Hurlbert said he would do what he had a mind to. Mr. Rea desired him to take himself off to the other side of the line, they did not want any thing of him there. He said he would be damned if he would go for him, and that he would go when he had a mind. What's that you say? said Mr. Rea, walking up to him, when Hurlbert said, "advance one step further and I'll blow you through" Mr. Rea then stood still; Hurlbert presenting his pistol to Mr. Rea, who told Mr. Young, a peace-officer, to take charge of that man, and take him prisoner. Mr. Young took hold of the bridle, when Hurlbert called out to him, "God damn you, let go my bridle." The next thing I saw was Aldrich drawing his sword, with which he struck Mr. Rea. He fell partly to the ground, and had hardly recovered himself when Aldrich

struck him again with his sword on the head, when he fell a second time. Aldrich at this moment whirled his horse round, calling out, "damn him shoot him down," and Hurlburt levelled his pistol towards where Mr. Rea and Young were standing. It went off, and I saw Young fall and get up again. I turned my horse at this moment, and saw a number of armed men coming along the road from the direction towards the line, some of them firing their guns towards us as they advanced. I then made off in the opposite direction: I think that there may have been from forty to fifty men. The balls from the guns of those who fired as they advanced towards us struck the ground near our position, and threw up the dust of the road. The only reason I have ever understood for the New Hampshire people treating Mr Rea in this manner, was from the circumstance of his exercising jurisdiction over the inhabitants of the Indian stream settlement in Drayton, and that if he had not interfered the Government of Lower Canada would, without opposition, have let the state of New Hampshire claim that settlement for their own.

(Signed)

ZEBULON FLANDERS.

Sworn before us at the township of Hereford, the 24th day of December, 1835.

(Signed)

EDWARD SHORT.

BENJAMIN POMROY.

J. MCKENZIE.

X.
Aggression and violation of territory by citizens of New Hampshire.

Inclosure 10 in No. 1.

*Deposition of A. J. McKinnon.**Province of Lower Canada, District of St. Francis.*

I, Alexander James McKinnon, of the town of Canaan, in the State of Vermont, one of the United States of America, tailor, being duly sworn, do depose and say, that on the 22nd day of October last, between the hours of four and five o'clock in the afternoon, I was at the store of Messrs. Parmely and Joy, at the town of Canaan aforesaid; there were at the time, a great number of armed men there, among them one Ephraim Aldrich, who having asked for and obtained a sword, stated that he wanted four volunteers to go over the line into Hereford, to make prisoners of, and carry away, Alexander Rea, Esq. Zebulon Flanders, Zacheus Clough, and John H. Tyler; he stated that they would be well paid it as Josiah Parmeley had offered five dollars and as much liquor as those who would engage in the undertaking, would drink. That Nehemiah Joy had promised to give ten dollars, Archelaus Cummings five, I had promised ten dollars, Mr. Smith of Colebrook, (five dollars for the apprehension of Tyler,) Joy and Parmeley were present at the time when Aldrich said this, and I think they must have heard him, they did not contradict him; I heard Arch. Cumming and Wm. Smith offer the former ten dollars for Mr. Rea, the latter five dollars for Tyler. There was some difficulty at first in procuring persons to go on the expedition with Aldrich, but ultimately a party of sixty or seventy persons, none of whom I knew to be inhabitants of the State of Vermont, they were principally inhabitants of New Hampshire; they had two waggons with them, one with amunition (ball cartridges,) and the other full of people; Captain James Mooney, Ephraim Aldrich, and Miles Hurlburt were of the party. I understood afterwards that Hurlburt had borrowed a horseman's pistol from Mr. Jewitt, a saddler in Colebrook, in New Hampshire, Mooney and Hurlbut are inhabitants of New Hampshire, Aldrich of the Indian Sream, in the township of Drayton. This Captain Mooney, I understand, holds a commission as captain of Militia, Stewartstown, in Coos county, in the State of New Hampshire. Between one and two hours after this party had left Canaan, the baggage waggon returned with Mr. Rea, under the custody of Aldrich and two others of the party; Mr. Rea was at this time covered with blood, and on arriving about fifty yards from the store, those who guarded Mr. Rea in the waggon shouted "hurra for Jackson, we have got the old rascal." They drew up the waggon at the corner of the store, Aldrich jumped out of the waggon and ordered Mr. Rea to do so likewise, Aldrich placed Mr. Rea on his right and held his sword on his left arm, commanded Mr. Rea to go into the store, placed himself by the side of the door, and carried his sword compelled him to walk up to the upper end of the store and turn round and face the company, in an insulting tone of command; when he had done this he turned to Joy and observed, now Joy, we have got the old rascal, "bring on your rum," Joy told him to be quiet, he had had enough. I heard Mr. Rea apply to Mr. Hemar Nichols, a magistrate of Vermont, for protection, who was then sitting on the store. I do not know what reply Mr. Nichols made to Mr. Rea, but Aldrich immediately went up to Mr. Rea and said it was time to move on, he had no time to stay any longer, and upon Mr. Rea refusing to go unless he was forced, said then he would be forced pretty quickly; Mr. Rea then demanded him to shew his precept or warrant, if he had any, upon which Aldrich said he would shew him his precept pretty quickly when he got him to Colbrook, in New Hampshire, and that if he required to be dragged he should be dragged, and therefore seized Mr. Rea and called for the assistance of some one alongside of him. Mr. Rea laid hold of the counter, and again claimed the protection of the State of Vermont, whilst they were still dragging him to the door, thereupon Josiah Parmely ordered Aldrich and the other to desist and requested Mr. Rea to accompany him into the adjoining room, I assisted in dressing Mr. Rea's wound, it was a very bad one, about an inch and a half in long, and half an inch in depth; the wound appeared to have been inflicted by a sword,

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the sword which Aldrich carried was stained with blood. I afterwards accompanied Mr. Rea to his home, and there saw Mr. Bernard Young, of Hereford, lying in Mr. Rea's house dangerously ill, and badly wounded.

The reason for my going to the store of Palmely and Joy was, that my wife, who was living in the neighbourhood, came to me in a state of great alarm, and stated that there was an army of men carrying swords, pistols and guns, and firing them off that they had been over the lines to Hereford, and rescued one Blanchard, and intended going back to take Mr. Rea, that they were drunk, and still continued drinking outside the store, Mr. Joy was furnishing them with spirits, the only reason to which I can attribute the excitement against Mr. Rea is, because he exercised jurisdiction as a magistrate over the inhabitants of Indian stream, in the township of Drayton, and because he had some little difficulty with Parmely in regard to trespassing of cattle and a law suit in which the same individual was interested. Aldrich stated, in my presence, to Mr. Rea, that he intended to take him to Lancaster, in the state of New Hampshire, and that, by God, he should be there before the morning.

A few minutes before Aldrich left Canaan he was asked by some person where he was going, to which he answered, that he was going over the line to shed blood before his return.

(Signed)

A. J. MCKINNON.

Sworn before us, at Hereford, this 22nd day of December, 1835.

(Signed)

EDWARD SHORT.
BENJAMIN POMROY.
J. MCKENZIE.

Inclosure 11 in No. 1.

*Deposition of Paschal G. Blood.**Province of Lower Canada, District of St. Francis.*

I, Paschal G. Blood, of the township of Hereford, in the district of St. Francis, farmer, being duly sworn, do depose and say, That on or about the 22nd day of October last I was called upon by Zaccheus Clough to come and assist in taking Richard I. Blanchard before Mr. Rea, a Magistrate for the district of St. Francis, residing in Hereford. In compliance with his request I followed, and near Mr. Purley's house I found that Clough and his party had been stopped by a party of armed men, about nine in number, viz., Miles Hurlburt, Ephraim H. Mahurin, Horatio Tuttle, James M. Hillyard, Thomas B. Blodget, Joseph P. Wiswell, John Milton Harvey, Thomas Piper, and Samuel Weeks, junr. I went up to the party and asked what they meant by stopping Clough and his party; to which they answered that they intended taking Blanchard, and would have followed to Sherbrooke gaol if it had been necessary. They ordered Clough to fall in, as it was their intention to take him prisoner to New Hampshire; and, alluding to Mr. Rea, said they intended taking old Pumblefoot with them also. Thomas B. Blodget, on the refusal of Clough to go with them, stepped forward, cocked his gun and levelled it at Clough, and told him if he did not step into the ranks he would blow him through. I interfered, and told Blodget to fire at me if he choose, but that he or his party should not take Clough off with them. By this time Blanchard had been rescued from the custody of Clough and Flanders, and was mounted on a horse in the company of the armed rabble: and they then made off with him. We then proceeded on to Mr. Rea's, to make a statement of what had occurred. After closing my deposition I was the first to leave Mr. Rea's house, and saw Ephraim C. Aldrich and Miles Hurlburt at a short distance from Mr. Rea's house, about forty or fifty rods. They remained stationary in the road; Aldrich with a sword by his side, and Hurlburt armed with a horseman's pistol. I rode up to them, and shook hands with them both, and thought I should have persuaded them to go back with me. Beecher came up first after me, and then Flanders; and the latter addressing himself to Aldrich, said this is a little too much to bear. Aldrich replied by Jesus Christ I'll spill your blood before I quit. I saw some persons at that time coming from Mr. Rea's house. Mr. Rea, I thought, was one of them, and I proceeded on past Aldrich and Hurlburt towards the line; and when I had ridden about thirty rods, I met two other men on horseback, going towards Aldrich and Hurlburt; they were trotting very fast. When I turned round the corner of the road at the top of the hill the road was full of armed men, to the number of from sixty to one hundred, some with guns and some with pistols. I saw Captain Mooney among them. They had a waggon with two horses among them, driven by one Jesse Corbit. Among the company I recognized Doctor Enoch Terrill, Robert Terrill, Stephen and Moses Hodge, one Dalton, and Jeremiah Kelly. I then went on to Canaan, in the State of Vermont, to the house of Mr. Cummings, and whilst I was there Aldrich and Corbit passed with Mr. Rea in the baggage waggon, and Aldrich, swinging his sword, cried out as he passed, "We have got the old captain, damn him, with his head bound up." About a week after this I went to the blacksmith's shop, on Mr. Rea's farm, and there met with Mr. Josiah Grout, who, in the course of our conversation, told me that a pistol had been lost, the one that Aldrich had snapped, and then thrown at Mr. Rea, as it did not go off. Grant and I went up, and where I was told that Mr. Rea had gone over the bars of the fence, and where Aldrich had fired at him. I found,

after a slight search, the pistol with the percussion cap, snapped and broken, but the charge was still in the pistol. I gave the pistol to Mr. Grout, and I now believe that it is in the possession of Mr. Rea, as he told me so.

(Signed) PASCHAL G. BLOOD.

Sworn before us at Hereford, this 23d day of December, 1835.

(Signed) EDWD. SHORT.
BENJAMIN POMROY.
J. McKENZIE.

X.

Aggression and violation of territory by citizens of New Hampshire.

Innlosure 12 in No. 1.

Deposition of William Pope.

Province of Lower Canada, District of St. Francis.

I, William Pope, of the township of Hereford, in the district of St. Francis, farmer, being duly sworn, do depose and say, That I was an inhabitant of India stream settlement, in the township of Drayton, in the said district of St. Francis, in the month of July last, and, seeing an assemblage of persons at the house of a Mr. Fletcher, I went up to find out for what purpose they had assembled, and was told that Colonel White of the militia of the State of New Hampshire had sent a message to the inhabitants of the said India stream settlement, that he would be there that day to find out what persons would be willing to recognize the jurisdiction of the State of New Hampshire over them. I found Colonel White there at the time. He was in a room addressing the people; and, upon some of the company asking him by what authority he had come, he stated that he had left his documents with a Colonel Young, but that he had come on the part of the State of New Hampshire, to see whether they would acknowledge jurisdiction, prior to the coming out of the militia, which had been warned out, by orders from the Governor of the state of New Hampshire, and were to march to the Indian stream settlement the next day, the Governor having told him that he must and would have jurisdiction over the India stream settlement, and that if he could not get it in any other way, he should do so with powder and ball. Some of the inhabitants, viz., Clark, Haines, Timothy Haines, and one or two others consented to submit, Clark Haines stating that he did so because he was obliged, they being too powerful for him. There were about thirty persons in the room; and after a little while Colonel White requested those who would submit, to range on one side of the room, and those who would not, to range on the other. At first but three or four submitted, but afterwards the greater number did so, saying that they were compelled to do so, but that if they could have obtained help from the province they would not have submitted, and would not submit if they could yet obtain assistance from the province. I understood that my name had been put down as one of those that had submitted if they did so: it was without my consent, and I told them that if things were carried on in that way I should leave the settlement, and go further into the province, and have done so in consequence. Colonel White went into another room in the house after these proceedings with a number of others, and there appointed Richard J. Blanchard, of the India stream settlement, a deputy sheriff for the state of New Hampshire. Colonel White is the high sheriff for that state; and brought, as he said, two or three precepts with him; and I understood that he had served one of them on Clarke Haine, one of the inhabitants of Indian stream.

(Signed) WILLIAM POPE.

Sworn before us at Hereford, this 24th day of December, 1835.

(Signed) EDWARD SHORT.
BENJ. POMROY.
J. McKENZIE.

Inclösure 13 in No. 1.

Deposition of Jonathan C. L. Knight.

Province of Lower Canada, District of Saint Francis.

I, Jonathan C. L. Knight, late of the Indian stream settlement, in the township of Drayton, now of the township of Barford, in the district of Saint Francis, farmer being duly sworn, do depose and say, That some time in the month of June last, I lodged a complaint with Alexander Rea, Esq. of the township of Hereford, a justice of the peace, against one Sampson Thurston and Luther Parker, both of the said Indian stream settlement, the former for having made an assault upon me on the 16th of the said month, with a butcher knife, threatening to kill me, and the latter for having furnished him with fire arms for the same purpose, and thereupon obtained a warrant from the said Alexander Rea for their apprehension; Luther Parker was afterwards taken in virtue of the said warrant, but Thurston made his escape, Parker not having procured bail was committed to gaol and afterwards discharged upon giving bail for his appearance at the then next general sessions of the peace for the district of St. Francis. He appeared at the session, an indictment was preferred against him,

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but the witnesses not being in attendance the grand jury did not find the bill. After this, having been informed that threats had been made by the people of New Hampshire, and an attempt having been made to arrest me by a party of armed men, I considered that I should not be secure in the settlement, and, consequently, left my house and farm, and other property, and went to the township of Barford to reside; I should be afraid to return to the Indian stream settlement, unless some protection was afforded me by the British Government; I estimate the property which I left at five hundred dollars. The armed party who attempted to arrest me were part of a armed militia of New Hampshire, stationed at Indian stream, under the command, as I understood of Captain James Moonéy. The crime alleged for which they wished to arrest me was, that I had assisted in rescuing John H. Tyler, and for having resisted the authorities of the State of New Hampshire. I saw Amasa Huggins and Timothy Huggins arrested and carried off by the same party who attempted to arrest me; and I saw also the house of Emer Appleby surrounded by the New Hampshire militia, and I understand that Emer Appleby and his son Benjamin, have been carried off by them to Lancaster gaol, and that for having resisted the authorities of the State of New Hampshire. About half an hour after they had carried off the Appleby's, I went to their house and saw that they had smashed the door and window, tore the bed clothes, and scattered them and the clothes out of a chest of drawers all about the room, and had also torn up part of the floor. They had also abused the females of the family, throwing them on the bed and floor, at least as they told me. They had broken the comb out of Mrs. Appleby's head, and jammed her fingers in such a manner that they were quite blue; Appleby's house is situated beyond the place where the New Hampshire militia are stationed, and any one wishing to go there, must pass their barrack. I cannot sign my name not knowing how to write.

his
JONATHAN ✕ C. L. KNIGHT.
mark

Sworn before us at Compton this 30th day of December, 1835.

(Signed)

EDWARD SHORT.
BENJAMIN POMROY.
J. MCKENZIE.

Inclosure 14 in No. 1.

Deposition of John Hughs.

Province of Lower Canada, District of St. Francis.

I, John Hughs, of the town of Canaan, in the state of Vermont, one of the United States of America, farmer, being duly sworn, do depose and say, that I have resided about fifty-two years in Canaan, and in its vicinity, and well acquainted with the county on both sides the line forty-five. From my knowledge of the country round about I have been employed by surveying parties in laying out townships on several occasions, and I am acquainted with the different streams which fall into the River Connecticut. I know Hall's stream, Leech's stream, Perry's stream, and the Indian stream; Hall's, Leech's, and Perry's stream took their names from the first white persons who hunted up those streams; and Indian stream, from the circumstances of a white man having been robbed of his furs there by two Indians, from the St. Francis settlement. I have known those streams called by the same names for fifty years or more; I know that the Connecticut River, into which these streams fall, has always been called by that name. I accompanied Dr. Tiarks and Mr. Carlisle some twelve or thirteen years ago, up the River Connecticut, and traced its course through lake Connecticut and the middle lake, up to a third lake, about a mile in length, known as the little pond at the "head of the Connecticut River;" we proceeded further on, along the course of a small brook to its head, which had its source at about half a mile from the little pond, and we could discover no other waters that fall into the little pond or the Connecticut River in that direction. When we had got to the source of the Connecticut, and could find no other waters, Dr. Tiarks said that we might now return, as his business had finished. He said that he had been ordered by Judge Chipman one of the British commissioners at Nova Scotia, to ascend the main branch of the Connecticut River to the last drop of running water, and that he had now done so. There is an old cedar post at the south-east corner of the township of Hereford, on the back of the river Connecticut; it was old when I first saw it, which was in the year 1782; I know that it was that year from the circumstance of my carrying arms, and that peace was proclaimed the following year. It was in the line, commonly called, at that time, the "Canada Line," and by some, Collin's Line. It was marked and blazed on three sides; the Canada Line was well marked in those days, and I knew it from Connecticut River to the lake Memphramagog. In 1785, I was called on by surveyor-general Whitelaw, of the state of Vermont, to assist in surveying certain townships, three of them on the line between Vermont and Canada, and three of them back. If I live until the 10th day of May next I shall be seventy-four years of age.

(Signed)

JOHN HUGHS.

Sworn before us at Hereford, this 24th day of December, 1835.

(Signed)

EDWARD SHORT.
BENJAMIN POMROY.
J. MCKENZIE.

Inclosure 15 in No. 1.

*Deposition of Reuben Sawyer.**Province of Lower Canada, District of Saint Francis.*

I, Reuben Sawyer, late of the Indian stream settlement, in the township of Drayton, and now of the township of Barnston, in the district of Saint Francis, being duly sworn do depose and say, on the 8th day of July last, I left the Indian stream settlement where I had resided for upwards of fifteen years; when I first went there, I settled on a lot of land, which had been granted me by a land company claiming under King Philip, an Indian, with which company I understand that Governor Badger, of New Hampshire, is connected; the company was known to the settlers, by the name of the Eastman Company, and was so called by us because a person of the name of Jonathan Eastman, jun. a shareholder was the agent of the company; the names of some of these shareholders were, Stephen Ambrose, of Concord, Bradbury Lily, of Nottingham, a Mr. Cogswell, of Gilman Town, of the State of New Hampshire, Archilaus Cummings, now of Canaan in Vermont, and Eleazar Clark, of the township of Hatley, who is since dead, they claimed two hundred thousand acres of land on the north-west side of the Connecticut River, which included the whole of the Indian stream settlement. At this time the Indian stream settlement was not considered to belong to the State of New Hampshire, it was not until four years afterwards, and then it was resolved by the Legislature of New Hampshire, on an application by the said company for a grant of the land claimed by them; that the settlement should be considered as forming a part of the county of Coos. Soon after, summonses were served upon different individuals by the authorities of New Hampshire; but no attempts were even made to enforce the jurisdiction of that State, until about a year ago last June or July, the Inhabitants of Indian stream were permitted to govern themselves. At first the inhabitants used to meet once a year to pass resolves and appoint officers, but the population having considerably increased, it was found necessary to establish a more regular form of Government; and in 1832, at a general meeting of the inhabitants, a constitution was framed and adopted, which was to cease to exist as soon as it should be ascertained to which Government we rightly belonged, namely Great Britain or the United States. Luther Parker was one of the committee who assisted in drafting this constitution, and was elected to the council under it, and took an oath to preserve the constitution inviolate; he, however, having lost the confidence of the people, was not latterly elected to any office under our constitution, and became the declared enemy of the constitution, and said he would do all in his power to injure the inhabitants, and the constitution, and declared that he did not care for the laws of the province, and defied them. During the course of the last spring, the said Parker, got up a petition to the Government of New Hampshire for protection, setting forth that the inhabitants of Indian stream were in danger of their lives and property, and procured the signatures of five or six individuals of the Indian stream to it; namely Ebenezer Fletcher, Sampson Thurston, John Carr, Welman Rowell, Asa Parker, his brother and himself, and afterwards, as I understood, procured the Signatures of a number of persons in Stuartstown and Colbrooke in the same State. To this petition the inhabitants of Indian Stream got up a remonstrance, setting forth that they did not wish for the protection of the State of New Hampshire, as they considered themselves belonging to the Government of Lower Canada, and wished to retain their own constitution, until it should be regularly decided to which of the two Governments, of Lower Canada, or New Hampshire, they belonged; which was signed by the heads of upwards of sixty families, legal voters, out of the whole number of families, which may have been about seventy. This remonstrance was forwarded to Governor Badger, by a special messenger, who brought back for answer, that the remonstrance should be taken into consideration, and that nothing would be done on the said petition, until after the sitting of the Legislature. Some time after this, I left the settlement in consequence of threats from some of the inhabitants of Indian stream, and some of the people of New Hampshire, to cause me to be arrested by the authorities of New Hampshire, for my resistance to the jurisdiction of the said State, and on account of my having been instrumental in making certain representations to the British Government, and in consequence also of an attempt, by one Smith, a deputy sheriff of the county of Coos, to arrest me. Luther Parker was one of the inhabitants of Indian stream, who threatened me, and I am well persuaded that there is no security in the settlement for any person who has the least attachment for the British Government. When I left, my crops were growing in the fields, and some of my property has been made away with. I estimate the property which I left at the settlement to be worth seven hundred dollars, and there is no one there to take care of it. I should be afraid to return, and in fact will not return unless some protection is afforded us by the British Government. When I first went to the settlement, the said Jonathan Eastman, jun., promised me a warranty deed for a hundred acres of land, as soon as I should have cleared five acres and built a log house, and I was to get fifty acres more for fifty days labour on the road; after performing which, I applied for my deed, which the said Eastman declined giving, stating, that he was not prepared. I have had some correspondence with the said Eastman in relation to it, and the letter which I now produce was written by the said Eastman to me. The inhabitants of Indian stream, had never been, up to the time I left the settlement, classed as voters, and

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never had voted for representatives for the State of New Hampshire. Whilst at Indian stream, I was elected and acted as sheriff in the settlement.

(Signed) REUBEN SAWYER.

Sworn before us at Compton this 30th day of December, 1835.

(Signed) EDWARD SHORT.
BENJAMIN POMROY.
J. MCKENZIE, J.P.

Inclosure 16 in No. 1.

Deposition of Marcus Beacher.

Province of Lower Canada, District of St. Francis.

I, Marchus Beacher, of the township of Hereford, farmer, being duly sworn, do depose and say, that on or about the twenty-second day of October last past, Zacheus Clough, of the township of Hereford, called at my house in Hereford, and requested me and a man of the name of Alanson Cummings of the Indian stream settlement, who was at my house at the time, to assist him to convey before Alexander Rea, Esq., a magistrate at Hereford, Richard J. Blanchard, of Indian stream settlement, in the township of Drayton, whom he, Clough, had arrested, in virtue of a warrant. The said Cummings and myself accordingly accompanied said Clough to the house of one Zebulon Flanders, of Hereford, where we met said Richard J. Blanchard in the custody of the said Zebulon Flanders, Mr. Prouty, Bernard Young, John Parker, Benjamin Appleby, and John H. Tyler, the two latter belonging to the Indian stream settlement, the others were all inhabitants of Hereford. We thence proceeded, accompanied by the aforesaid persons, to conduct the said Blanchard as far as the house of Mr. Paschal G. Blood, of Hereford, on the road to Mr. Rea's, where the said Clough required the said Blood to give his assistance also, stating, as his reason for so strengthening his party, that he had been informed that attempts would be made to rescue the prisoner Blanchard, by a party from New Hampshire; we thence proceeded to a place a few rods west of the house of one Moses Perly, in Hereford, where we met a party of men armed with swords, pistols, and guns, consisting of the following persons, viz. Ephraim H. Mahurin, of Columbia, in the county of Coos, in the state of New Hampshire; postmaster, and, as I believe, Magistrate in the said county, Horatio Tuttle, blacksmith, John M. Harvey, deputy sheriff, James M. Hillyard, joiner, and Samuel Weeks, jun., farmer, all of the town of Colbrook, in the county of Coos, in the State of New Hampshire, Thomas Piper and Thomas B. Blodget, both farmers, of Stewartstown, in the same State and county, and Joseph P. Wiswell and Miles Hurlburt, of Clerksville, in the same State, farmers. James M. Hillyard came forward and demanded to be informed whether we had Blanchard in custody, and being informed by Clough or some other person that he was in our custody, requested us to give him up to them, which being refused, he stated that they should take him by force, thereupon the said Mahurin came forward and said, that they should take him and us also; he appeared to direct their proceedings, and ordered us to fall in, and that if we did not, they would shoot us, and primed and cocked their arms; after a little time, said Mahurin got off his horse, and ordered Blanchard to get on; they then made off towards Vermont, Mahurin walking among them, and Blanchard on Mahurin's horse. We thence proceeded towards Mr. Rea's, and after we had gone about half a mile, another party of armed men, consisting of seven, came in view; they were attempting to join the party which had rescued Blanchard, and appeared to be engaged in the same design and aware that Blanchard had been rescued; from thence we proceeded to the house of Mr. Rae, (except Mr. Prouty, who returned home) without molestation, and made before Mr. Rae, a statement, under oath, of all that had taken place. After having signed our deposition, Mr. Blood and myself left Mr. Rea's house on horseback to go home; between fifty and sixty rods from Mr. Rea's house we met Miles Hurlburt of Clerksville, in New Hampshire, and Ephraim C. Aldrich, of the Indian stream settlement, in the township of Drayton, the former armed with a horseman's pistol and a pocket pistol, and the latter with a sword and pistols, who commanded us to stand. A few words passed between us, we asking them what they meant by stopping us, they saying they should let us know. In a few minutes after this Mr. Rea, Mr. Young, the Applebys, Mr. Clough and the others, who had been at Mr. Rea's came up. Hurlburt then presented his pistol at Mr. Rea, who was advancing towards him, and said, if you advance another step "I'll blow you through." Mr. Rea asked them what was their business, to which they replied, "we will let you know, you damned rascal." Mr. Rea continued to advance, when Aldrich drew his sword, and said, "stand, God damn you, or I'll split your head open." Mr. Rea, then ordered Mr. Young, to take charge of Aldrich, and on Young's attempting to do so, Aldrich struck him down with a sword. Mr. Rea upon this went to the assistance of Young, and Aldrich cut Mr. Rea down with his sword by a blow on the head, at the same instant, Hurlburt, distant at about four or five yards, levelled his pistol at Mr. Rea and fired; but owing to the unsteadiness of his hand from intoxication, the shot missed Mr. Rea and hit Mr. Young, whilst recovering from the blow he had received from Aldrich. Upon this the persons who were with Mr. Rea, being unarmed, picked up stones, with which they succeeded in driving Aldrich and Hurlburt to the distance of four or five rods; thereupon Aldrich and Hurlburt were reinforced by a party of armed men, to the number of twenty or thirty, who appeared to come from the mill-yard, on Mr. Rea's farm, the greater number of them in a state of intoxication, and who fired several shots as they came up. Among them I recognized Moses Hodge, Stephen Hodge,

Jeremiah Kelly, Robert Terril, Doctor Terril, Mr. Small, William Owen, David Heath, Henry Pickard, Joshua Tirril, Lancaster Corbit, and Caleb Dalton, all inhabitants of the State of New Hampshire; and Jeremiah Aldrich, and Asa Parker, of Indian stream settlement, in the township of Drayton; hereupon, the persons with Mr. Rea, dispersed in different directions except myself, and Mr. John Parker; Mr. Rea went through the bars of his pasture field, and made towards the woods. Whilst Mr. Rea was at the bars, I saw Aldrich snap his pistol at him, and three other guns discharged at him at the same time. Aldrich, Doctor Terril, and three or four others pursued Mr. Rea to the bushes, shouting, "Shoot him down." "Blow him through." "God damn him," and other similar expressions. I then lost sight of him; but in a few minutes after, I perceived them dragging Mr. Rea from the woods, his head and shoulder covered with blood; whilst Mr. Rea was in the woods, James Mooney, a captain in the New Hampshire militia, with thirty or forty more armed men, came running up to the spot, having a waggon drawn by two horses with them, driven by Jesse Corbit. When those who had captured Mr. Rea, had dragged him to the road, he was bundled into the waggon, and driven off by Corbit, accompanied by Aldrich, and several others on the road towards Vermont, shouting out, "Hurra for Jackson, we have got the damned old he one." Captain Mooney then asked me, what had become of Clough and Flanders, to which, I replied, I do not know, the last that I saw of them, they were on the run, and your blood hounds after them. Mooney and his party then went off in the direction towards Vermont. This outrage took place on the King's highway, where it passes through Mr. Rea's farm, within a short distance of his house. The only cause which I have ever heard assigned, for the excitement of the people of New Hampshire against Mr. Rea is, that they looked upon him as the sole cause for the opposition offered by the inhabitants of the Indian stream settlement, to the jurisdiction of New Hampshire, and that had it not been for his interference, in assuring them of the protection of the Government of Lower Canada, they would have quietly submitted to the laws and State of New Hampshire.

It was about two o'clock in the afternoon when Blanchard was rescued, and about five o'clock when Mr. Rea was carried off.

After the affray was over, I went to Mr. Rea's house, where I saw Mr. Young, he shewed me the wound he had received; the ball had entered his right thigh and passed out through his testicles. I do not think he will ever perfectly recover, he is not yet able to do any labour, he is a peace officer. At the time Mr. Rea went out to meet Aldrich and Hurlburt, he had no arms with him, not even the walking stick which he usually carries, being lame.

I do further depose and say, that on the thirteenth day of November last, being on the way to a farm owned by me, in the Indian stream settlement, in the township of Drayton, for the purpose of procuring some of my own goods and chattels which had been left on the said farm, and also of assisting to move Mrs. White, who wished to join her husband in the township of Eaton, in company with a person of the name of Whitman, of the said township of Eaton, in the district of St. Francis, we were stopped by three men armed with guns, swords, and pistols; two of them I ascertained to be, Robert Tirril and William Butler, both of Stewartstown, in the State of New Hampshire; they hailed us and ordered us to stand, or they would blow us through; they then took us prisoners, and conducted us to a house, owned or occupied by one Luther Parker, of Indian stream settlement, and situated on a main road, nearly half a mile distant from where they took us prisoners; whilst conducting us to the aforesaid house, we received a great deal of abuse from the said Robert Terril, who threatened to shoot us himself, and ordered the others to fire on us several times. When we arrived at the said house, we found Captain James Mooney there, and forty or fifty others, armed with guns, swords, bayonets, and pistols. We were kept prisoners until about three o'clock in the afternoon of the following day, when we received our discharge, which was written in our presence, by one Ira Young, of Colbrook, in New Hampshire, and signed by him as Colonel of the twenty-fourth regiment of New Hampshire militia. During our detention we saw several persons arriving at and departing from the house of the said Parker, for the purpose, as we understood, of making prisoners of Emor Appleby and his sons, who resided at the Indian stream settlement, in Drayton. We demanded to know by what authority, and for what cause we were detained by them, and received for answer, it was because they suspected that we intended to give information to the Applebys of their intention to make them prisoners, and to prevent the execution of such a design. On the fourteenth day of November last, the said Emor Appleby and Benjamin Appleby, his son, were brought in custody to the house of the said Luther Parker, by a party of men apparently under the command of General Lewis Loomis, of Colbrook, in the State of New Hampshire, and were carried away from thence, as we understood, to Clarksville, in the said state of New Hampshire, and, as I understand, have been confined in Lancaster gaol, to stand their trial for raising an insurrection against the State of New Hampshire.

And I further depose and say that, on Sunday the fifteenth day of November last past, between the hours of four and five o'clock in the afternoon, accompanied by Mrs. Ann White, Polly Judd, and the said William Whitman; and having with me a team laden with some goods and clothing belonging to Mrs. Ann White and myself, I was returning to the township of Hereford, from the said Indian stream settlement, and, on arriving opposite to the house of the said Luther Parker, I was ordered by a man, armed with a musket and bayonet, to stand. This man said to me, you may think I am to blame for stopping you,

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but I am only obeying the captain's orders. During this conversation Captain James Mooney came out of the said Luther Parker's house, and wished to see what I had got in the team, and ordered Mrs. White and Polly Judd to get off a small trunk upon which they were sitting, to let him see what the said trunk contained; and, upon Mrs. White's refusing, he said that if she did not comply she must go back from whence she came, as his orders from General Low were very strict, and required him not to suffer any person who was in debt to remove his goods from the Indian stream settlement until his debts were settled. Mrs. White and Polly Judd then got off the trunk, and the said Captain Mooney examined the contents of the said trunk, and the loading on the said sled, and then permitted us to go on without further hindrance. This took place on the public road in the Indian stream settlement.

(Signed) MARCUS BEACHER.

Sworn before us at the township of Hereford, this 23d day of December, 1835.

(Signed) EDWARD SHORT.
 BENJAMIN POMROY.
 J. MCKENZIE.

Copy.

To James Mooney, Captain of 6th Col. infantry, commanding a guard stationed at Indian stream.

Marcus Beacher and William Whitman having been taken by your guard at seven o'clock P.M. on the 13th November, 1835, and detained by my order until this day, you will release said Beacher and Whitman, and permit them to depart.

(Signed) IRA YOUNG,
 Colonel 24th regt. New Hampshire Militia.

November 14, 1835.

Inclosure 17 in No. 1.

Deposition of Nathan Judd.

Province of Lower Canada, District of St. Francis.

I, Nathan Judd, of the Indian stream settlement, in the township of Drayton, farmer, being duly sworn, do depose and say, That on the 25th instant, I was arrested by one Richard J. Blanchard, of the said Indian stream settlement, acting as deputy sheriff for the county of Coos, in the state of New Hampshire, who told me he had a warrant against me for having rebelled, as he stated, against the state of New Hampshire. He was accompanied into my house in the Indian stream settlement, between the Indian stream and Hall's stream, situated at or near the mouth of the Indian stream, by Captain James Mooney, and several other persons, who at the same time surrounded the house; amongst whom were Ephraim C. Aldrich and Luther Parker, both of the Indian stream settlement. After my arrest, which was late in the evening, I was taken by the aforesaid persons to a house situated in the Indian stream, where there is stationed a guard of the New Hampshire militia, under the command of the said Captain Mooney. The next day I was conveyed by Blanchard, Luther Parker, and another person of the name of Joseph Morrill, one of the said guard, to Stuartstown, in the state of New Hampshire, and taken before Mr. Drew, a justice of the peace for the county of Coos, in the said state, by whom I was discharged on giving bail to the amount of two hundred dollars, to stand my trial at Lancaster in the said state, in the month of May next, and for my good behaviour in the mean time. The only cause to which I can ascribe my being arrested is, that I declined submitting to the jurisdiction of the State of New Hampshire. Another person of the name of Abner Hyland, also of the Indian stream settlement, was arrested at the same time that I was, on the same complaint, and by the same officer, and conveyed to Stuartstown. He was also discharged on giving the same bail as I was obliged to give.

(Signed) NATHAN JUDD.

Sworn before us at Indian stream settlement, this 28th day of December, 1835.

(Signed) EDWARD SHORT.
 BENJAMIN POMROY.
 J. MCKENZIE.

Inclosure 18 in No 1.

Deposition of John H. Tyler.

Province of Lower Canada, District of St. Francis.

I, John H. Tyler, late of the Indian stream settlement, in the township of Drayton, now of the township of Compton, in the said district, farmer, being duly sworn, do depose and say, That about seven years ago I went to reside in the Indian stream settlement. The inhabitants did not know whether they belonged to the state of New Hampshire or to the province. In the month of March of the year 1830 or 1831, a meeting of the inhabitants

took place for the purpose of drafting a constitution, to exist until it was determined to which Government the Indian stream territory belonged. There were at that time about seventy families in the settlement. I know that Luther Parker was one who signed the constitution, and all who did so took an oath to preserve it inviolable, until the constitution should be done away with. Luther Parker was one of the council of the constitution, which was elected annually by the people; said Parker having lost the confidence of the people was not elected to any office; latterly, and after that time did all in his power to injure the inhabitants and destroy our constitution. He got up a petition for protection to the State of New Hampshire, to which he obtained at most seven or eight signatures in the settlement; and afterwards, as I understood, obtained signatures of several inhabitants of Colbrook and Stuartstown, in the State of New Hampshire. The inhabitants of Indian stream drew up a remonstrance to that state, to the effect that they did not want their protection, which was signed by sixty-four out of about seventy legal voters in the settlement. During the last summer a petition for protection against the encroachments of the State of New Hampshire was sent by the inhabitants of the Indian stream to the Government of Lower Canada, which was signed by almost all of the inhabitants. Some time, in the month of October last, William Smith, Milton Harvey, and Richard J. Blanchard, the two former citizens of the State of New Hampshire, and the said Blanchard of the Indian stream settlement, came to my house and stated that they had a writ against me for debt, due by me to William Buckminster, proprietor of the store in Canaan, kept by Parmely and Joy. I told them they had the power to take me, and that I would walk rather than be dragged. I had gone with them about a mile after having refused to give bail, as I stated to them I was a British subject, and did not care for their laws, and that if they chose to drag me to gaol they might do so, when we were met by Alanson Cummings, Emer Appleby, Benjamin Appleby, Jonathan Hartnell, Rufus Hartnell, Levi Appleby, Jonathan Knight, and two others, all inhabitants of Indian stream, who rescued me, but without any violence towards the officers, Smith, Harvey, and Blanchard, who were acting as deputy sheriffs for the county of Coos, in the state of New Hampshire, who, after my rescue, made off towards the state of New Hampshire. Three or four days afterwards I proceeded to the house of Alex. Rea, Esq., a Magistrate residing at Hereford; and, having deposed to the above facts, obtained from him a warrant for the apprehension of the said Smith, Harvey, and Blanchard. The warrant was addressed to Zacheus Clough and Zebulon Flanders, of Hereford, who on the morning of the 22nd day of October last accompanied me to the house of the said Richard J. Blanchard, when we, with the assistance of several others which we deemed necessary, on account of an apprehension that a rescue would be made by the people of the State of New Hampshire, had proceeded with, as far as about forty or fifty rods past the house of Moses Perly in Hereford, when we were stopped by nine or ten men armed with guns, pistols, and bayonets, who rescued the prisoner from us with violence and threats, levelling their guns at us. Among this party were Eph. H. Mahurin of the town of Columbia, James M. Hillyard of Colbrook, James P. Wiswell, and Miles Hurlburt of Clarksville, in the State of New Hampshire. Immediately after this we proceeded to the house of Mr. Rea, and made a statement on oath of the facts that had occurred. I saw Mr. Rea go out of the house after we had closed our depositions, which he did in consequence of a cry of "they are coming." I followed him for a short distance and saw Ephraim C. Aldrich and Miles Hurlburt drawn up in the road. I made off over the road fence, and shortly afterwards heard Aldrich cry out, "Shoot him down; God damn him." Immediately after which I heard the report of a gun or pistol. Not any of the party who were with Mr. Rea had any fire-arms, or any weapons of any kind. I afterwards heard the report of six or seven guns, and saw nothing more of the occurrence. Aldrich and Hurlburt appeared to be armed, and were mounted on horseback, at about forty rods from Mr. Rea's house.

(Signed) JOHN H. TYLER.

Sworn before us at Compton, this 30th day of December, 1835.

(Signed) EDWARD SHORT.
BENJAMIN POMROY.
J. MCKENZIE.

Inclosure 19 in No. 1.

Deposition of Alanson Cummings.

Province of Lower Canada, of District of St. Francis.

I, ALANSON CUMMINGS, lately of the Indian stream settlement in the township of Drayton, and now of the township of Compton, Farmer, being duly sworn do depose and say, I went to reside in the township of Drayton, about eleven or twelve years ago; there were then in the settlement about fifty inhabitants; from that time to the year eighteen hundred and thirty, we had no regular form of Government; in which or the following year at a general assembly of the inhabitants of the settlement, a committee was appointed to draft a constitution, by which a legislative power should be vested in the people, and the executive in a council of five, elected by the people annually; with the people also should reside the nomination of all executive officers, and the council; to constitute the supreme court of appeals. This constitution was adopted at a general meeting of the inhabitants, having become necessary in consequence of the increase of population and the situation of the inhabitants on a territory claimed by the United States, and the British Government, and the constitution was to

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become nul as soon as it was ascertained to which Government we belonged. The constitution was signed by about fifty-six out of about seventy persons in the settlement qualified to vote, and I think that eight or ten more of the remainder afterwards signed the constitution. All the subscribers took an oath to support the constitution as long as they resided in the settlement. Luther Parker was one of the persons who signed it and was elected one of the members of the council two years successively. The people having lost confidence in him, they ceased to elect him or promote him to any office. This incensed him, and he threatened to do all in his power to injure the inhabitants and destroy the constitution which he said was not worth any thing, because the superior court of the state of New Hampshire had exercised jurisdiction in the settlement; but on being asked why the state of New Hampshire had not taxed the inhabitants of Indian stream, and why they had not allowed us to send a representative, said that the state of New Hampshire had not known that we belonged to them until he told them so. Ever after this, Parker made a habit of attending the meetings of the inhabitants, and the courts, taking minutes of the proceedings and forwarding them as I have understood to the Government of the state of New Hampshire. In the month of March last, I think a petition was got up by Luther Parker, to which he obtained five signatures in the Indian stream settlement, namely Ebenezer Fletcher, Sampson Thurston, John Carr, Asa Parker his Brother, and Wellman Rowell. I afterwards understood that he obtained a number of signatures to it in Stewartstown and Colbrook in New Hampshire; the petition stated that they were apprehensive of danger to their lives and property, and that if protection was not sent them immediately, they would be obliged to fly to some other part of the state of New Hampshire for safety. This petition after it was signed was taken to the Governor of New Hampshire by Asa Parker. It is well known in the settlement that Governor Badger the Governor of the state of New Hampshire, is one of a company who lay claim to an extensive tract of territory in the township of Drayton, under a title said to have been derived from King Philip, an Indian Chief. I know that many persons in the Indian stream settlement obtained a promise to have a deed given them by this company through their agent, a person of the name of Eastman, of one hundred acres of land, each provided they would perform the conditions required, and I believe that several persons have received deeds from this company in consequence.

Shortly after the petition got up by Luther Parker, had been sent to the Government of the state of New Hampshire, setting forth that the statements of the petition got up by Luther Parker were false, and stating that we did not want any interference of the state of New Hampshire, as we did not consider that we belonged to that state, this remonstrance was signed by about sixty four out of the whole of the qualified voters in the settlement which were about seventy five. We sent this remonstrance by John Haines, to the Governor of New Hampshire, who stated to us that he had performed our mission by placing it in the hands of Governor Badger; the Governor Badger directed him to inform the inhabitants of Indian stream settlement that they would not be interfered with by the state of New Hampshire, but that he would lay their remonstrance before the council which was to sit that week, and also lay it before the Legislature in the ensuing month of June as soon as it should meet.

About the end of the month of July, or the beginning of August, the inhabitants of the Indian stream settlement got up a petition to the Governor of the province of Lower Canada for protection, which was signed by sixty four of the inhabitants, in consequence of threats made by the authorities of New Hampshire to invade the territory of Indian stream. This petition was sent to Alexander Rea, Esquire, a justice of the peace for the district of St. Francis, residing at Hereford, and by him forwarded to the Governor of the province. The ensuing week previous to our receiving any answer, Colonel White, high sheriff for the county of Coos, in the state of New Hampshire came over to the Indian stream settlement, and met part of the inhabitants who assembled for that purpose, he said that he had come in for the purpose of finding out whether the inhabitants would submit to the jurisdiction of the state of New Hampshire, as he had received orders, unless they did so, to march into the settlement with a military force on the following day to compel them. He requested all that would submit to range themselves on one side, and all who would not on the other. I declined to act at all, and left the meeting whilst the division was taking place. I understood afterwards that Colonel White had appointed Richard J. Blanchard a deputy sheriff. Some time afterwards, I believe it was in the month of September, a letter arrived addressed to me to Nathan Judd, W. White and Clark, J. Haines and others, inhabitants of Indian stream, from Alexander Rea, Esq., informing us that an answer to our petition to the Government for protection had been forwarded to him, and requested us to call a meeting of the inhabitants for the following Saturday, which he would attend for the purpose of communicating to them the said answer, and for other purposes connected with the welfare of the inhabitants. In consequence, a meeting was accordingly called, and Mr. Rea communicated to us the said answer. Committees were appointed: one to recommend suitable persons among ourselves to be appointed magistrates. The Committee accordingly appointed Abner Hyland and Samuel Huggins, which recommendation was given to Mr. Rea to forward to the Government. The other Committee was appointed for the purpose of drawing up a statement of the several acts of jurisdiction that the state of New Hampshire had exercised over us, after our sending in the petition for protection to the Governor of the province of Lower Canada. After this, some time in

the month of October last, William Smith and John Milton Harvey of the state of New Hampshire, deputy sheriffs, and Richard J. Blanchard of the Indian stream settlement, acting as a deputy sheriff also for the state of New Hampshire, proceeded to the house of John H. Tyler on the Indian stream settlement, and took him prisoner. Eight others, with myself, of the Indian stream settlement rescued Tyler from their hands, and the said deputy sheriffs left the settlement the same evening. I wrote to Mr. Rea informing him of what we had done, and requesting him to procure us assistance, if in his power, as we were apprehensive that a force would be sent in amongst us by persons in authority in the state of New Hampshire. No assistance was sent us, and about the 22nd day of the said month of October last, John H. Tyler, accompanied by Clough and Flanders took Blanchard prisoner, in the Indian stream settlement in virtue of a warrant which Tyler had obtained for the apprehension of said Blanchard, Smith, and Harvey, and I accompanied them with several other persons who had been called on by Clough and Flanders, namely John Parker, James Prouty, Marcus Beacher, Bernard Young, and Pascal Blood, of the township of Hereford, and David Smith, Benjamin Appleby, and John H. Tyler of the Indian stream settlement, for the purpose of taking him before the said Alexander Rea, Esq., and when we had passed Perly's house about forty rods, we were stopped by a party of men armed with guns bayonets, and pistols, and our prisoner rescued from us. The said party consisted of the following persons, namely, Ephraim H. Mahurin of Colombia, Horatio Tuttle, John M. Harvey, James M. Hillyard, and Samuel Weeks, junior, of Colebrooke, Thomas Piper, and Thomas B. Blodget of Stuartstown, Joseph P. Whiswell, and Miles Hurlburt of Clerksville, all in the state of New Hampshire. The party behaved in a violent manner, threatening to shoot us, and took away the prisoner Blanchard by force. We then proceeded on to Mr. Rea's, and made a deposition of the facts that had occurred which we all signed and swore to. After we had given in our depositions, some one said they are coming again upon which I went out to see, and saw Miles Hurlburt and Ephraim C. Aldrick drawn up on the highway threatening with many oaths to fire. I was standing at some distance from the scene, and could not understand all that was said; but I presently saw Aldrick lift up his sword and make a blow at somebody, and saw Hurlburt present and fire his pistol. I then saw a number of persons coming along the road, I should think to the number of sixty or seventy all armed, and some of them fired their guns as they came up, a little while afterwards I heard them call out "bring on the baggage waggon." I then went away and saw nothing more of them. Previously to my going away, however, I heard that Young had been wounded; in the course of that night, I heard also that Mr. Rea had been wounded and carried over the line. I left Indian stream settlement about nine weeks ago, knowing that a warrant had been issued by the authorities of the State of New Hampshire for my apprehension for rebellion against the state, and as I could not be protected there, I came further into the province. In 1834 I was appointed, and acted as a justice of the peace under the constitution of the Indian stream settlement, and last March was appointed and acted as clerk to the assembly of the said Indian stream settlement.

(Signed) ALANSON CUMMINGS.

Sworn before us at Hereford this 27th day of December, 1835.

(Signed) EDWARD SHORT,
J. MCKENZIE,
BENJAMIN POMROY.

No. 2.

Henry S. Fox, Esq. to Viscount Palmerston.—(Received February 22.)

My Lord,

Washington, January 25, 1837.

I HAVE the honor herewith to inclose the copy of a despatch addressed to me by the United States Secretary of State, Mr. Forsyth, with thirty-three documents annexed, in reply to a communication which had been made to him in the early part of the last year, by His Majesty's Chargé d'Affaires, Mr. Bankhead (transmitted to your Lordship in Mr. Bankhead's despatch of the 21st of February, 1836), conveying certain representations and complaints, preferred by the Colonial Government of Lower Canada, upon the subject of unwarrantable acts alleged to have been committed by citizens of the State of New Hampshire, upon that part of the disputed boundary line called the Indian Stream territory.

The documents annexed to Mr. Forsyth's despatch, consist, first, of a letter from Mr. Hill, the Governor of New Hampshire to the Secretary of State, in reply to a reference which had been made to him for information, with respect to the proceedings complained of by the Canadian Government; secondly, of a detailed report, drawn up by commissioners appointed on the part of the Government, and Legislature of New Hampshire, to investigate the matter in question; and thirdly, of thirty-one affidavits and depositions, sworn by various persons, citizens of New Hampshire, and inhabitants

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of the Indian stream territory, who were examined by the above-named commissioners, and upon whose testimony the report is framed. These commissioners were appointed during the session of the New Hampshire Legislature of last year; they conducted their investigations upon the spot, during the months of July and August; and their report was recently communicated by the Governor of New Hampshire to the Legislature of the State, in its session of the present year.

It will be perceived, that in this report, the New Hampshire commissioners do not altogether deny the facts complained of by the Canadian Government, although they endeavour to a certain degree to extenuate and excuse them: while they prefer, on the other hand, upon the faith of sworn depositions, a number of counter-charges of acts of violence and outrage against certain of His Majesty's Canadian subjects. I apprehend that the inferences, which must unavoidably be drawn from the above conflicting charges and allegations, are these:—that the territory on the disputed line of frontier has become the asylum of vagabonds and outlaws from both sides, who profess allegiance to one country or the other, or to either, according as it may suit their own lawless purposes; and that no regular or peaceful jurisdiction can, in the present unsettled state of the boundary question, be exercised by either country, within the disputed territory, while the magistrates and subordinate agents of authority, from both sides of the line, mutually warn off each other, for the advantage of that class of the inhabitants only, who desire to escape from subordination to any law; and I am afraid, moreover, that the same, or rather a gradually worse state of things will continue to prevail, until the long pending question of the boundary line between Great Britain and the United States shall be satisfactorily settled.

The report of the New Hampshire commissioners, besides treating of the facts complained of by the Government of Lower Canada, enters at large into a discussion of the boundary question, bringing forward, as it appears, certain new claims on the part of the State of New Hampshire; and the governor of the state, in his letter to Mr. Forsyth, addresses, upon the faith of the said report, a very strong exhortation, an injunction almost, to the Federal Government, not to depart from the assertion of those claims, at the final settlement of the boundary question. Your Lordship will perceive that Mr. Forsyth, in conveying to me the communication received from the State Government of New Hampshire, very properly refrains from making any observations upon this part of the subject. Whenever the discussion of the important question of the boundary is renewed, it must of course be conducted between His Majesty's Government, and the Federal Government at Washington alone, whose business it will be to negotiate such minor arrangements with the several state Governments interested in the matter, as the terms agreed upon may require.

I have the honor to be, &c., with the highest respect, my Lord, your Lordship's most obedient and humble servant,
Viscount Palmerston, G.C.B.,
 &c. &c. &c.

(Signed) H. S. FOX.

Inclosure 1 in No. 2.

The Hon. John Forsyth to Henry S. Fox, Esq.

Department of State, January 12, 1837.

IN pursuance of the president's instructions, notified to Mr. Bankhead in the note from this department of the 23d February last, copies of his communication of the 18th of February, and of the papers accompanying it, preferring a complaint against certain citizens of the United States, residing in New Hampshire, for an outrage alleged to have been committed by them on the persons of two British subjects, and for a violation of the British territory, and remonstrating against the military occupation, by the state of New Hampshire, of the Indian stream territory, have been transmitted to the executive of that commonwealth; and the Undersigned, &c. has now the honour to communicate to Mr. Fox, &c., for the information of his Government, the transcript of a letter in reply recently received from Governor Hill, and of the several documents to which his Excellency refers.

Henry S. Fox, Esq.
 &c. &c. &c.

The Undersigned, &c.
 (Signed) JOHN FORSYTH

Inclosure 2 in No. 2.

Governor Hill to the Hon. John Forsyth.

*State of New Hampshire,
 Executive Department, Concord, December 29, 1836.*

Sir,

YOUR letter of February 1836, accompanying the copy of a note, addressed to your department on the 18th of that month, from the British Chargé d'Affaires at Washington,

enclosing charges of the Governor General of Canada, with a variety of accompanying documents relative to a "complaint preferred by his Excellency against several citizens of the United States, residing in New Hampshire, for an alleged outrage committed on the persons of certain subjects of his Britannic Majesty, and for the violation of the British territory;" also requesting the executive of this state to furnish your department "such facts and explanations regarding this matter, as may prove entirely satisfactory to his Britannic Majesty's Government, and to remove any misapprehensions that may exist in relation to it, on the part of the Canadian authorities," was received by my predecessor in office, and laid before the legislature of this state soon after my induction to office.

The result of the action of the legislature on these several communications, was the passage of a resolution, directing the appointment of commissioners to "repair to Indian stream, and collect and arrange such testimony as may be obtained, to rebut and explain the charges and testimony obtained and preferred against the authorities and citizens of the state, by Lord Gosford, governor of the province of Lower Canada."

The commission has proceeded to the discharge of its duty; and I have the honor herewith to transmit a copy of their report, together with copies of the several depositions taken of those who were eye witnesses of the transactions referred to, or who have made personal examinations, and are intimately acquainted with the boundary, and history of the disputed territory.

I flatter myself that the evidence these papers exhibit, will not only satisfy the president that the aggression complained of originated with the subjects of his Britannic Majesty's province, but that the claim made by the British authorities of right to that territory, is without foundation or any possible construction of the Treaty of 1783; and as the executive head of this state, I am bound to insist that the General Government owes it to New Hampshire, that she shall be protected in the quiet and peaceable possession of that entire tract, which lies eastwardly of Hall's stream, being the north-westernmost head of Connecticut River, southerly of the highlands which divide the waters falling into the river St. Lawrence, on the north from those falling into the Atlantic Ocean on the south, and westerly by the line which has been agreed upon as the dividing line between the States of Maine and New Hampshire.

I am, &c.

(Signed)

ISAAC HILL.

The Hon. John Forsyth,
&c. &c. &c.



Inclosure 3 in No. 2.

Report to His Excellency the Governor of the State of New Hampshire, Nov. 23, 1836.

THE Undersigned Commissioners appointed under a Resolution of the Legislature of New Hampshire, approved June 18, 1806, "to repair to Indian stream, and collect and arrange such testimony as may be obtained to rebut and explain the charges and testimony obtained and preferred against the authorities and citizens of this state by "Lord Gosford," &c. have attended to that duty, and now make the following Report:

The charges made by Lord Gosford are the three following; viz.—

1st. "The first and most serious is the irruption within the limits of this Province (Lower Canada) of armed citizens of the United States under the command of, or countenanced by an officer holding a commission in their militia, for the avowed purpose of attacking and forcibly carrying out of the province several of His Majesty's subjects."

2ndly. "The continued attempts of the state of New Hampshire, notwithstanding the repeated remonstrances of His Majesty's Government, to exercise jurisdiction, and to enforce its laws within a territory which, until it shall be formally adjudged to be part of the United States under the Treaty of 1783, must be considered as still undetached from the original possession of Great Britain and its inhabitants, consequently within the protection of her Government."

3rdly. "The military occupation by the state of New Hampshire, of the territory in question."

The Commissioners, in order to present to your Excellency and the honourable legislature of the state a plain and intelligible account of the controversy relating to the Indian stream territory, have given to the subject a more extended examination than was necessary simply to rebut and explain the charges of Lord Gosford. The following statement of facts, it is believed, will clearly and unequivocally justify the state of New Hampshire, in maintaining jurisdiction over this territory, and show that all the acts of violence there committed are to be entirely attributed to the attempt of certain individuals in Lower Canada to extend the authority of that province over the territory in question. Since the pretended award of the King of the Netherlands, the state of New Hampshire having exercised quiet, peaceable, and exclusive jurisdiction over the same from the

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peace of 1783, to a period subsequent to said pretended award. In the year 1789, a Committee was appointed by the Legislature of this state, for the purpose of ascertaining the boundary lines between the state of Maine, then Massachusetts, the province of Lower Canada and this state. This Committee attended to the duties assigned them, and established and marked by suitable monuments, many of which are now remaining, a boundary line of the state, including all the territory now in dispute, and making the head of Hall's river our north-eastern boundary monument. That the Committee were right in their construction of that part of the Treaty of 1783, relative to this subject, is manifest from the following reasons:

1st. This is the only head of Connecticut River that intersects with the highlands dividing the waters which fall into the Atlantic from those which fall into the St. Lawrence.

2ndly. This is manifestly and notoriously by far the most northwesternmost head of Connecticut River, that claimed by the British Government being manifestly the most north-eastern head of Connecticut River.

3rdly. The Magalloway River, a branch of the Androscoggin, takes its rise many miles north and west, not only of that branch of the Connecticut claimed by the British as the north-westernmost head, but also north and west of Indian stream, so that, pursuing the highlands indicated by the Treaty, one would never arrive at the head waters claimed by the British Government, as those indicated by the Treaty, but would have to leave the highlands, and cross the Magalloway river to attain the object.

The above fact of the true source of the Magalloway river, it is believed, is not noticed in any geography, nor laid down in any map of the country. This may be easily accounted for, on account of its remote situation and unsettled state. It is, nevertheless, an important fact, and one which goes far not only to shew that the British claim to jurisdiction over this disputed territory is unfounded, but that, by the words of the Treaty, New Hampshire is entitled to a much larger territory there than we have ever yet claimed. Many of the first settlements of this territory were by persons who fled there from the neighbouring states to avoid the payment of their debts, or the criminal process to which their crimes had rendered them amenable. As the population increased, the character of the inhabitants improved; and although at times some of them claimed to belong to Vermont, and at other times to Maine, and at other times to be within the jurisdiction of the United States, but not of any particular state,—and at other times to be independent of the United States' Government or the Government of Great Britain; yet the officers of the state of New Hampshire from time to time, as occasion required, executed divers processes issuing from the Courts of this state, upon the inhabitants there; and although sometimes they met with such resistance as was to be expected from the character of the inhabitants, yet no complaint was ever made on account thereof by the officers of the province of Canada, or of any foreign Government whatever. Indeed the oldest inhabitants of the territory, or the towns adjacent, have no recollection of ever having heard of any act of any other Government ever exercised within the territory, save by the state of New Hampshire. The inhabitants have uniformly resorted to New Hampshire for the purpose of being united in marriage, whenever there was such a ceremony to be performed among them; and in divers other ways, such as taking advantage of our bounty laws for the destruction of certain wild animals, manifested under whose protection they lived, and to what Government they supposed they owed allegiance. Affairs were in this quiet posture, at this place, at the time of the pretended award of the King of the Netherlands; and at a period subsequent to that, one of those restless individuals, the bane of every well ordered society, who are never easy unless busied about the affairs of their neighbours, claiming to be a magistrate of Lower Canada, and to be acting by the direction of the Governor of that province, began to claim the territory as belonging to the province of Lower Canada. This claim was now asserted in different ways, such as sending pretended warrants in the name of the King of Great Britain into the Territory. He also sent a letter directed to various individuals there, requesting them to assemble at the school-house in one place on Saturday and another on Sunday, and when they were thus assembled, he met them and exhorted them to open resistance to the laws of the state, and assured them of the protection of the Government of Lower Canada in so doing.

It is the opinion of the better disposed part of the community there, that all the difficulties that have occurred at that settlement, within the 3 or 4 years last past, are to be attributed to the mischievous interference of the individual alluded to, and from all the investigation which we were able to make, we were unanimously of the same opinion.

If it be the fact that Hall's Stream be the north western-most head of Connecticut river, and if the state of New Hampshire have exercised jurisdiction over this disputed territory from the peace of 1783, to the present time; and these two points are incontestably proved by testimony taken by the commissioners, and accompanying this report, then the 2nd and 3rd causes of complaint, as set forth by Lord Gosford, entirely fail, for the military occupation spoken of by him, and the attempted jurisdiction by the state of New Hampshire are justified by every principle of the law of nations, as well as by the protection which every Government owes to its citizens.

We now proceed to state all the facts relating to the first charge of his Lordship, and we have thus inverted their order, because it seemed to us the most natural course; for if we had no title to the soil, then our jurisdiction was usurped and wrongful, our

military occupation unjustifiable, and our whole defence untenable. In October 1835, William M. Smith, deputy sheriff of Coos county, had a writ put into his hands for service against one John H. Tyler, an inhabitant of the disputed territory. Smith not knowing Tyler, and also apprehending some resistance, procured one Richard K. Blanchard, and John Hilton Harvey to assist him, and then proceeded to Tyler's house for the purpose of making service of the writ. Not having found said Tyler at his house, they went in pursuit of him, agreeably to the directions which they had received, and soon met said Tyler. Smith then requested said Tyler to show him property, that it might be attached on the writ, which he refused to do; he was arrested by said Smith, who was proceeding with said Tyler in custody, when he was forcibly rescued from said Smith's possession by several of the inhabitants.

Upon this, the individual before referred to as the occasion of all the difficulties at this place, issued a warrant in the name of the King of Great Britain against said Smith, Blanchard and Harvey, for attempting to execute process there, not issued by authority of the King of Great Britain, and sent it into the settlement for the purpose of having it served upon the individuals, against which it was issued. This was done with the full knowledge of the fact, that the state had by a resolution of the legislature, determined to maintain its jurisdiction over the territory, until the boundary line should be definitively and satisfactorily settled.

By virtue of this pretended warrant on the 22nd day of October, 1835, said Blanchard was taken from his own dwelling-house by an armed body of men, with the express and avowed purpose of carrying him into Canada for trial, on the absurd charge of having assisted in serving a writ, duly issued by the competent authority of the county of Coos. The news of this outrage was immediately spread through the adjacent towns, and excited very great indignation against its perpetrators. The inhabitants, very generally, upon being notified of the fact, expressed a determination not to suffer their fellow citizen thus to be taken from his home, and carried out of the state, without an attempt, at least, on their part to rescue him. In pursuance of this determination, several citizens of the neighbourhood went over the line dividing the state from the province of Lower Canada, for the purpose of intercepting those who had Blanchard in custody, and effecting his release. This was effected without any violence, and so far from being done under the direction of any military officer, it was an entirely spontaneous assemblage of citizens aroused by what they deemed a gross outrage upon the rights of one of their fellow citizens, subject to the direction of no military or civil officer of the state. How far this proceeding is to be palliated or justified, the wisdom of the legislature may best determine.

The facts are here stated. After said Blanchard had been thus rescued, the individuals who had turned out for that purpose, assembled at the store of Parmelee and Joy, in Canaan, Vermont. Among the number was William M. Smith, the deputy sheriff of Coos county before spoken of, who had previously arrested one John H. Tyler, and who had been rescued from him in the manner before stated. He then offered a reward of five dollars to any one who would deliver said Tyler to him.

A notion seemed very generally to prevail amongst those who were then present, that said Tyler, having once been legally made prisoner by the arrest of said Smith, might be retaken whenever he could be found. This John H. Tyler was one of those who had said Blanchard in custody at the same time he was arrested in the manner before stated.

After Smith, the deputy sheriff, had offered this reward for the recapture of said Tyler, several of the individuals who had left their homes for the avowed and expressed purpose of securing Blanchard, unadvisedly and improperly went over the line for the purpose of retaking Tyler, they having at that time the impression that they were justified in so doing. No sooner were these individuals over the line than they were set upon in a furious, boisterous, and outrageous manner by the individuals before referred to, as the cause of all the difficulties at the Indian stream settlement; and the very individual who had issued the warrant by which Blanchard had been dragged from his home, as above stated. This individual came upon them while they were peaceably and quietly demeaning themselves, having offered or threatened violence to no one, and ordered them off the highway, and attempted to make prisoners of them, and called upon those who were with him to assist. The New Hampshire citizens not relishing the idea of thus being made prisoners, resisted, and being assaulted with great violence by the inhabitants of Canada, their horses bridles seized, and stones thrown violently at them, defended themselves with such arms as they had with them, having taken them at the time they turned out for the rescue of Blanchard.

We do not undertake to state with accuracy all the particulars of the skirmish which ensued upon this assault; but we are confident in the assertion, that the first violence offered or threatened was that done to the citizens of New Hampshire by citizens of Canada. The result was, that the individual who commenced the brawl was violently seized and brought over the line into Vermont, and there detained some hours, and finally set at large.

As to the assertion that the late Governour Badger was connected with a band of speculators, claiming the territory of Indian stream as their private property, we are aware of no rule of courtesy or etiquette which requires us to call it by any milder name than falsehood.

The Commissioners, in conclusion, are happy in being able to inform your Ex-

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cellency and the Legislature, that the inhabitants of this section of our state are now in as quiet and peaceable condition, as free from internal commotion or foreign interference, as any portion of the state whatever. The citizens there, who were friendly to the preservation of good order and the wholesome administration of the laws, and who had begun to apprehend they were neglected, have been assured that the protecting energies of the state are extended to all within her borders, while the lawless and the vicious have been made to feel that their remote situation affords no sanctuary for crime.

We have no hesitation in saying that the people are now contented and happy under the Government of the State, and that in future there will be no need of any further aid from the militia to assist the civil officers in the due execution of their respective duties.

The Commissioners are of opinion that the measures adopted by the late Governor of this State, the Honourable William Badger, in relation to this subject, were wise and judicious, and that to his prompt and efficient interference to maintain the integrity of the state, and the dignity of the laws, is to be attributed the present quiet condition of the inhabitants there.

(Signed) JOSEPH LOW,
 RALPH METCALF, } Commissioners.
 JOHN P. HALE,

Inclosure 4 in No. 2.

Deposition of David Kent.

I, DAVID KENT, of Stewardstown, in the county of Coos, and State of New Hampshire, depose and say, that I am a regularly ordained Elder of the Free-Will Baptist Church, and as such duly qualified by the regulations of said church, and the laws of the State of New Hampshire, to solemnize marriages. I am now in the sixty-fifth year of my age, and have resided more than eighteenth years in this town, and have been all the time acquainted with Indian Stream and its inhabitants, and I never knew or heard of any other Government, except the State of New Hampshire, exercising or claiming to exercise any jurisdiction over said territory, till about the time that one Alexander Rea was said to have been claiming the territory as belonging to Canada, not far from two years since. During all this time the inhabitants of Indian Stream territory have been in the habit of coming into this country for the purpose of being joined in marriage; and never, so far as I have learned, have they gone to Canada to be married, nor has any marriage ever been solemnized there among them by any one deriving authority of Canada.

I have married as many as five couple from said Indian Stream territory; and about four years since, I joined in marriage at said Indian Stream, on the Sabbath day, Samuel Drown to Deborah Hyland. This was in presence of most of the inhabitants of said Indian Stream territory, when they were assembled for religious worship; and I heard no objection made or suggested by any one on account of my want of authority, it being derived from New Hampshire.

(Signed) DAVID KENT,
 State of New Hampshire, Coos, ss. August 5, 1836.

Sworn to before me:
 (Signed) JOHN P. HALE, Justice of the Peace.

Inclosure 5 in No. 2.

Deposition of Archelaus Cumings, Junior.

I, ARCHELAUS CUMINGS, Junior, of Canaan, in the county of Essex, and State of Vermont, depose and say, that some time in October last past, I went from the house of my father, where I reside in Canaan, to the store of Parmelly and Joy, in said Canaan, the distance of about three-quarters of a mile, having understood that a party principally from New Hampshire had been into Canada and rescued one Richard J. Blanchard, who had been taken from Indian Stream by some Canadian people. After I arrived at said store, I found that said Blanchard had been rescued as I had previously heard. After I had been at said store some time, I heard a proposition made by some one to go over the Canada line and retake one John H. Tyler, who it was said had been arrested by one William Smith, a deputy sheriff of the county of Coos, in the State of New Hampshire, and who was said to have been advertised by said Smith.

I offered no reward for the apprehension of Alexander Rea, nor did I hear any

other person offer any reward for the apprehension of said Rea, nor of any other person, except said John H. Tyler, nor was the name of any other person mentioned by any one as the object of pursuit in crossing the line into Canada, except said John H. Tyler. I saw Captain James Mooney, one of the party who started after Tyler, and he told me at the time that John H. Tyler was the person whom they were going after, and that some Esquire, whose name I do not recollect, had advised them that they had a right so to do.

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tory by Citizens of
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I further depose and say, that I have for about a year been acquainted with the reputation of Alexander James McKinnan of this town, and he is generally called a man whose word is not at all to be at all relied on. His reputation for truth is not good.

After the party started from the store of said Parmelly and Joy for Canada, I saw said Captain James Mooney hand some one a paper, which I understood at the time was said Smith's advertisement for said John H. Tyler.

(Signed)

ARCH. CUMINGS, JUN.

State of New Hampshire, Coos, ss. August 4, 1836.

Sworn to before me :

(Signed)

JOHN P. HALE, Justice of the Peace.

Inclosure 6 in No. 2.

Deposition of James M. Jewitt.

I, JAMES M. JEWITT, of Colebrook, in county of Coos, and State of New Hampshire, depose and say, that some time in October, 1835, information was given at Colebrook, that Richard J. Blanchard, deputy sheriff of Coos county, had been taken by a party from Canada, and they were conveying him to Sherbrook. On receiving this information, I started with a number of individuals armed, Hiram A. Fletcher, Esquire, being one of them, to go and rescue said Blanchard. On arriving at Canaan, Vermont, a number of persons had arrived for the same purpose, and more were coming in every moment. They were all indignant at the outrage, and expressed a determination to retake said Blanchard, if they had to pursue him to Sherbrook. I did not go from Canaan with the party, but remained there, until they returned with Blanchard, at which time a great number of people had arrived, and more were coming in.

Some of the party that rescued Blanchard, on their return saw William M. Smith, and told him, if he had been with them, he might have retaken his prisoner Tyler. I had understood, that said Smith had some time before arrested said Tyler, at Indian Stream, and he had been rescued out of his custody. Smith in answer said, if any one would take and bring said Tyler to him, he would give five dollars. I was informed that an advertisement was made by said Smith, for said Tyler, and a party started after Tyler. I did not hear any one offer any thing as a reward for bringing Alexander Rea from Canada, nor did I hear any person mention any wish or intention to go after said Rea, nor do I believe that any of the party thought of it.

I did not hear his name mentioned in connection with the party going after Tyler, but the sole object that I heard mentioned, or that I thought of, was their going after said Tyler.

When the party returned, having said Rea in custody, great surprise and regret was expressed by the people there, that said Rea had been taken and brought there, knowing that they had no right so to do; and Hiram A. Fletcher, with whom I was in company, on being applied to make out some papers to detain said Rea, declining having any thing to do with it, told them they had done wrong, had gone too far, and that they had no right to take Rea, or detain him, and they had better get out of the scrape the best way they could; soon after which said Fletcher and myself left for home.

(Signed)

JAMES M. JEWITT.

Coos, ss., August 5, 1836. Personally appearing James M. Jewitt, and made solemn oath that the foregoing deposition by him signed is true.

Before me,

(Signed)

IRA YOUNG, Justice of the Peace.

Inclosure 7 in No 2.

Deposition of Josiah Parmelly.

I, JOSIAH PARMELLY, of Canaan, in the county of Essex, and State of Vermont, depose and say, that sometime in October, A. D. 1835, there was a large party

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 Aggression and Indian Stream. After they had been here sometime, it was proposed by some one to go and retake one John H. Tyler, from Canada, who had previously been arrested by one William Smith, a deputy sheriff of Coos county, and rescued from said Smith, by some of the inhabitants of Canada or Indian Stream.

I understood that said Smith had offered a reward of five dollars for the apprehension of said Tyler. Accordingly said party started.

I further depose and say, that the name of Alexander Rea, or of any other individual, except said John H. Tyler, was not mentioned by any one till after they returned, having said Alexander Rea in custody, said Tyler being the sole object of their pursuit. I made no offer of any reward for the taking of said Rea; nor did I hear any one else offer any reward for him; nor did I hear his name mentioned till after said Rea was brought here.

I further depose and say, that I am well acquainted with Alexander James McKinnan, of said Canaan, tailor; and that his reputation for truth is notoriously bad.

(Signed)

JOSIAH PARMELLY.

State of New Hampshire, Coos, ss. August 4, 1836.

Sworn to before me,

(Signed)

JOHN P. HALE, Justice of the Peace.

Inclosure 8 in No 2.

Deposition of Jesse Carr.

I, JESSE CARR, of Colebrook, in the county of Coos, and State of New Hampshire, depose and say, that as early as the year 1808, I have known Levi Willard, at that time, sheriff of this county, frequently to go to Indian Stream territory, for the purpose (as he said) of serving judicial process on some of the inhabitants there, and on one occasion, I knew said Willard to go with a writ or process, as he then told me against one Nathaniel Wales of said Indian Stream; and I saw him return with said Wales in custody. I further depose and say, that I have for about thirty years, been well acquainted with Indian Stream territory, and I never knew or heard of any other authority claiming to have any jurisdiction over said territory, except the State of New Hampshire, till within about one year, in which time I have heard that one Alexander Rea has been there asserting the claim of Lower Canada.

I further depose and say, that in the year 1821, I was with Dr. Turk, and Mr. Carlisle, British surveyors, to survey the line between this State and Lower Canada; and that Dr. Turk then remarked, that Indian Stream would be the one ultimately fixed upon as the boundary line, because that was the one most northerly, and the one first intersected by the highlands, running the course indicated by the Treaty.

I further depose and say, that I am well acquainted with the general reputation of Alexander Rea, of Hereford, and it is bad.

One reason why I remember accurately the time when said Willard went into said territory, for the purpose of serving process on the inhabitants of Indian Stream aforesaid, is that immediately previous to that, I had been specially deputed by said Willard, to serve a warrant on an inhabitant of said territory, and went there for the purpose; but not finding him returned, having made no service. I was appointed a deputy sheriff of this county about the year 1809, and continued in said office seven years.

(Signed)

JESSE CARR.

State of New Hampshire, Coos, ss.; August 18th, 1836.

Sworn to before me,

(Signed)

JOHN P. HALE, Justice of the Peace.

Inclosure 9 in No. 2.

Deposition of Ira Young.

I, IRA YOUNG, of Colebrooke, in the county of Coos, and State of New Hampshire, attorney and counsellor at law, depose and say, that in the year 1819, I opened an office at Colebrooke, and remained until 1820 or 1821, when I removed to Bath, and in 1825 or 1826 returned to Colebrook where I have resided ever since. That

occasionally, ever since 1819, I have made writs and other processes against persons residing at Indian Stream, which have been served there by deputy sheriffs of Coos County, some of which have been settled; and upon some I have obtained judgements in our courts. That from 1819, until within one or two years, I never heard that the Canadian or British Government ever laid any claim to jurisdiction over said territory, or that any of the residents at Indian Stream claimed to be within their jurisdiction. The majority of the population there, during the most of that time, was composed of individuals who had gone there to avoid debts, or being pressed for the payment of them, claiming at Indian Stream sometimes to be within the State of Vermont, sometimes in the State of Maine, sometimes without any State, and to be a territory belonging to the United States, and sometimes to be independent, as not being within the territory of the United States, or of the province or provinces of the British Government.

In October, 1831, proceedings were instituted, in which I was counsel, under our statute "to provide for the maintenance of bastard children," in the name of Melissa Thurston, of said Indian Stream, against Moody Haynes of said Indian Stream, in which said Melissa charged said Moody Haynes of being the father of the child of which she was then pregnant, and that it was begotten in April, 1831, at said Indian Stream. The said Haynes was arrested, and bound over to appear at the Court of Common Pleas, Coos county, September term, 1832, at which term Haynes appeared and pleaded to the jurisdiction of said court, because the cause of complaint occurred to said Melissa "at Indian Stream, and on the west side of Connecticut River, in the territory of Indian Stream," without the jurisdiction of the court, &c. The complainant replied that the cause of complaint accrued within the county of Coos, within the jurisdiction of the court, &c. The prosecution was pending until the Old Court of Common Pleas was abolished; and the present court established, and the jurisdiction of the present Court of Common Pleas sustained by the concurrence, as I understand, of the judges of the superior court, and before the term for which the prosecution stood for trial, the same was settled by the parties and dismissed. The jurisdiction was overruled on the ground, that years before, the question had been settled in the superior court sustaining the jurisdiction.

(Signed) IRA YOUNG.

State of New Hampshire, Coos, ss. August 6, 1836.

Sworn before me:

(Signed) JOHN P. HALE, Justice of the Peace.

Inclosure 10 in No. 2.

Deposition of Joseph Wiswell.

I, JOSEPH WISWELL, of Clarksville, in the county of Coos, and State of New Hampshire, depose and say, that I have been a justice of the peace for this county about six years, and have lived in this town about twenty years, and have been well acquainted with Indian Stream and its inhabitants for most of the time, and never knew or heard of any other Government than the State of New Hampshire, exercising or claiming to exercise any jurisdiction there, till the interference of one Alexander Rea, in June, 1834, who then claimed that the territory belonged to the province of Lower Canada. Sometime in the month of October last, Clark J. Haines, of Indian Stream, came to my house, in Clarksville, and informed me that a mob had been over from Canada, and had taken one Richard J. Blanchard, one of our citizens, and were carrying him to Canada, and he wished the neighbourhood to turn out and rescue him. Soon after the same report and request was made by Luther Parker. I accordingly started for Indian Stream with the intention of rescuing said Blanchard, and just as I arrived at the house of Ebenezer Fletcher, in Indian Stream, I overtook Miles Hurlburt, John Harriman, and several others. We left said Fletcher's together, and just as we arrived at the house of John Parker, situate on the easterly side of Hall's Stream, we concluded the party who had Blanchard in possession would pass Hall's Stream before we could overtake them, and as we did not wish to go into Canada armed, it was concluded to send back the arms. Accordingly I took the arms to carry back, accompanied by two or three others, and on our way back, I saw Emor Applebie, who, I understood, was one of those who had been concerned in the abduction of said Blanchard; and he was requested to surrender himself, which he refused to do, and being armed with a musket, he stated that he should not be taken alive, we had better not come any nearer. We, that is to say, those that started from John Parker's with the arms, proceeded to Canaan corner, Vermont, and when we arrived there found that the party who had gone in pursuit of those who had Blanchard, had returned to Canaan having rescued said Blanchard, and brought him back with them. I was there when the party started after Tyler, from the store of Parmelee and Joy, and I did not hear Rea's name mentioned at all in connexion with their expedition to Canada. After this party had gone to Canada after said Tyler, I went up to the house of Judge Cummins in said Canaan, situated between the house

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of said Alexander Rea, in Hereford, and the store of Parmelle and Joy; and a few minutes afterwards, my son, Joseph P. Wiswell, came up there also, where we remained and took supper, and were there when the party having said Rea in custody, returned to Canaan, Vermont; so that I am enabled to state positively that neither my said son, Joseph P. Wiswell, nor myself had any part in taking of said Rea, or conveying him to Canaan, Vermont. The inhabitants of Indian Stream whenever they have destroyed any wild animals, for which a bounty is given by the laws of the State of New Hampshire, have, so far as my knowledge extends, uniformly applied for said bounty here, and obtained it. I have frequently joined the inhabitants in marriage, and never knew them to resort to Canada for the purpose of being married, or any one deriving his authority from the church or civil authority of Canada, to solemnize marriages among them.

(Signed) JOSEPH WISWELL.

State of New Hampshire, Coos, ss. August 9, 1836.

Sworn to before me:

(Signed) JOHN P. HALE, Justice of the Peace.

Inclosure 11 in No. 2.

Deposition of William M. Smith.

I, WILLIAM M. SMITH, of Stewartstown, in the county of Coos and State of New Hampshire, depose and say, that on the 26th day of June, A. D. 1834, I was duly appointed a deputy sheriff, of said county, by John H. White, Esq., sheriff of said county, that about the last of September or first of October, A. D. 1835, a writ in favour of William Buckminster, of Danville, Vermont, against John H. Tyler, of Indian Stream, in said county of Coos, was delivered to me, I accordingly went to the residence of said Tyler for the purpose of making service of said writ, having previously procured Richard J. Blanchard and John Milton Harvey, to go with me, both because I did not know said Tyler when I saw him, and also because I had heard that there had been some difficulties at the place, and some of the inhabitants had threatened resistance to any officer who should attempt to serve process there. I went to said Tyler's dwelling house first, and not finding him at home I proceeded farther at a farm where said Tyler was at work, and arrested him by virtue of said writ, having previously requested him to show me property, which he declined doing. As I was proceeding with said Tyler in my custody, we were met by Emor Appleby and two of his sons. Alanson Cummings, and a man by the name of Tyler whose christian name I do not know, Jonathan C. L. Knight, and two more, whose names I do not know, all stopped by the side of the road where I must necessarily pass with Tyler. At the request of Tyler, my prisoner, I also stopped where these men were, and I was very soon told I must go no farther with said Tyler, and after being told by all or most of the party that Tyler should be carried no farther by me, and that they would protect him from me, even at the cost of their lives, I was, upon attempting to take said Tyler along with me, forcibly prevented by said Emor Appleby, who interposed himself between me and my prisoner, aided and countenanced as aforesaid by the company with him as aforesaid, and thereupon I left them, and made a return of said writ to the court, when and where the same was returnable, with a return of my doings on the same, stating the facts precisely as they occurred. Immediately after said Tyler was rescued from me in the manner above related, I informed John H. White, Esq., sheriff of said county, of all the facts, and by his advice I offered a reward of five dollars for the apprehension of said Tyler, and a delivery to me or to the Lancaster gaol, by an advertisement. Not long after this I heard that said Blanchard had been taken from his home by some people from Canada, and that they were then carrying him to Canada. This report was generally spread through the neighbourhood and produced great excitement and indignation, and a pretty turn out of the citizens for his rescue. I among the number turned out, and so far as I could learn or understand the feelings of those who came out, there was a settled and inflexible determination to rescue said Blanchard, at even the extremest hazard. When I arrived at the store of Parmelly and Joy, in Canaan, Vermont, not being armed myself, I gave up my horse to an individual who was armed, who proceeded immediately towards Canada, in the direction that those who had Blanchard in custody must necessarily pass. In about an hour after I had thus given up my horse, the party returned with said Blanchard. Some one then remarked to me, that said John H. Tyler was with the party who had said Blanchard in custody, and that if I had been with them, I might have retaken him. Some one then asked me for an advertisement of said Tyler, but I had none with me, but had one written immediately, which they took, and a party then started from the store of Parmelly and Joy for Canada, for the purpose of retaking said Tyler, as they stated. I did not hear Alexander Rea's mentioned, in connexion with this party going to Canada, until after they, with him in custody, said Tyler being the

sole object of their pursuit. The individual to whom I gave the advertisement was
 Captain James Mooney.

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WM. M. SMITH.

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State of New Hampshire, Coos, ss. August 3, 1836.

Sworn to before me,
 JOHN P. HALE, Justice of the Peace.

Inclosure 12 in No. 2.

Deposition of Hezekiah Parsons.

I, HEZEKIAH PARSONS, of Colebrook, in the county of Coos, and State of New Hampshire, one of the justices of the peace of said county, and late member of the New Hampshire legislature, do depose and say, that I have resided in this town about forty-five years, and am well acquainted with the Indian Stream territory. In the year 1817, or 18, I was deputy sheriff in said county, and had precepts against persons residing in said territory, and I went there for the purpose of serving the same by attachment of property, but could not find such as I was directed to take. The territory was then, and had been deemed by most people as belonging to New Hampshire. I recollect that in 1807, I was a member of the New Hampshire legislature, and there was then a petition before said legislature, praying the state to relinquish their claim to said territory, which was refused. Since the time I have referred to, in 1817, or 18, I have often heard of precepts being served in the Indian Stream territory, issued by the authorities in New Hampshire, and served by their officers.

Sometime about the year 1820, I was employed by the Attorney-General of the State, to ascertain the line and bounds of certain settlers on the territory, for the purpose of judicial process. In attending to this duty, I was aided and assisted by the inhabitants of the territory. I recollect that the names of Mr. Highland and Mr. Fletcher were two of the persons against whom process was instituted, who resided between the Indian Stream, and what is now called Connecticut river.

(Signed) HEZEKIAH PARSONS.

State of New Hampshire, Coos, ss. August 2, 1836.

Then Hezekiah Parsons personally appeared, and made oath that the above deposition by him signed is true.

Before me, (Signed) JOHN P. HALE, Justice of the Peace.

Inclosure 13 in No. 2.

Deposition of Gideon Terrill.

I, GIDEON TERRILL, of Clarksville, in the county of Coos, and State of New Hampshire, depose and say, that since the 7th day of March, A. D. 1825, I have been a justice of the peace for said county of Coos. I have for twenty-two years resided, where I now do, within four miles and a half of Indian Stream, and during all this time, I have never known or heard of any other government than the State of New Hampshire exercising or claiming to exercise any jurisdiction in any way or manner over said territory, till some time in the month of June, A. D. 1835. I understood one Alexander Rea had claimed the territory as belonging to the province of Lower Canada, and on that ground had sent a warrant there against Luther Parker one of the inhabitants, by which he was seized and carried out of the State. I have married a number of couples from said Indian Stream, and I never knew or heard of any of the inhabitants going to Canada to be married, or having a clergyman or magistrate to marry them there from Canada. I have known the inhabitants of Indian Stream as long since as nine or ten years to obtain the bounty paid by this State for the destruction of wolves whenever they destroyed any.

Sometime in October last, Clark J. Haines came to my house and informed me that a mob from Canada had been over and taken Richard J. Blanchard, and were carrying him to Canada. This report excited very general indignation in this neighbourhood, and there was a general turn out for his rescue, myself among the number; but when I arrived at the store of Parmelee and Joy, in Canaan, Vermont, I found that said Blanchard had been already rescued, and he was then there at said store. After we had been some time at said store, an advertisement was exhibited, offering a reward of five dollars for the apprehension of one John H. Tyler, who had previously been arrested by one William M. Smith, a deputy sheriff of the county, and rescued from him by a mob at Indian Stream; a party accordingly started after said Tyler, but I did not hear the name of Alexander Rea, or of any other individual mentioned, as an object of pursuit, except

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said John H. Tyler. When this party returned, they brought back said Alexander Rea with them, I did not go into Canada that day for any purpose.

(Signed)

GIDEON TERRILL.

State of New Hampshire, Coos, ss. August 9, 1836.

Sworn to before me,

(Signed)

JOHN P. HALE, Justice of the Peace.

Inclosure 14 in No. 2.

Deposition of Ephraim C. Aldrick.

I, EPHRAIM C. ALDRICK, of Indian Stream, depose and say, that about the 22nd day of October, A. D. 1835, I was informed that a party from Canada had been over the line and taken Richard J. Blanchard, one of our citizens, and were carrying him to Canada; upon this I turned out for the purpose of rescuing him, as did the inhabitants of the place and the neighbouring towns generally. I was not with the party who rescued said Blanchard, having gone on purpose in another direction. After said Blanchard was rescued and brought back to the store of Parmelee and Joy, in Canada, Vermont, Miles Hurlburt and myself left said store and started for Canada, for the purpose of retaking one John H. Tyler, who had previously been arrested by one William M. Smith, a deputy sheriff of Coos county, and rescued from him by a mob at Indian Stream. At the time we thus started after said Tyler, we had with us an advertisement of said Smith for said Tyler, and we supposed we had an undoubted right to retake said Tyler wherever we might find him,—we had not the most remote idea of taking Alexander Rea, or any one else except said Tyler, nor in any way molesting or meddling with them.

When we had got into Canada and were peaceably talking with one John Parker, not having offered or threatened, or intended any violence, by action, word, or gesture, we were violently assaulted by said Alexander Rea, in the manner testified by Miles Hurlburt; Rea and Young, both came to me, took my horse by the bridle, and attempted to make a prisoner of me. After commanding them to let me alone, and let go my horse, which they would not do, I drew my sword and struck Young with it, and immediately thereupon said Alexander Rea threw at me a large stone, weighing, as I should judge, eight or ten pounds, which hit me on the head near my right eye, and broke the bone at the corner of my eye.

It has been stated and sworn by said Alexander Rea and some others, as I am informed, that said Hurlburt and myself stopped some people in the road before said Rea came up to us as aforesaid.

I solemnly depose and say, that said statement by whomsoever it is made, is absolutely and totally false in every particular.

We stopped no one, nor did we attempt or intend to stop any one, till we were assaulted by said Alexander Rea and Young as aforesaid.

(Signed)

E. C. ALDRICK.

State of New Hampshire, Coos, ss. August 11, 1836.

Sworn to before me:

(Signed)

JOHN P. HALE, Justice of the Peace.

Inclosure 15 in No. 2.

Deposition of Francis Wilson.

I, FRANCIS WILSON, of Guidhall, in the county of Essex, and State of Vermont, depose and say, that in the year 1821, I was appointed a deputy of the sheriff of the county of Coos in the State of New Hampshire, which office I continued to hold about seven years. I resided at Colebrook in said county of Coos, for nearly three years immediately following my said appointment, and during that time I served various processes on inhabitants of Indian Stream territory, and during said time I never heard of any claim to jurisdiction over said territory or its inhabitants by any other power than the State of New Hampshire. Many of the inhabitants of said territory were reputed and considered to be a lawless set, opposed to the enforcement of any law, and the place, at that time, from its remote situation, was supposed to be a place of resort for those who found it convenient to reside in that part of the country, where debts could be collected by legal process, and the criminal law duly enforced.

(Signed)

FRANCIS WILSON.

State of New Hampshire, Coos, ss. August 6, 1836.

Sworn to before me:

(Signed)

JOHN P. HALE, Justice of the Peace.

Inclosure 16 in No. 2.

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Deposition of Ebenezer Fletcher.

I, EBENEZER FLETCHER, of Indian Stream, in the county of Coos, and State of New Hampshire, depose and say, that I have resided where I now do for the last twenty-four years, and I never knew or heard of any other power or authority than the State of New Hampshire, exercising or claiming to exercise any jurisdiction over this territory, till sometime in the year 1835, I understood one Alexander Rea had been in the settlement claiming that the territory belonged to Canada. I have frequently known sheriffs from New Hampshire come here to serve legal process; but I never knew any officer from Canada come here, or attempt to come here with any such purpose.

The inhabitants of this settlement have generally, till within about fourteen months, claimed to constitute a settlement subject to the general jurisdiction of the United States, but not within the limits of any particular state; but I never knew or heard of any of the inhabitants claiming to belong to Canada, till the time I have before mentioned, viz. sometime in 1835. I do not know where the line run by the committee of the New Hampshire Legislature, in the year 1789, is; but I have been told by Thomas Eames, who has been dead about five years, that he "was surveyor who went with said committee; and that the line which said committee established followed the highlands on a westerly course, till it met the head waters at Hall's Stream;" and the limits of this state have always been reputed, and considered as extending thus far.

(Signed) EBENEZER FLETCHER.

State of New Hampshire, Coos, ss. August 11, 1836.

Sworn to before me:

(Signed) JOHN P. HALE, Justice of the Peace.

Inclosure 17 in No. 2.

Deposition of Benjamin Applebie.

I, BENJAMIN APPLEBIE, of Indian stream, in the county of Coos, and state of New Hampshire, depose and say, that I have lived in the place seventeen years. I am a son of Emor Applebie, now in gaol at Lancaster, and was arrested last winter by Colonel John H. White, and was carried to Lancaster, and detained at Lancaster six months and three days for resisting a deputy sheriff of Coos in the service of the process. I further depose and say, I never should have thought of resisting the officer of New Hampshire, had I not been advised so to do, and assured I should be protected in so doing by the Government of Canada, by Alexander Rea of Hereford, Lower Canada.

(Signed) BENJAMIN APPLEBIE.

State of New Hampshire, Coos, ss. August 11, 1836.

Sworn to before me:

(Signed) JOHN P. HALE, Justice of the Peace.

Inclosure 18 in No. 2.

Deposition of Richard J. Blanchard.

I, RICHARD J. BLANCHARD, of Indian Stream, in the county of Coos, and State of New Hampshire, depose and say, that about the twelfth day of October, A. D. 1835, William M. Smith, a deputy sheriff of Coos county, came to me, and told me he had a writ against John H. Tyler, of this place, and he did not know the man, and he wanted me to go with him and shew him said Tyler, which I accordingly did. Soon after this, to wit, on the 22d day of the same October, Zebulon Flanders, Zaccheus Clough, and John H. Tyler, came to my house, armed with one musket between them, and told me they had a warrant against me. I asked them by what authority. They answered "the King's." I asked said Clough, who appeared to be the chief man of the party, if he would read said warrant to me, and he replied yes, and attempted to read it, but was unable to do it; and I asked him to let me have it, and he did hand it to me; but before I had read it, said Flanders took it from me, and the party started with me, and were occasionally joined by others, so that by the time I was rescued, the party having custody of me amounted to twelve or fifteen. When I was within about a mile of the house of Alexander Rea, to which place I understood they were conveying me, we were met by a party of about eight men from New Hampshire, on horseback, all or most of them armed; and they demanded my release from the party having custody of me, which was refused; but, after some further talk, the party from New Hampshire resolutely demanded my release. I was at length released, without any force being used

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on either side, and I went with the party down to the store of Parmelly and Joy, in Canaan, Vermont.

I am a deputy of the sheriff of Coos county, and was at the time of my said abduction. I have lived at this place about fifteen years, and never knew or heard of the British Government exercising or claiming to exercise any jurisdiction here till some time last year, when Alexander Rea began to claim that the territory belonged to Canada, and, on that ground, began sending his warrants into the settlement.

(Signed) RICHARD J. BLANCHARD.

State of New Hampshire, Coos, ss, August 11, 1836.

Sworn to before me, (Signed) JOHN P. HALE, Justice of the Peace.

Inclosure 19 in No. 2.

Deposition of Luther Fuller.

I, LUTHER FULLER, of Colebrook, in the county of Coos, and State of New Hampshire, depose and say, that in the year 1785, I hunted on Indian Stream territory for Major Whitcomb, and afterwards, in 1789, I went with the New Hampshire Committee for locating the lands belonging to the State, in the north and east part of said State. That ever since 1785 I have been acquainted with said territory, having resided most of that time in this part of the State. I have always understood the same to belong to the State of New Hampshire, and always supposed the line as run in 1789, as fixing, locating, and establishing that territory as within the State, and never heard it questioned until within a year or two; and I never knew of any claim made during that time by the British or Canadian Government until within a year or two of that territory. That about thirty years since, Levi Willard, a sheriff of Coos county, attached and drove away a number of oxen and cows, and young cattle, from said territory, belonging to a person of the name of Smart, who resided at said Indian Stream; and I have heard of services having been made in said territory ever since, by sheriffs or their deputies of Coos county. From my knowledge of Hall's stream, Indian stream, and the streams running into the ponds and lakes connected with Lake Connecticut, having been on these streams in 1789 with the committee, and having hunted there before, I have no doubt that Hall's Stream runs farthest northwest of either of said streams.

Coos, ss, August 9, 1836.

(Signed) LUTHER FULLER.

Personally appearing, Luther Fuller, and made solemn (oath) that the above deposition by him subscribed is true.

Before me, (Signed) IRA YOUNG, Justice of the Peace.

Inclosure 20 in No. 2.

Deposition of Miles Hurlburt.

I, MILES HURLBURT, of Colebrook, in the county of Coos, and State of New Hampshire, depose and say, that some time in the month of October, A. D. 1835, Clark J. Haynes, of Indian Stream, came to my house in Clarksville, where I then lived, and told me that some of the Canadians had been over and taken Richard J. Blanchard, and were carrying him to Canada, and he wanted me to take my gun with me, and go help rescue him from them. Said Haynes, intended to go on towards Colebrook village, as I understood from him at the time, for the purpose of notifying the citizens on the road of the outrage that had been committed in the abduction of one of our citizens.

I immediately started, taking with me my gun, powder and balls, and I was joined by Joseph P. Wiswell, and John Harriman, who were on horseback, and both armed, as I think with horseman's pistols.

We all three proceeded to the house of Ebenezer Fletcher, in Indian Stream; and immediately before we arrived there, we were joined by Joseph Wiswell, Esquire, and when we arrived at said Fletcher's, we found there Ephraim Aldrick, Oliver Washburn, and a son of said Richard J. Blanchard, whose name I do not know, being a lad about fourteen years of age, who had been employed in alarming the neighbourhood, and requesting them to turn out and rescue his father, and a number of others, whose names I do not now recollect. There were about six of us who went from said Fletcher's, and we proceeded about four or five miles, to the house of John Parker's, in Indian Stream, where we stopped and consulted what was best to do. We then and there concluded to send our arms back to said Ebenezer Fletcher's, which we did, by Joseph Wiswell, Esquire, who took them all, assisted by two or three others, who went back with them.

We then, viz: Oliver Washburn, Ephraim Aldrick, John Harriman, Joseph P. Wiswell, Blanchard's young son, before-mentioned, and myself, went on to the house of Barnard Young, in Hereford, where we found said Blanchard in the custody of said Young, at his house taking dinner. The party at said Young's, who had the custody of said Blanchard, consisted of said Barnard Young, Zacheus Clough, Zebulon Flanders, a Mr. Prouty, whose christian name I do not know, David Smith and several others,

whose names I do not know, amounting in the whole, to about twelve. We concluded that we were not strong enough to rescue said Blanchard. After the party had finished taking dinner, we asked and obtained liberty to speak with said Blanchard; and then suggested to him, that if he had a mind to attempt his escape, we would interfere, and endeavour to prevent the Canadian party from making pursuit after him; but he thought, as the Canadian party was then so much the strongest, it would be of no use to attempt an escape, for that it would be fruitless, and so the idea was abandoned.

The party having Blanchard, then proceeded on their way, while we tarried behind, feigning that we did not intend to proceed any farther, though at the same time, we were determined to go around another way from the one which they travelled, and intercept them before they reached the house of one Alexander Rea, where we understood from said party, they were carrying said Blanchard; provided we were fortunate enough to be joined by a force from New Hampshire, strong enough to make our interference effectual. We were met before we got to Canaan Corner (which lay upon the route we were taking) by Ephraim H. Mahuren, and Hiram A. Fletcher, Esquire, who both joined our party, and soon after by many more; and when we arrived at Canaan corner, I should judge there were nearly one hundred men assembled, most of them armed, this being at the store of Parmelly and Joy. There were about eight of us who started from the store of Parmelly and Joy, to go after Blanchard, all on horseback, and all armed. This party consisted of Ephraim H. Mahuren, John Milton Harvey, Joseph P. Wiswell, James Minor Hilliard, Horatio Tuttle, Thomas B. Bloodget, Samuel Weeks, Jun. and myself.

There were many more who had started, and were close at hand, and others who had gone round another way, by the house of said Rea. When we came up with the party who had said Blanchard in possession, James M. Hilliard rode up to the first, and I did not hear precisely what he said, but understood at the time, that he demanded of them to give up Blanchard, which they declined doing; we all then rode up and commanded them to stand.

This order was given by Ephraim H. Mahuren, or Horatio Tuttle, I cannot say which. At this, most of the party stopped, but some of them appeared to be moving towards the woods, when said Horatio Tuttle said, "stand, or God damn you, I'll blow you through." They then all stopped, and Mr. Mahuren dismounted and went among the party for the purpose of inducing them, by persuasion, to release Blanchard; which they declined doing, Mr. Prouty keeping his arm locked in Blanchard's. After some further conversation between the two parties, we demanded Blanchard, and they refusing to give him up, Mr. Mahuren went up to him, and told him to get on to his horse, which he did, Prouty keeping his hold of him till he put his foot in the stirrup to mount Mr. Mahuren's horse, and then we all went off with said Blanchard down to Canaan corner, in Vermont, at the store of Parmelly and Joy, in Canaan; something was said by some one about retaking from Canada, one John H. Tyler, who had previously been arrested by one Willam Smith, a deputy Sheriff of Coos county, and rescued from him by some of the inhabitants of Indian Stream, and for whose apprehension said Smith had offered a reward of five dollars, by advertisement, which advertisement was then shown to me by said Smith. Ephraim C. Aldrick and myself then started for Canada, having with us said advertisement; *and honestly supposing that we had an undoubted right to retake said Tyler, such being the state of the facts, in any place where we might find him.*

We had not at that time the most remote idea of meddling with or molesting Alexander Rea, or any other individual whomsoever, except said John H. Tyler. Said Tyler was one of the party, as, upon reflection, I now remember, who had said Blanchard in custody when we rescued him. When we had *got over the dividing line* between the United States and Canada, and about in sight of Alexander Rea's house, we met John Parker coming from the direction of said Rea's house towards Canaan corner.

Said Parker stopped of his own accord, and entered into a conversation with said Aldrick, not the least force being used or threatened by any one. While said Aldrick and said Parker were thus peaceably talking, I saw Alexander Rea coming towards us as fast as he could come, hallooing and bellowing in the most boisterous manner imaginable, more like a madman enraged than any reasonable being, commanding us to be off the King's highway, and the next moment to be off his grounds.

Seeing him come upon us in this manner, and accompanied by about twelve or fourteen men whom he was calling upon to make prisoners of Aldrick and myself, I requested Elisha A. Tirrell, who had just joined us, to ride back till he met others of our party, and ask them to come on. I then presented my pistol to said Rea, and told him to keep his proper distance, for I should not be taken by him; for, if he came any nearer, he should take the contents of my pistol.

Said Aldrick then spoke and said to Mr. Rae, "I should advise you not to go any farther, for he may hurt you." Rae then turned towards said Aldrick, and ordered Barnard Young to take said Aldrick's horse by the bridle, and upon Young and Rae attempting to take Aldrick, he defended himself with his sword. Immediately upon this, Rae, and the party with him, commenced throwing stones as rapidly and as violently as possible, two of which hit me with great force, when I discharged the pistol which I had with me, and not before, at the assailants. In firing my pistol, I did not aim at any one in particular, and did *not think of hitting any one*, but I did it more for the purpose of frightening them. About this time there were thirty or forty more of the

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party, which I left at Parmelly and Joy's store, came in sight, when said Rea, and those with him, immediately took to flight; Rea running for the woods, and Aldrick after him. When I came up with Aldrick and Rea, Aldrick had Rea down: Aldrick having one hand hold of the collar of Rea's coat, and one hand hold of the hilt of his sword, and Rea having hold with both hands of the blade of Aldrick's sword, with the point of it sticking in the ground, and Aldrick was kicking Rea in the side. When I came up, Rea was saying "I surrender," and Aldrick replied, "then God damn you, let go of the sword, and I will let you alone." Dr. Tirrell at the same time came up, and remarked to Aldrick, "he says he surrenders, why don't you let him get up?" Aldrick again replied, "if he will let go of the sword I will."

And Dr. Tirrell remarked to Rea, "if you will let go the sword, I will guaranty that Aldrick will not hurt you, whereupon Rea let go the sword, and Aldrick let him get up, and we took him and put him into the wagon, and carried him down to the store of Parmelly and Joy, in Vermont. While this skirmish was carried on I heard four or five guns fired, one of which I fired, as before stated. Who fired the others, I cannot tell, for I do not know. I have heard it was stated by said Alexander Rea and some others, that said Aldrick and myself stopped one or more people in the road before he came up to us in the manner before stated. I now, upon due reflection, solemnly depose and say, that we did not stop, or attempt to stop, any one by word or deed, or threat of any kind, until we were assaulted by Alexander Rea and the party with him, in the manner above stated.

(Signed)

MILES HRULBURT.

State of New Hampshire, Coos, ss. August 5th, 1836.

Sworn to before me,

(Signed)

JOHN P. HALE, Justice of the Peace.

Inclosure 21 in No. 2.

Deposition of Luther Fuller.

I, LUTHER FULLER, of Colebrook, in the county of Coos, do depose and say, that in the year 1789, I was employed by Jeremiah Eames, a Mr. Cram, and a Mr. Hoit, who had been appointed commissioners by the State of New Hampshire, to ascertain, run, and mark the north-western and northern boundary of New Hampshire. In the month of March, we ascended Hall's Stream, about fifteen or seventeen miles from its mouth, and there we erected a monument.

When we had arrived at this point, supposing that we had got above the other head waters of the Connecticut, we left Hall's Stream, and took an east or north-east course, till we reached the highlands that divide the waters that run into St. Francis River, from those that run into the Connecticut. I think that we went about fifteen miles from Hall's Stream, east or north-east on to the highlands, and here we erected a monument, and then returned.

In the fall of the same year we went to Fryeburg, now in the State of Maine, and run north on the line, between then Massachusetts, now Maine and New Hampshire, till we again came to the highlands that divide the waters of the St. Francis from those of Connecticut river in this State.

Here we fell and girded trees and erected a monument for the north-east corner of New Hampshire.

Thence we run west following the highlands, till we came to the monument we erected on the said highlands in March before, when we went up Hall's Stream.

Messrs. Eames, Cram, and Hoit, are all dead, and I believe, all the company except Theophilus Culter and David Smith, who live somewhere in Vermont, and myself.

Several years since, the state of New Hampshire commenced prosecutions against one Ebenezer Fletcher and some others, for intruding upon lands in Indian Stream territory. Col. Eames was witness on the trials, and I heard his testimony, and he swore to the facts above stated. I was also a witness and swore to the same.

I further say, that, in following the highlands from the north-east monument, we erected, west, we pass above all the head waters of the Connecticut, or the streams emptying into the Connecticut, till we come to Hall's Stream.

I well recollect we passed above all the waters of Indian Stream, which was then considered the main branch of Connecticut River, though there was but little difference in the size of the three branches.

(Signed)

LUTHER FULLER.

State of New Hampshire, Coos, ss., August 3, 1836.

Sworn to before me,

(Signed)

JOHN HALL,

Justice of the Peace.

Inclosure 22 in No. 2.

Deposition of Nathaniel Perkins.

I, NATHANIEL PERKINS, of Indian Stream, in the county of Coos, and State of New Hampshire, depose and say, that I have lived where I now do twenty-two years, and during all the time I never knew or heard of any other authority or government exercising, or claiming to exercise any jurisdiction here except the State of New

Hampshire, till some time in the year 1835, one Alexander Rea sent into the settlement claiming that the territory belonged to Canada. Some time the last of September or first of October last past, said Alexander Rea sent a letter to Jeremiah Gabor, and several other inhabitants of Indian Stream, which letter was shewn to me, although it was not directed to me, requesting them to notify the inhabitants that he should meet them at a school-house in the settlement, on the following Saturday, at four o'clock, P. M., and also on the Sabbath following at another school-house in the settlement, at one o'clock P. M., if it was thought best, and that he would meet them and lay before them more communications from his Government. I state the contents of this letter from recollection, not having it in my possession. The meetings were notified and holden accordingly, and said Rea attended and read some communications which he said were from Lord Gosford, the Governor of Lower Canada, through his private secretary, to Mr. Moor, the representative of St. Francis, stating, among other things, that the territory was considered by the Government of Lower Canada belonging to them as much as any part of the district of St. Francis, and the inhabitants would be protected by said government against the encroachments of New Hampshire or any other government. He then suggested the propriety of the whole inhabitants, or a committee to be raised for that purpose, signing a paper, thanking Lord Gosford for the notice he had taken of them, and requesting further assistance; he also proposed that a committee be raised to report to the Government of Canada any encroachments which might be made upon them by the State of New Hampshire. He then made remarks to the meeting of a similar character, assuring the inhabitants of the protection of the Government of Canada. He also proposed that a committee be appointed to nominate suitable individuals to be recommended for the appointment of justices of the peace, which was done accordingly.

After the meeting was over, I had a conversation with said Rea upon the subject, and warned him against the course he was taking, begged him to desist, for he would only make difficulty, told him the measure the Legislature of this State had taken to assist and maintain jurisdiction over the territory, to which he replied, that the State of New Hampshire would not be so foolish as to interfere again after what he had done. I have no hesitation in giving it as my opinion, that all the difficulties which have taken place in this neighbourhood for the last two years, have arisen from the meddling and interfering officiousness of said Alexander Rea.

(Signed) NATHANIEL PERKINS.

State of New Hampshire, Coos, ss., August 10, 1836.

Sworn before me, (Signed) JOHN P. HALE, Justice of the Peace.

Inclosure 23 in No. 2.

Deposition of Ephraim H. Mahurin.

I, EPHRAIM H. MAHURIN, of Columbia, in the county of Coos, in the State of New Hampshire, depose and say, that about the 22d of October last, being at Colebrook, an express arrived from the Indian Stream settlement, so called, giving information that a party from Hereford, Lower Canada, had taken Mr. Blanchard, a deputy sheriff of this county, and were conveying him to Sherbrook. I started with several others, and went for the purpose of retaking him; and on Hereford Hill, so called, we met some twelve or more persons leading said Blanchard towards Mr. Rea's house, in Hereford, and on meeting them, one of our company, I think, commanded them to stop, and used some decisive language, which was promptly disapproved by Mr. Hilliard and myself, and we informed the party who had Blanchard in custody, that we wished to have no difficulty with them, that it evidently arose from the circumstance that the boundary line was not fully settled between the two governments, and that as the State of New Hampshire had for a long time claimed and exercised jurisdiction over that tract, and the claims of actual jurisdiction by the province being very recent, and we believed originating with the aforesaid Rea, we felt it to be our duty to retake Blanchard, and to protect the officers of said settlement from arrest by officers from the province, and that we should take him at all hazards, but wished to do it without any trouble or hard words with them. I then dismounted and told Blanchard to get on my horse, and he at first appearing to hesitate, I repeated the direction, when he stepped towards the horse, with a man hold of each arm, but when he got to the horse they let go, and he mounted and rode to Canaan, Vermont. Considerable abusive language was used towards us by two persons of the party, Mr. Blood and Bucher, but we told them they might say what they thought fit, as we should not be led into a quarrel with them, but should let King William and General Jackson decide the matter, and we then left them, and after a stop of about fifteen minutes at Parmelle's store, I went directly home to Columbia, a distance of twenty miles from Hereford, and I never heard of the affair of Mr. Rea's until a day or two after. I acted under no orders from an one in the part I acted, and no one that I know of, claimed any authority over another.

I have known of no "occasional acts of jurisdiction" exercised by the provincial government until the arrest of Luther Parker, and from the best information I have, these "Acts" owe their origin and support to a few outlaws at Indian Stream, encouraged by said Rea.

I have always understood that said tract was claimed by this state, by a survey made by Jeremiah Eames, Junior, Esq., more than forty years since, and more than thirty

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X. years ago process from the courts of this state was served on Richard Smart, who resided on said tract, and his property attached.—
 Aggression and Violation of Territory by Citizens of New Hampshire. Coos, ss., August 9, 1836. (Signed) EPHRAIM I. MAHURIN.
 Personally appearing—Ephraim H. Mahurin, and made solemn oath that the foregoing deposition by him subscribed is true.
 Before me, (Signed) IRA YOUNG, Justice of the Peace.

Inclosure 24 in No. 2.

Deposition of Rufus Brockway.

I, RUFUS BROCKWAY, of Indian Stream settlement, in the county of Coos, and state of New Hampshire, depose and say, that, about the year 1820, I was employed by Mr. Carlisle and Dr. Turk, British surveyors, to go with them and survey Connecticut river, about the forty-fifth degree of north latitude.

We accordingly commenced our survey on the west side of Connecticut river, at the forty-fifth degree of north latitude, and run up the Connecticut river to Lake Connecticut; we then surveyed said lake; then proceeded to measure up stream, the main branch, which ran into said lake about four miles to a second lake or pond, which we also surveyed. There were three streams which ran into this second lake or pond, and we selected the westerly one, judging that to be the largest, and surveyed that up about seven miles, to a third lake or pond, being about one mile long and a half mile wide, according to my judgment. This last or third pond we also surveyed, and surveyed the largest stream which ran into this third pond, about the distance of one mile, when we came to the highland.

After we had come to the source of the last stream which we surveyed, we ascended the height of land there, and Mr. Carlisle set his compass and found the due west course, upon which course we then continued our survey, and ran till we struck a small stream, which proved to be Indian Stream. We ran across that stream and continued our course till we intersected another stream, large enough for a mill stream, which we found was Hall's Stream. When we came, as above stated, to Hall's Stream, Dr. Turk remarked that it was of no use to proceed any farther, as there could be no doubt that this stream was the one which extended farthest to the northwest, and we had better return immediately to the 45th degree of north latitude; and he directed the guide to proceed to the nearest inhabitant, which he did, and we all went to the house of one Joseph Weston, in the township of Hereford, in the province of Lower Canada, where we tarried all night, and the following day returned to the house of Col. Eames, near the Connecticut river, about one mile south of the 45th degree of north latitude, where Dr. Turk settled with the men who accompanied him on the expedition.

In May, 1821, I received a letter from Dr. Turk, informing me that he wished me to accompany him on another surveying expedition. I immediately went to Col. Eames, as requested in the letter, and there met Dr. Turk, who told me he wanted me to go with him and survey Leach's Stream, and see if that did not extend further to the north-west than did Hall's Stream. Accordingly we went, and commenced surveying Leach's Stream, and continued it till we came to its source. We then took a due east course, and proceeded till we intersected Hall's Stream, a little above where we intersected on the former route, when we where surveying westerly. We still found that at the place where we now intersected it, it was quite a large stream, large enough for a mill stream. Dr. Turk again remarked, that Hall's Stream was the one which extended farthest to the north-west, and that it was of no use to proceed any farther, and directed the guide to lead them to Col. Eames, where he again settled with the men who accompanied him.

On the following morning Dr. Turk remarked to me that, when we first surveyed Connecticut river, we had no means of ascertaining that the stream running into the second lake or pond which we took for the largest, was actually so, as we did not survey but one of them, and he wanted to go and survey another of them, and see if we could, from the source of that, run a due west course north of Hall's Stream. Accordingly, we went to the second lake or pond mentioned in our first surveying expedition, and commenced running the easterly stream, which emptied itself into the second lake or pond aforesaid, and surveyed it to its source. We then took a due west course, and ran on it till we again intersected Hall's stream, not far from the places where we formerly intersected it on our two former expeditions. Dr. Turk again remarked as he had twice before, that it was of no use to proceed any further, for Hall's Stream was the one which came the farthest from the northwest, and inust ultimately be the prevailing stream—and we returned to Col. Eames, and Dr. Turk settled with me.

(Signed) RUFUS BROCKWAY.

State of New Hampshire, Coos, ss. August 3, 1836.

Then Rufus Brockway, above named, personally appeared and made oath that the above deposition by him signed, is true.

Before me, (Signed) JOHN P. HALE, Justice of the Peace.

Inclosure 25 in No. 2.

Deposition of Hiram A. Fletcher.

I, HIRAM A. FLETCHER, of Colebrook, in the county of Coos, and State of New Hampshire, counsellor-at-law, depose and say, that some time in the latter part of October, A. D. 1835, one Clarke J. Haynes, of Indian Stream, came to Colebrook where

I then and now reside, and informed me that Richard J. Blanchard, of Indian Stream, deputy sheriff, had been arrested on a bench warrant, or a warrant issued by Alexander Rea, of Hereford, in the province of Lower Canada, Esquire, and that the officer and his assistants were taking him to Sherbrook, or some other place in the province, for trial, for having received the appointment and assuming to act as a deputy sheriff at Indian Stream, under John H. White, Esquire, sheriff of said county of Coos.

Said Haynes told me and others, that notice had been given, in Clarksville and Stewartstown, of the arrest of said Blanchard, and that a great many had gone to rescue him, and that his object in coming to Colebrook was to give this information.

I used my endeavors to raise a party to join in the pursuit. Ephraim H. Mahurin, Esq., Milton Harvey, a deputy sheriff, James M. Jewitt, Horatio Tuttle, and I, immediately started off. We were all armed and supplied with ammunition. Said Mahurin carried a double-barrelled gun, Harvey a horse-pistol, Jewitt a brace of pistols, Tuttle a musket and bayonet, and I, a rifle. We went up the river road through Stewartstown, crossed the bridge near Canaan corner, Vermont, and then took the road leading to Indian Stream, supposing that by so doing we should meet the party having Blanchard in custody, before they could get over Canada line with him; but after we had got about half a mile we met a number of men from Clarksville and Indian Stream, most of all of them were on foot without fire-arms, running very fast, who informed us that they had come up with Blanchard but could not rescue him, as the party having him in custody was about their number, and armed; that they had crossed Hall's Stream with him, and were proceeding on towards 'Squire Rea's as fast as possible, and that the only way he could be retaken would be by going back to Canaan corner, and taking a road which intersects with the road they would travel in going from Hall's Stream to Mr. Rea's, and meet them on the road. We all returned to Canaan, and there we divided, a part of those on foot and in carriages, went up the road leading from Canaan to Canada, and those mounted went north, in an old road or path which intersects with the said road leading from Hall's Stream to said Rea's. It was at or near this place that Blanchard was taken, as I am informed, but I was not of the party that took him. I came up with this party that retaken Blanchard before they had returned to Canaan corner, but on which side of Canada line it was that joined them, I neither know nor care. When we got back to Canaan corner, there were a great many people assembled from Colebrook, Stewartstown, Clarksville, and Indian Stream, and a great many more arrived there soon afterwards. Many of them were armed and equipped like the New Hampshire militia. So far as I could judge, there was a general rejoicing that Blanchard had been retaken. I heard some one say to William M. Smith, then a deputy sheriff of Coos county, that if he had been with the party that rescued Blanchard, he could have recaptured his former prisoner John H. Tyler, who had been arrested a short time before by said Smith, at Indian Stream, and was rescued. Smith said he should like to get him, if he could, without exposing himself, or something to that effect: I think he then offered a specific reward for him, but do not now recollect the amount. It was suggested that the officer who had suffered Blanchard to be rescued, and his whole party, John H. Tyler among the rest, had gone to 'Squire Rea's to condole with that functionary on the solemn occasion. I was then called to supper, and whilst I was at the table, Joseph Wiswell, of Clarksville, Esq., came into the room and said some individuals were going after John H. Tyler, and desired me to write an advertisement for said Smith, offering a reward. I told him I came away from home before dinner and was a meal behind-hand, and could not then stop to write one, but stated to him what I thought was necessary to set forth in the advertisement, and he said that would do,—he could write it. After supper I went out and shot at a mark with Gideon Tirrill, Esq., James M. Hilliard and others. I should think we were engaged in this amusement about an hour; it was then so dark we could not well see, and for that reason quit. While engaged at firing at a mark, I heard a report of guns in the direction of Rea's, but I then thought they could not be so far off, as the distance is about a mile and a half. I supposed they were discharged to prevent those accidents that might happen in carrying them home loaded; as many of the guns had been discharged after retaking Blanchard, to avoid such an event. Some time after we had done shooting at the mark, I heard some one hollowing up the road towards Mr. Rea's. I went to the corner of Parmele's store and saw two or three waggons coming down the road very fast, filled with men. I supposed they had got John H. Tyler, as I heard them say "we have got him,"—I might have shouted "hurrah for Jackson," as Mr. Rea states in his deposition. I think I did, but I am confident I did not add, as he states in his deposition, "here is old Rea, we have got the damned old rascal," as I did not distinguish any person sufficiently to recognize them till the waggon in which Mr. Rea was passed me. It was well nigh night-fall at the time, and had it been ever so light I could not distinguish him from others in the waggon at the distance he was off at the time abovementioned, as I am very nigh-sighted.

When I found that Mr. Rea was captured instead of Tyler, I went towards the stable for my horse, and a number of persons followed after me, but who they were I cannot positively state, and said something must be done with Rea, and requested that I should make out some precept or advice to some course that would hold him to answer for his conduct in regard to the Indian Stream difficulty. I told them all, that I could not do any thing of the kind, although in my judgment Mr. Rea had acted more like a judicial monster than like one of His Majesty's justices and conservators of the peace, in all his doing, so far as respected the arrest and examination of one Luther Parker, Esq. for an alleged offence, mentioned in said deposition of said Rea, and also in respect to the

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arrest of said Richard J. Blanchard, and advised them to dress his wounds, wash him up, and send him home. I told them they had no right to take him any where, even in New Hampshire, much less to seize him in Canada and transport him over the line. It was admitted by all the bystanders that the capture of Rea might be illegal, but they assigned as a reason for so doing, that in attempting to take Tyler, Rea and his party resisted, and pelted them with stones, and, in self-defence, they took Rea as a kind of prisoner. I came away from Mr. Parmele's directly after, and I did not see Mr. Rea that night. I did not hear any one say or intimate, nor did it enter into my mind, that this party then went over the line and took Rea, were going or had gone to take him, but I did hear it said again and again that they were going to take John H. Tyler, for whom a reward had been offered by said Smith, as abovementioned.

(Signed) HIRAM A. FLETCHER.

State of New Hampshire, Coos, ss. August 3, 1836.

Sworn to before me:

(Signed) JOHN P. HALE, Justice of the Peace:

Inclosure 26 in No. 2.

Deposition of Milton Harvey.

I, MILTON HARVEY, of Colebrook, in the county of Coos, and State of New Hampshire, depose and say, that in April, 1833, I was appointed by John H. White, Esq. a deputy sheriff for the county of Coos, that in 1834 I served a warrant in Indian Stream territory on a person residing there, by the name of Barrill, for an offence alleged to have been committed there, brought him to Colebrook for examination. No resistance was made. I went there in 1835 to serve several writs on inhabitants of said territory. It was in February or March of that year. Resistance was then made to my serving writs by attaching property. The persons against whom I had process, and others accompanying them, claimed to be independent, to be an independent Government, not belonging to the Governments of Great Britain or the United States, independent of either until the line was settled. I was in company with William M. Smith, when he arrested John H. Tyler, and when said Tyler was rescued from his custody by a number of the inhabitants of Indian Stream territory, they then claiming to belong, and that Indian Stream territory belonged to the province of Lower Canada. I have no recollection of ever having heard before that, that said inhabitants claimed to belong to the province of Lower Canada, or that the Canadian people or Government claimed any jurisdiction over said territory and inhabitants. In October last, when Richard J. Blanchard was taken and carried from Indian Stream settlement by a party of Canadians and others, I went in company with Ephraim H. Mahurin and others, for the purpose of rescuing said Blanchard. He was rescued and brought back to Canaan corner, Vermont. The carrying said Blanchard was considered a very great outrage, and the people collected for his rescue were very indignant and very considerably excited, and expressed a determination to rescue him if possible. After our return to Parmelly and Joy, in Canaan, a party from there to go and take John H. Tyler, who had been arrested by William M. Smith, and rescued as I have before stated. Smith offered five dollars reward for his apprehension and delivery to him. I did not hear the name of Alexander Rea mentioned in connection with said party going to Canada, nor did I hear any reward offered by any individual for bringing said Rea out, nor did I hear any wish or intention expressed that said Rea should be brought out, nor did I know of any such intention, nor I believe any existed at the time said party stated after said Tyler. I left Canaan before said party returned.

(Signed) MILTON HARVEY.

Coos, ss. August 8, 1836.

Personally appearing, Milton Harvey, and made solemn oath that the above deposition by him subscribed is true.

Before me:

(Signed) IRA YOUNG, Justice of the Peace.

Inclosure 27 in No. 2.

Deposition of John Harriman.

I, JOHN HARRIMAN, of Stewartstown, in the county of Coos, and State of New Hampshire, depose and say, that I now live, and for the last sixteen years have resided in said Stewartstown, within about four miles of Indian Stream settlement, except about five or six years of the time which I have resided in Clarksville, a town yet nearer to said Indian Stream settlement. During said sixteen years, I have been well acquainted with the inhabitants of said Indian Stream territory, and for the greater part of the time resorted there altogether for the purpose of procuring my lumber sawed at the saw-mill, and my grain ground at the grist-mill, and occasionally for other purposes. During the whole of said period, I never knew of the authority of the province of Lower

Canada, or of any authority except the State of New Hampshire, exercising or attempting to exercise any jurisdiction there, until some time in the year 1835. I then heard, for the first time, that some individuals began to talk about the territory belonging to the province of Lower Canada. In the course of that year, in the month of September, I think, I understood, casually, that there was to be a meeting in the territory for the purpose of nominating individuals to be recommended to the British authority for the appointment of magistrates. This meeting was to be holden on the Sabbath, and as I learned there was an adjourned meeting from one holden the day previous, I went to attend said meeting from motives of curiosity solely, and when I arrived there, I found the principal man of said meeting was one Alexander Rea, of the town of Hereford, in the Province of Lower Canada. All the principal measures adopted or advocated were brought forward by this individual. I well remember that said Rea, at said meeting, frequently assured the inhabitants there assembled in said meeting, that they should be protected by the Government of Lower Canada against the encroachments of New Hampshire, and he recommended to them to raise a committee to report to the Government of Lower Canada all the encroachments of New Hampshire, as fast as they should occur, which was accordingly done. I further depose and say, that during said time, I have known the inhabitants of said Indian Stream territory frequently to resort to Stewartstown aforesaid, for the purpose of being joined in marriage, but I have never known or heard of said inhabitants, any or either of them, going to Canada or any place except New Hampshire for the purpose of being married. I further depose and say, that I do not know where the line established by the committee of the New Hampshire legislature in the year 1789 or 1790 is, except by general reputation, which always has been that the line extended along the highlands dividing the waters of the Atlantic from the St. Lawrence, until the intersection of said highlands with the head of Hall's Stream, and the jurisdiction of New Hampshire has been considered and reputed as extending thus far. I am acquainted with the general reputation of said Alexander Rea, and have no hesitation in saying it is not good.

(Signed) JOHN HARRIMAN.

State of New Hampshire, Coos, ss. August 8, 1836.

Sworn to before me: (Signed) JOHN P. HALE, Justice of the Peace.

I further depose and say, that in April, 1836, I saw and had a conversation with one Flanders, son of Zebulon Flanders, of Hereford, Lower Canada. He is a young man of about eighteen or twenty years of age, and appears to be a fair, candid young man. He said he was at Alexander Rea's house the day in October last, that Richard J. Blanchard was rescued by a party from New Hampshire, standing near Rea's house, before said Rea was taken and carried to Canaan, and when he came out of his house with Zacheus Clough and Barnard Young, said Rea had received information that two men had come over the line from the United States and were not far from Rea's house, as said Flanders informed me he understood. Rea said to Young and Clough "when I tell you, hitch upon them," meaning, one Miles Hurlburt and E. C. Aldrick, who were then below said Rea's house. Rea passed hastily along, as said Flanders represented, that Rea advanced upon Hurlburt and Aldrick and they retreated several rods, he said, Flanders being in sight of them at the time. When said Rea was at Parmelee and Joy's, at Canaan, I heard a conversation between Alexander Rea and the said E. C. Aldrick. Said Aldrick said to Rea, "don't you take my horse again by the bridle when I am in the highway peaceably;" Rea answered, "that he had a right, as it was a riot;" Aldrick said, not "as it took more than two by the laws to constitute a riot." Rea replied "it was approaching a riot," or something to that effect, which was all I heard upon the subject.

(Signed) JOHN HARRIMAN.

State of New Hampshire, Coos, ss. August, 1836.

Sworn to before me: (Signed) JOHN P. HALE, Justice of the Peace.

Enclosure 28 in No. 2.

Deposition of Ephraim H. Mahuren.

I, EPHRAIM H. MAHUREN of Colombia, Coos county, New Hampshire, depose and say that, in August last past, I was employed by General Joseph Low, and others, the Indian Stream Commissioners, as a surveyor to examine and survey the sources of the several branches of Connecticut river and the heights of land adjacent, as set forth in the survey of the States Commissioners in the year 1789. That accompanied by General Ira Young, James M. Hilliard, and others, as packmen, &c., I proceeded to Lake Connecticut, and from thence to the second lake so called which we explored, and the various small streams leading into it; from thence we crossed the highlands to the easterly line of the State of New Hampshire, which line we followed, crossing many small streams running eastwardly into the Magalloway River, which is a large branch of Androscoggin River, until we reached the north-easterly corner, which we found to agree with Colonel Jeremiah Eames' Journal of the survey in 1789, being marked

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on a birch tree, and the marks on the same corresponding as far as legible from age, with those noted in the journal of said survey. We then followed his line, and found the points of compass and distances to agree with his journal and field book for about eight miles, which led us to a point considerably north and west of the upper lake or pond, and also of all the waters running into the same. We found two or three very small brooks running into said pond from the north, which we judged, were none of more than one half mile in length, and the lands to the north very high, and the heights lying in rather a circular form, in a northerly direction. We then run and marked a line due west to Indian Stream, which we found, where we crossed it sufficiently large for mills at a good pitch of water, and then run, measured, and marked a line due west from thence to Hall Stream on its easterly branch, being much the longest branch of said stream, and found the distance between the streams to be three and one half miles and ten rods.

We then run on three miles west, crossing two small brooks, evidently leading into the east branch of Hall Stream, and over some high land, and at the end of three miles, came to waters leading into Clifton River, in Lower Canada, at the point marked "C." on the plan exhibited.

We then surveyed the stream from the mouth of Indian Stream to the mouth of Hall Stream, and then surveyed Hall Stream from its mouth to the source of the easterly branch, and found it to be eighteen miles and twenty-two rods in length, and surveyed Indian Stream from our west line to its source.

On the accompanying plan, the river between the mouths of Indian and Hall Streams, the whole of Hall Stream, and that part of Indian Stream northerly of our west line, are laid down from actual survey and admeasurement. Indian Stream from said line to its mouth, and the lakes and waters leading into and from them, as also Perry Stream and Magalloway River, and their branches are laid down from examination, and not from actual survey and admeasurement.

From our examination, it is rendered certain, that the States committee, who run the line in 1789, mistook the waters of Magalloway, for waters running into the St. Francis; and supposed they were on the highlands, according to the Treaty, when, in fact, they were on the highlands dividing the waters of Magalloway and Connecticut rivers; and that between the line then marked, and the actual highlands, according to the Treaty, lies a large tract of land on the waters of said Magalloway, which, according to any reasonable construction of the Treaty, must be within the United States, and appeared to be valuable land.

The heights of land contemplated by the Treaty, as laid down on the plan, are one continuous chain of mountains, running about north-east and south-west, as far as we could see to the north-east, but are not as high when you get near the point "C." on the plan. They are probably not laid down so far from the line run by the committee on the plan, as they ought to be, except at the point marked "D." where the location is exact.

The lands around the upper lake and on the easterly line of the State, to the corner, and on the line on the highlands, as run by the committee in 1789, are of very little value. The lands adjoining Lake Connecticut and between said lake and the mouth of Indian Stream, and around Back Lake, are a considerable portion of them good lands for cultivation, and settlements are interspersed in various directions.

The lands on the easterly side of Indian Stream, for some distance from its mouth, nearly to its source, are various in quality, but a considerable portion of good land, and there are some extensive intervals on said stream. The lands between Indian and Hall Streams, are more uniformly of the first rate quality of upland, than any I have seen in the same quantity together any where in this country; and I believe there is no town in this part of the country where the upland is so uniformly good for cultivation.

(Signed) EPHRAIM H. MAHUREN.

Coos, ss. October 25, 1836.

Personally appearing, Ephraim H. Mahuren, and made solemn oath that the foregoing deposition by him subscribed is true.

Before me, (Signed) IRA YOUNG, Justice of the Peace.

Inclosure 29 in No. 2.

Deposition of Ira Young.

I, IRA YOUNG, of Colebrook, in the county of Coos, and state of New Hampshire, do depose and say, that in August, 1836, at the request of Gen. Joseph Low, and Col. John P. Hale, I accompanied Ephraim H. Mahurin, Esq., who had been employed by them as surveyor, to ascertain the north-east and north boundaries of the state of New Hampshire, and also to find the line, if any, run by a committee appointed by the Legislature of said State, in 1789, composed of J. Cram, Jeremiah Eames, Col. Hoit, and others. We repaired to Indian Stream territory, and after having explored the lake above Lake Connecticut or second lake, so called, we went east to the line, between the states of Maine and New Hampshire, and followed that until we came to the birch tree, which was marked by said committee, as the north-east corner of the state of New Hampshire, and found upon that tree ancient marks, similar to those described to have been put there by said committee, some of which were "1789," "J. E.," "M. 54." That said

tree stands some distance from the top of the range of highlands upon which it is situated. James M. Hilliard and myself went to the top of the height, to see if the waters running into the St. Lawrence, Canada, run into the valley between that height and the height next beyond, northerly. That we ascertained from that examination, and other information, that the stream in said valley, which there entered easterly, was a branch of the Magalloway, which empties into the Androscoggin river. That we returned to said birch tree, and from thence we followed and measured the line made and spotted by said committee, I carrying one end of the chain six miles. That said line was on the highlands south of said Magalloway branch, and found the courses and distances indicated by said committee, in 1789, to be correct. We thought it unimportant to measure any further. We chained no further; but followed said line, which was very distinct in most places, although made so many years since. Said line led us within five or six rods of a circular pond, from which the waters run through the second lake into Lake Connecticut, and then into Connecticut river. Said pond is about one mile in circumference, and is sometimes called the third lake, and is surrounded by quite highlands. Said Hilliard and myself went northerly from said pond to the top of the heights. We judged it from six to eight miles from that height to the next height northerly, and we were satisfied from our examination, the branch of the Magalloway before spoken of as running in the valley, north of said birch tree, continued on in the valley north of said pond, running from the west tending eastwardly.

From the said pond to said first heights, is perhaps one hundred rods; perhaps one mile. From thence said Hilliard and myself went westerly, and in the course of from one to four miles, we crossed three or four branches of the Magalloway, small streams, running northerly into said valley, northerly of said pond. In that course we came upon a very large and extensive piece of flat land, out of which some of the branches of the Magalloway flowed, and also a branch of the Indian Stream, all running northerly. Said branch of Indian Stream, and one branch of Magalloway are near together.

We went north of all the waters that flowed into said pond; but came to the conclusion, to what we could see, that some waters running into said pond, took their rise in the south part of said flat land; and also that some of the Magalloway waters rose south of the waters running into said pond.

We found the rest of our party, who had followed said committee's line, some four or five miles west of said pond, from whence we took a due west course until we struck Indian Stream, where it was something of a mill-stream, some one and a half to two rods wide, and spotted our line west to that place, and from thence returned home.

The distance from the height on which said birch tree stands, beforementioned, as designated by said committee, in 1789, as the north-east corner of the state, to the next height north, is, as near as I could calculate, without measuring, from six to eight miles. The heights last mentioned tend easterly and westerly.

(Signed) IRA YOUNG.

Coos, ss., October 22d, 1836.

Personally appearing, Ira Young, and made solemn oath that the foregoing deposition by him subscribed is true.

Before me,

(Signed)

EPHRAIM H. MAHURIN,

Justice of the Peace.

Inclosure 30 in No. 2.

Deposition of John Hughs.

I, JOHN HUGHS, of Canaan, in the county of Essex, and State of Vermont, depose and say—

That some time in the year A. D. 1820 or 1821, I was employed by Dr. Turk and a Mr. Carlisle, British surveyors, to go with them and survey the Connecticut river, from the forty-fifth degree of north latitude to its source. Accordingly we commenced at Colonel Jeremiah Eames', in Stewartstown, and surveyed up the Connecticut river, on its east side, till it is intersected by Hall's Stream, when we crossed over to the other side and ran up to the first lake, which is called Lake Connecticut, which lake we surveyed. The river from said lake up to the middle or second lake, which we also surveyed, and surveyed the stream which appeared to be the largest, which led from the third pond, situated about five or six miles above the second pond, and about one mile long, and about one-half or three-quarters of a mile wide.

There were two streams running into this pond, both of which we measured, one was less, and the other more than half a mile long.

When we arrived at the source of the largest brook, which ran into the pond, and could find no running water any further up, Mr. Carlisle remarked, that Judge Chipman had told them to run up to the last drop of running water in the main branch of Connecticut river; and that having done that, we might put up our chains, as there was no further use for them, which we accordingly did.

After we had surveyed to the source of these waters, as I have stated, we returned to the camp, which was at the last-named little pond, at the head of Connecticut river, as now called; and one Brockway, who accompanied us, told the British surveyors, that the St. Francis waters were just over the hill, upon the side of which we had surveyed. I then asked said Brockway, how long he had been in this country, and he replied

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eighteen months. I made answer that I had hunted over that very country for more than twenty years, and that I knew the St. Francis waters were not to be found within eight miles. We then returned to the source of the stream which we had surveyed, and there the surveyors made marks upon the trees and set their compass, and indicated a due west.

Upon which we went without measuring the distance till we intersected the middle branch of Indian Stream, at a place large enough for a small mill stream; so large that we were under the necessity of cutting a tree to make a bridge to pass over the same.

When we intersected the stream, Dr. Turk and Mr. Carlisle went away some rods distance out of hearing, but not out of sight, and tarried some time, when they returned and told me to pilot them the best and nearest way to Colonel Eame, which we accordingly did. This was all I had to do with surveying about the line between the United States and Canada. On this expedition we were accompanied by no American commissioner or surveyor, nor indeed by any American, except myself and a few others who were hired by them as assistants.

I was seventy years old last May.

(Signed) JOHN HUGHS.

State of New Hampshire, Coos, ss. August 4, 1836.

Sworn to before me, (Signed) JOHN P. HALE, Justice of the Peace.

Inclosure 31 in No. 2.

Deposition of Samuel Danforth.

I, SAMUEL DANFORTH, of Indian Stream, in the county of Coos, and State of New Hampshire, depose and say, that I am fifty-two years of age, and for the last sixteen years have resided at Indian Stream, and during all that time I never knew any other government than the State of New Hampshire exercise, or claim to exercise, any jurisdiction over said territory in any other way or manner, either by sending judicial process there to be served, or in any other way, till one Alexander Rea came in there, claiming the territory as belonging to Canada, about the middle of June, A.D. 1835. While I have lived there, the inhabitants, when they killed a wolf, or any other creature for whom a bounty is offered by the laws of New Hampshire, have uniformly gone into New Hampshire for said bounty, and have uniformly received it.

About a year since, as near as I can recollect, said Alexander Rea addressed the inhabitants of said Indian Stream at a meeting holden at the School-house, and as I am partially deaf, I did not hear all he said, but remember distinctly, that one object of Rea was to have some individuals recommended by the inhabitants for the appointment of Justices of the Peace.

(Signed) SAMUEL DANFORTH.

State of New Hampshire, Coos, ss. August 9, 1836.

Sworn to before me, (Signed) JOHN P. HALE, Justice of the Peace.

Inclosure 32 in No. 2.

Deposition of Horace Loomis.

I, HORACE LOOMIS, of Colebrook, in the county of Coos, and State of New Hampshire, depose and say, that in the year of our Lord, 1825, I was appointed a deputy of the sheriff of said county of Coos, and that year, or the one ensuing, I had a writ put into my hands against Clark J. Haynes, and about the same time two or three against Rufus Brockway, and also one writ against John McConnell, all residents in Indian Stream territory, and also divers writs against several others resident in said territory; all of which precepts I served, some by attaching property, and some by arresting the body of the defendant, and at no time, nor on any occasion, did I hear any objection made to the service of any or either of said processes by any one on occasion of any real or pretended claim of the Government of Lower Canada or any British authority, to have any jurisdiction over said territory.

And I further depose and say, that I continued to act as deputy sheriff, for said county, until May, 1834, and during the whole time of my so being deputy sheriff as aforesaid, I occasionally, from time to time, served process in said territory or settlement as they were put into my hands, and I never heard, during the whole of said period, any claim of the British authorities to have control or jurisdiction of said territory or settlement. I further depose and say, that sometime in the year 1826 or 1827, I had a writ against said Brockway, and made a prisoner of him, but he was rescued from me by some of the inhabitants of the settlement.

I returned the writ to court with a return thereon, stating the facts precisely as they took place. Execution thereupon issued, was put into my hand for service, and I collected a sufficient force in the county, went into the territory and made service of the same by arresting said Brockway, and bringing him away, and committing him to jail in Lancaster, in this county.

I further depose and say, that I have, on other occasions, made service of executions on the inhabitants of said territory, by attaching and selling personal property.

(Signed) HORACE LOOMIS.

State of New Hampshire, Coos, ss. October 7, 1836.

Then the said Horace Loomis personally appeared and made oath that the above deposition by him subscribed is true.

Before me,

(Signed)

IRA YOUNG, Justice of the Peace.

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Inclosure 33 in No. 2.

Deposition of James M. Hilliard.

I, JAMES M. HILLIARD, of Colebrook, in the county of Coos, and State of New Hampshire, husbandman, depose and say, that some time about the last of October, A.D. 1835, Asa Parker, of Indian Stream Settlement, came to my house and informed me that Richard J. Blanchard, of said Indian Stream Settlement, had that morning been taken from his house by some people from Canada, and that they were then conveying him, said Blanchard, to Sherbrook, in said Canada, and that he wanted me to go and help release said Blanchard. I at first declined, but after he left I concluded to go, got my horse, and started in company with Samuel Weeks, Jun. of said Colebrook, Horatio Tuttle, of said Colebrook, and Luther Parker, of Indian Stream. After proceeding about two miles, we were joined by Thomas B. Blodget and Thomas Piper, both of Stewartstown in said county of Coos. We all proceeded to Canaan, in Vermont, to the store of Parmelee and Joy, where we tarried a short time, and said Thomas B. Blodget rode on towards Indian Stream, and in a few minutes returned in company with John M. Harvey, and told us that the Canadians had Blanchard in their custody, and were to pass over Hereford Hill, about two miles distant from the store where we then were, and that we should probably meet them at the hill if we rode there immediately. Said Blodget rode by towards Hereford Hill without making any stop at the store, and called upon us to follow him, and myself, said Samuel Weeks, Jun., Thomas Piper, Horatio Tuttle, and Ephraim H. Mahuren followed after said Blodget. When we came up with the party who had possession of said Blanchard, I was in advance of the party a few rods, and rode up to those who had the custody of said Blanchard, and asked them if they had not got Blanchard, our sheriff; one of the party answered that they had—they had a warrant against him as one of the King's subjects. I answered that that was not the case, he was a citizen of this State, and that they had no right with him.

They replied, that he was taken by them on the soil of Canada. To which they were answered, that he was taken from our State, that he was one of our officers, that they had nothing to do with him, and they must give him up.

They replied that they should not give him up. I told them he must be given up peaceably, or we would take him. Ephraim H. Mahuren then told them that we did not wish for any difficulty or disturbance, but we must have their prisoner, and thereupon dismounted and went along to Blanchard, took hold of him and told him to get on to his, (Mahuren's) horse, at the same time leading him along to his horse, the Canadians holding on to him till he got to the horse, when they let go their hold, and Blanchard mounted the horse and rode off. Our party had previously been joined by Miles Hurlburt and Joseph P. Wiswell, but Luther Parker had not gone with us farther than the store of Parmelee and Joy. This was all the violence that was offered or threatened to any of the party who had the custody of Blanchard, except some threats made use of by one Horatio Tuttle, which were promptly discountenanced by said Ephraim H. Mahuren and myself, the remainder of the party saying nothing. We then returned to the store of Parmelee and Joy with said Blanchard.

After we had been at the store of said Parmelee and Joy about an hour and a half, it was proposed by some one to go over on to the Canadian side and take one Tyler, who had previously been arrested by one William M. Smith, a deputy sheriff of Coos county, and had made his escape into Canada, a reward having been offered for his apprehension by said William M. Smith, by advertisement. To this proposition I replied, they had better not go, Mr. Mahuren having left the store for his own home previously, and I tried all I could to persuade them not to go, but they went, and after having been absent about an hour they returned, bringing with them, not said Tyler, but one Alexander Rea. There were none who went on this last expedition after Tyler, and returned with Rea, that were with us when we took Blanchard, except Miles Hurlburt and Joseph P. Wiswell.

I further depose and say, that I never heard Rea's name mentioned in connexion with this party going into Canada, till after they returned with him in their possession, Tyler being, as I understood, the sole object of pursuit.

(Signed)

JAMES M. HILLIARD.

State of New Hampshire, Coos, ss. August 1, 1836.

This said James M. Hilliard personally appeared and made oath that the above deposition by him subscribed is true.

Before me:

(Signed)

JOHN P. HALE, Justice of the Peace.

X.

Inclosure 34 in No. 2.

Deposition of James Mooney.

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tory by Citizens of
New Hampshire.

I, JAMES MOONEY, of Stewartstown, in the county of Coos, and State of New Hampshire, depose and say, that in the year 1835, I was Captain of the 6th company of the 24th regiment of Militia, and continued to hold said office till June of the present year, and had command of the detachment of said regiment stationed at Indian Stream territory, in November 1835, which detachment there continued till February 18, 1836.

On the 21st day of October, A. D. 1835, Clark J. Haynes came to my house and notified me, that a mob from Canada had been over the line, and had taken Richard J. Blanchard, a deputy sheriff of said county of Coos, and were then carrying him into Canada, and that said Blanchard wanted me to raise a force and rescue him.

I asked said Haines if he knew the number of those who had Blanchard. He replied he did not. I then told said Haines, that I was not the proper authority to apply to, but as Colonel Young, commander of the regiment was absent, and the Lieutenant-Colonel was fifty or sixty miles distant, I would raise what force I could, and risk the responsibility of rescuing said Blanchard. The news of the abduction of said Blanchard excited very general indignation through the neighbourhood, and I sent word to those residing in my neighbourhood to turn out; said Haines went on to Colebrook to notify the inhabitants there, and request them to turn out. There was accordingly a very general turn out, and a strong determination expressed to rescue said Blanchard at every hazard. I was not present when said Blanchard was rescued, but I first saw him at the store of Parmelee and Joy in Canaan, Vermont, or that immediate vicinity. After we had been some time at said store, there was some talk about going into Canada again, and retaking one John H. Tyler, who was said to have been previously arrested by one William M. Smith, a deputy sheriff of said county of Coos, and rescued from him by a mob from Indian Stream. There was also an advertisement of said Smith shown at the time, offering a reward of five dollars for the apprehension of said Tyler. Accordingly, different parties left the said store, and went to Canada after said Tyler. There was no other object that I heard or thought of, named by any of those who then went into Canada, except the apprehension of said Tyler. The idea of taking Alexander Rea, or any one else except said Tyler, was not, to my knowledge, suggested or thought of.

I was not with the party that took said Rea, but when I arrived there, I saw him travelling as fast as he well could towards the woods, and Ephraim C. Aldrick pursued him. He was brought from the woods, and put into a waggon, and brought down to Canaan corner, in Vermont. I was not at this time in the employ of the State, nor in the exercise of any military command.

The only time when I exercised any military command in my life, except at our annual company training and regimental musters, were from the 4th to the 6th of August, A. D. 1835, both inclusive, having been ordered to rendezvous with my company at Stewartstown, for the purpose of rendering to John H. White, Esq., sheriff of said county, such assistance as might be necessary to enable him to serve process in Indian Stream territory, our officers having been of late resisted there, and more serious resistance having been threatened after the interference of Alexander Rea. The other occasion subsequent to the abduction of said Blanchard, and also subsequent to the time said Rea was brought to Vermont in the manner above related, when I was stationed at said Indian stream, in command of a detachment of the 24th New Hampshire militia as before stated. I have lived in Stewartstown about fifteen years, and never knew or heard of any other authority claiming to have jurisdiction over Indian Stream territory, except the State of New Hampshire, till after I understood that, some time in the year 1835, one Alexander Rae had been claiming the territory as belonging to Lower Canada.

(Signed) JAMES MOONEY.

State of New Hampshire, Coos, ss. August 8, 1836.

Sworn to before me,

(Signed) JOHN P. HALE, Justice of the Peace.

No. 3.—*Viscount Palmerston to H. S. Fox, Esq.*

(Extract)

Foreign Office, July 22, 1837.

WITH reference to your despatch of the 25th of January last, relative to the outrage which was committed in October, 1835, within the Canadian Frontier, by certain citizens of the State of New Hampshire,—I have to instruct you to point out to the American Secretary of State, the unjustifiable violation of territory indisputably British, which was committed on the occasion referred to, to express a conviction that such an act must incur the disapprobation of the President, and to say that, if it has not been punished, its impunity must have arisen from some insurmountable difficulties of constitutional action.

You will draw the serious attention of the American Government to the unfortunate consequences which must inevitably follow a recurrence of similar proceedings, and you will declare in a friendly but firm manner, that Her Majesty's Government will feel it their duty to use all means in their power to protect from aggression the Subjects of Her Majesty, and the territories of Her Majesty's crown; that force will be repelled by force; and that the responsibility of all the evils which may ensue from such collisions must rest on the heads of those who become the aggressors.

XI.

Correspondence between the Government at Washington and the State of Maine, on the North-eastern Boundary; the Arrest and Imprisonment of Ebenezer Greely; and the projected Railway between Quebec and St. Andrews. Also Correspondence between the Department of State and the British Legation, on the Quebec and St. Andrew's Railway.—1837.

XI.

North-eastern
Boundary.
Arrest and Impri-
sonment of
E. Greely.
Projected Railway
between Quebec
and St. Andrews.

H. S. Fox, Esq. to Viscount Palmerston.—(Received)

(Extract).

Washington, November 24, 1837.

I HAVE further the honor to inclose, in the present Despatch, a set of printed Documents relating to the Boundary Question, which were communicated by the President to the House of Representatives, at the close of the late extraordinary Session of Congress. These documents comprise a series of correspondence between the President's Government and the State Government of Maine, upon the subjects, severally, of the Boundary question in general,—of the arrest and imprisonment of Ebenezer Greely,—and of the projected Railroad between the Cities of Quebec and St. Andrews. The correspondence between the department of state and this legation, upon the subject of the aforesaid railroad, is also printed in this set of Documents.

Enclosure.

MESSAGE from the President of the United States, transmitting the information required by the resolution of the House of the 13th instant, upon the subject of the Northeastern Boundary of the United States.

To the House of Representatives, of the United States,

I HEREWITH transmit to the House of Representatives a report from the Secretary of State, accompanied by copies of the correspondence requested by their resolution of the 13th instant.

Washington, September 26, 1837.

M. VAN BUREN.

Department of State, Washington, September 25, 1837

THE Secretary of State, to whom was referred the resolution of the House of Representatives, dated the 13th instant, requesting the President to communicate to that body, "so far as the public interest will permit, the correspondence between the Government of the United States and that of Great Britain, relating to the Northeastern Boundary of the United States, since the Message of the late President to the Senate of the United States of the 15th of June, 1836, and all the correspondence which has taken place since that period between the Government of the United States and the Governor of the State of Maine, on the subject of alleged aggressions upon the rights of Maine by the British authorities," has the honor respectfully to submit to the President copies of the letters and documents requested by that resolution.

JOHN FORSYTH.

LIST OF ACCOMPANYING PAPERS.

- | | | | | | | |
|--|---|---|---|---|---|-----------------|
| 1. Letter from the Governor of Maine to the Secretary of State, (with enclosures,) dated | - | - | - | - | - | March 30, 1837. |
| 2. — Same to the President (with enclosures) | - | - | - | - | - | April 30, 1837. |
| 3. — Same to same (with enclosures) | - | - | - | - | - | June 27, 1837. |
| 4. — Same to same (with enclosure) | - | - | - | - | - | June 19, 1837. |
| 5. — Secretary of State to the Governor of Maine | - | - | - | - | - | June 26, 1837. |
| 6. — Governor of Maine to the Secretary of State (with enclosures) | - | - | - | - | - | July 3, 1837. |
| 7. — Secretary of State to the Governor of Maine | - | - | - | - | - | July 14, 1837. |
| 8. — Governor of Maine to the Secretary of State | - | - | - | - | - | June 27, 1837. |
| 9. — Secretary of State to the Governor of Maine | - | - | - | - | - | July 19, 1837. |
| 10. — Governor of Maine to the President | - | - | - | - | - | July 28, 1837. |
| 11. — Secretary of State to the Governor of Maine | - | - | - | - | - | Aug. 17, 1837. |
| 12. — Same to the same | - | - | - | - | - | Aug. 25, 1837. |
| 13. — Mr. Forsyth to Mr. Fox | - | - | - | - | - | March 23, 1837. |
| 14. — Mr. Fox to Mr. Forsyth | - | - | - | - | - | March 28, 1837. |
| 15. — Same to same | - | - | - | - | - | Aug. 24, 1837. |
| 16. Extract from Mr. Stevenson to Lord Palmerston | - | - | - | - | - | Aug. 10, 1837. |

STATE OF MAINE.

(1)—*The Governor of Maine to the Secretary of State.*

Sir,

Executive Department, Augusta, March 30, 1837.

IN compliance with a request of the Legislature of this State, I have the honor to transmit to you the accompanying report and resolutions.

I am, &c.,

The Secretary of State.

ROBERT P. DUNLAP.

XI.

North-eastern
Boundary.Arrest and Imprisonment of
E. Greely.Projected Railway
between Quebec
and St. Andrews.

STATE OF MAINE.

Inclosure in No. 1.

House of Representatives, March 29, 1837.

THE Joint Select Committee who had under consideration the order relating to the expediency of calling the attention of Congress to the subject of fortifying our maritime and interior frontier, have attended to that duty, and ask leave to present the following report :

ONE object of the Federal Compact is "to provide for the common defence and general welfare.

In accordance with these objects of the compact, the General Government has, from time to time, made liberal appropriations for fortifying and defending the several States along our extended maritime frontier, west and south of the western boundary-line of this State; east of that line, a mere trifle has, as yet, been appropriated for these objects.

Maine has a maritime frontier of about five hundred miles in extent, following the indentations of her shores; and our interior frontier, bounding on New Brunswick on the east, and the Canadas on the north, is about six hundred miles in extent.

Considering this great extent of seacoast, her numerous excellent harbors, her noble rivers, and great advantages for ship-building, and her proximity to the fishing grounds, probably no State in the Union possesses the natural advantages for carrying on this branch of industry that Maine does.

It is a fact worthy of consideration, that all maritime nations have looked to their fisheries as the nursery of hardy seamen for the merchant service in time of peace, and for the navy in time of war; and, as a great question of national policy, (aside from the inducements to encourage this branch of business as an unfailing source of natural wealth,) it is deemed worthy of the fostering care of all commercial nations.

Already the navigation of Maine is estimated at more than three hundred thousand tons, and exceeded by only two States in the Union; and her increase annually of tonnage, is greater than that of any other State.

The abundance of building materials, believed to be inexhaustible, her great conveniences for ship-building along her extended seacoast, her numerous bays, rivers, and harbors, render it highly probable that the day is not far distant when the maritime interests of Maine will exceed that of any of her sister States. And if reliance can be placed upon the statements of a scientific engineer of high respectability and standing, who has, during the past year, under the direction of the Government of this State, and our parent commonwealth, made a geological survey of a portion of our State, it may be doubted whether the same extent of territory on the continent contains more real value, viewed in all its bearings, (the facilities of quarrying, manufacturing, exporting, and its influence upon the great interests of the State and nation,) than is contained in our inexhaustible quarries of granite, lime, marble, slate, &c., mines and minerals, in which large and profitable investments are already made. Some of these branches of business have been carried on for many years, and others to a large extent are commencing under the most favorable auspices.

These, together with our agricultural, commercial, and manufacturing interests; our immense forests of invaluable timber; with a water-power of vast extent and value; giving us the means of laying the seaports of the Union under a contribution for ages to come,

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and warranting the belief that our present shipping interest will be sustained and employed, and a great increase required.

About one-third of the most valuable portion of our territory is claimed by Great Britain; and the history of this protracted controversy, from its commencement to the present time, is such as to awaken general anxiety. We are admonished, by recent events, that we have not yet reached the termination of our toils and embarrassments; and they have awakened the painful apprehension that our just rights may not be secured by honorable negotiation or patient submission to unprovoked injuries. These considerations, in the opinion of your Committee, call loudly for the interposition of the General Government, and require at their hands all needful preparation for possible contingencies. The late Governor Lincoln, nearly ten years since, called the attention of the Government to the importance of erecting a strong fortification in some eligible position on the confines of that portion of our territory to which an adverse claim is set up by Great Britain. In the opinion of your Committee, the subject has lost none of its interest since that period, but on the contrary, the events to which we have alluded give to it vastly augmented importance; and, to our view, irrespective of any conditions growing out of the present controversy, a strong fortification upon the northeastern boundary of the United States, situated far in the interior, and upon the confines of a foreign country, and surrounded by millions of acres of fertile land, destined soon to be peopled with a numerous population of hardy yeomanry, is of high importance.

Our isolated situation, being the northeastern boundary of the nation, with an interior frontier of upwards of six hundred miles upon a foreign country, and a large proportion of our territory lying between two provinces of Great Britain, and so situated as to render it greatly to the advantage of that nation to possess it; the inflexible determination which she manifests to pursue the course which interest dictates should not be forgotten. The extent of our seacoast, the exposed situation of our seaport towns, lying within a few hours' sail of the British Naval Depot in the neighborhood of Maine, the disastrous consequences of our defenceless situation during the last war, the great and increasing maritime interests which we have at stake, without one single point where a ship, if dependent upon the United States fortifications, would be safe from the attacks of a frigate: these, and the consideration that little comparatively has yet been done for Maine, seem to our view to constitute irresistible reasons why Maine should no longer be forgotten or neglected in the common defence of the country.

Through all the long-protracted struggles, difficulties, and embarrassments of our infant republic, this portion of our Union has never been urgent or importunate in pressing its claims, but has submitted patiently to the force of circumstances which rendered it necessary to defer them.

But, in the present altered condition of the country; the national debt paid off, at a season of universal peace and unexampled prosperity; with an overburdened treasury, and when it is deemed necessary to dispose of it, to resort to measures which many eminent statesmen consider unwarranted by the constitution, and which a great portion of the people of the Union consider of doubtful policy: at such a period, and under such circumstances, it is difficult to perceive the justice of longer withholding suitable appropriations for the defence of Maine; and, to our view, they can only be withheld by doing violence to the principles of equal rights, and by neglecting a plain constitutional duty.

Your committee therefore submit the following resolutions.

STEPHEN C. FOSTER, *Chairman.*

STATE OF MAINE.

Resolve relating to the fortification of frontier States.

Resolved,—That the obligation of the Federal Government, under the constitution, when it has the means, to erect suitable fortifications for the defence of the frontier of the States, is a practical duty, not justly to be denied, evaded, neglected, or delayed.

Resolved,—That our Senators in Congress be instructed and our Representatives requested to use their influence to obtain liberal appropriations for the defence of Maine, and the Union.

Resolved,—That the Governor be requested to transmit copies of the above report and resolutions to the President and Vice-President, the Secretaries of State, Navy, and War, and to each of our Senators, and Representatives in Congress.

In the House of Representatives, March 30th, 1837.—Read and passed.

H. HAMLIN, *Speaker*.

In Senate, March 30th, 1837.—Read and passed.

J. C. TALBOT, *President*.

March 30th, 1837.—Approved.

ROBERT P. DUNLAP.

XI.

North-eastern
Boundary.

Arrest and Imprisonment of
E. Greely.

Projected Railway
between Quebec
and St. Andrews.

No. 2.—*The Governor of Maine to the President of the United States.*

Sir,

Executive Department, Augusta, April 30, 1837.

IN compliance with a request of the Legislature of this State I have the honor to transmit to your Excellency the accompanying report and resolutions.

In behalf of the State of Maine, I would respectfully, yet urgently, call on the President of the United States to cause the north-eastern boundary of this State to be explored and surveyed, and monuments erected, in accordance with the request contained in the resolutions which are herewith communicated. As the subject is one in which the people of Maine have a deep interest, I feel a confidence it will commend itself to your early attention.

With high consideration, I have the honor to be, &c.

His Excellency Martin Van Buren,
President of the United States.

ROBERT P. DUNLAP.

Inclosure 1 in No. 2.

In House of Representatives, February 2, 1837.

THE Joint Committee to whom were referred so much of the Governor's message as relates to the north-eastern boundary, and the documents and evidence, together with an order of the two Houses instructing the committee "to inquire into the expediency of providing by law for the appointment of commissioners on the part of this 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, to establish monuments in such places as shall be fixed by said Commissioners and by Commissioners to be appointed on the part of Great Britain," have attended to the duties assigned them, with the industry and solicitude which the importance of the subject demanded. Could the committee have spared the time, and had the means to obtain documents not within the jurisdiction of the State, and consequently out of its power, a more clear, methodical, and perfect view of the subject would have been presented; but as there had been hitherto so much procrastination, and the impatience of the public, already great, was becoming more and more intense, your committee without further preamble or apology, ask leave to present the following report:

The Legislature and people of Maine, we believe, will not contend that the treaty-making power of the United States, does not extend to a final adjustment of a disputed and undefined line of boundary between a State and a foreign nation. *But we do insist* that no power is granted by the constitution of the United States, to *limit or change the boundary of a State or cede a part of its territory without its consent*. It is even by no means certain how far *such consent* would enable the treaty authority to exert its powers. *Citizens* might be made the subjects of a treaty transfer, and these citizens, owing allegiance to the State and to the Union, and allegiance and protection being reciprocally binding, the right to transfer a citizen to a foreign Government, to *sell* him, might well be questioned, as being inconsistent with the spirit of our free institutions. But, be this as it may, Maine will never concede the principle that the President and two-thirds of the Senate can transfer its territory, much less its citizens, without its permission, given by its constitutional organs.

Your committee, however, deem it but fair to admit that they have discovered no inclination in the General Government, or any department of it, to assume this power. On the contrary the President has repeatedly declined the adoption of a conventional line deviating from the treaty of 1783, upon the express ground that it could not be done without the consent of Maine.

It is due, nevertheless, to the State of Maine to say, that the committee have no evidence that any conventional line has been proposed to them for their consent. It indeed appears that the consent of Maine had not been given to the adoption of any other boundary than that prescribed by the treaty of 1783, up to the 29th February, 1836, and we are well assured that no proposition for a different boundary has since that time been made to any department of the Government of this State.

The President of the United States, on the 15th June last, communicated to the Senate, in compliance with their resolution, a copy of the correspondence relative to the

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northeastern boundary. This correspondence embraced a period from the 21st July, 1832, to the 5th March, 1836.

The opinion and advice of the King of the Netherlands, to whom the controversy was referred by the provisions of the Treaty of Ghent, was made on the 10th January, 1831, and of the three questions submitted, viz: *the northeastern boundary, the northwesternmost head of Connecticut river, and the forty-fifth parallel of latitude*, he seems to have determined *but one*. He did decide that the source of the stream running into and through Connecticut lake, is the true northwest head of that river, as intended by the Treaty of 1783; and as to the rest he *advises* that it will be *convenient* (il conviendra) to adopt the "Thalweg," the deepest channel of the St. John's and St. Francis, for the north line; and that the 45th degree is to be measured in order to mark out the boundary to the St. Lawrence, with a deviation so as to include Rouse's Point within the United States. As to the *convenience* of establishing the St. John's and St. Francis as the northern boundary of Maine, we have only to observe that however "convenient" it may be to Great Britain to obtain so large a portion of our territory and waters, it would certainly be very *inconvenient* to us, and inasmuch as we are probably capable of judging of our own "convenience," and have never solicited *the advice* of any one on this point, it is scarcely to be expected that we shall be *advised* to adopt a line so preposterous and injurious.

It was in this view, and in strict conformity with the constitution conferring the treaty power, that the President, on the 7th December, 1831, submitted to the Senate this "award" and "advice" of the King of the Netherlands. Senators were divided on a principal point; some insisting that to carry the award or opinion into effect, was only *in execution* of the Treaty, and it therefore belonged exclusively to the President "to take care" that this "supreme law" was faithfully executed, or to reject it altogether.

But the prevailing opinion was, that this "award" or "advice" was *perfecting an unfinished Treaty*, and that therefore it could not be effected by the President without "the advice and consent of the Senate, two-thirds of the members present concurring therein." So far from the concurrence of two-thirds *for* the measure, there were *thirty-four to eight against* it, and it was consequently rejected, and a recommendation to the President was adopted, to open a new negotiation to determine the line of boundary according to the Treaty of 1783.

It is insisted by the British Ministers that a due north line from the monument at the source of the St. Croix, will intersect no highlands described in the treaty of 1783. Now this is an assumption by Great Britain totally unwarranted by any evidence. The boundaries bearing upon the question are thus given: "from the northwest angle of Nova Scotia, to wit, 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 the rivers that empty themselves into the 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 St. Lawrence."

The first object, starting-place, or *terminus a quo*, is this *northwest angle of Nova Scotia*. It is the corner of the British province, *designated by themselves*. It was presumed, and it is still believed, that they knew the identical spot; we have a right to demand of them to define it. In the Treaty of 1783, they were disposed to define it, and hence they say it is *that angle which is formed by a line drawn due north from the source of the St. Croix, to those highlands which divide the rivers that flow into the St. Lawrence from those which flow into the Atlantic ocean*.

Nothing can be more clear than that the British negotiators of the Treaty of 1783 had reference to their east and west line, between Canada and Nova Scotia. This, in 1755—6, was matter of controversy between France and England, the French claiming that it was far south, and the British strenuously contending that these very highlands were even more-north than we have endeavored to fix them.

The controversy resulted in a war, which, after the capture of Quebec, was terminated by the peace of 1763, whereby Great Britain obtained both sides of the line, and she then established the north line of Nova Scotia about where we contend it should be. So far from admitting that a due north line from the monument will not intersect the highlands intended by the Treaty of 1783, the State of Maine has always insisted, and still insists, that no known obstacle exists to the ascertaining and accurately defining them, and thus establishing the *terminus a quo*, to wit, *the northwest angle of Nova Scotia*. It would seem strange indeed, that as this line, so fully discussed and controverted between the English and French in 1755—6, should have been left unsettled still, when both provinces became British. It is impossible to imagine such ignorance of so important a point as this northwest angle, so often referred to, and spoken of, as a notorious monument.

The peace of 1783 was considered by Great Britain as *a grant by metes and bounds*. The boundaries were prescribed, and this northwest angle was *the commencement*. Twenty years only before this (1763) Nova Scotia had been organized as a distinct province, then including what are now Nova Scotia and New Brunswick, and this angle was referred to as a boundary without hesitancy or doubt. Indeed, the Treaty itself, as if to make assurance doubly sure, fixed it where a due north line from the source of the St. Croix will intersect those highlands which divide the rivers which flow into the *river* St. Lawrence from those which flow into the Atlantic ocean. This source of the St. Croix has been determined and

a monument fixed there by the commissioners, under the 5th article of the Treaty of 1795, (Jay's.) Now the assumption that the north line from this monument will intersect or meet no such highlands is entirely gratuitous.

The Treaty does not speak of mountains nor even hills, but of "highlands" that divide rivers flowing different ways. It was well known that rivers did fall into the St. Lawrence and into the Atlantic; that these rivers would run *down* and not *up*, and it was consequently inferred that the *land* from whence these *rivers* flowed must of necessity be *high*, and unless there are to be found in that region *geological phenomena* which exist no where else on the face of the globe, this inference is irresistible.

The truth is that these highlands have been known and well understood by the British themselves, ever since the grant of James the First to Sir William Alexander, in 1621. The portion of the boundary there given, which relates to this controversy, is from the western spring-head of the St. Croix, by an imaginary line conceived to run through the land northward to the next road of Ship's river or spring, discharging itself into the great river of Canada, and proceeding thence *eastward* along the shores of the sea of the said river of Canada, to the road, haven, or shore, commonly called *Gaspeck*—(Gaspé.)

The cession of Canada by France made it necessary to define the limits of the province of Quebec, and accordingly His Britannic Majesty, by his proclamation of 7th October, 1763, is thus explicit as to what affects this question: "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 de Chaleurs* and the coast of the *gulf* of the St. Lawrence to *Cape Rosiers*," &c.

The Act of Parliament of the 14th George III. (1774,) defines thus the south line of Canada: "South, by a line from the bay de Chaleurs along the highlands which divide the rivers that empty themselves into the river St. Lawrence from those which flow into *the sea*." The north line of the grant to Alexander is from the source of the St. Croix to the springhead or source of some river or stream which falls into the river St. Lawrence, and thence *eastward* to Gaspé bay, which communicates with the gulf of St. Lawrence in lat. 49 deg. 30 min., and would make nearly an east and west line. The proclamation of 1763 defines the *south* line of the province of Quebec as passing along the highlands which divide the rivers that fall into the St. Lawrence from those which fall into the sea, and also along the north coast of the bay de Chaleurs, to *the gulf* of St. Lawrence. This is the *south* boundary, and consequently in an *east* and *west* direction, but it passes *north* of bay de Chaleurs, wherefore the south boundary of the province must of necessity be north of bay de Chaleurs. The eastern boundary is northerly by the gulf of *Cape Rosiers*, in about lat. 50 deg. long. 64 deg. north of Gaspé bay, and at the mouth of the river St. Lawrence, where it communicates with the gulf or sea. And the act of Parliament makes *this south side* from this same bay along those highlands, and it must *inevitably run west*, or it is *no south* boundary. Now no one can doubt that in the proclamation of 1763 it was the intent to adopt Sir William Alexander's *northern* for this *southern* boundary of the province of Quebec.

Indeed it appears in every commission to the Governor of Nova Scotia and New Brunswick from 1763 to 1784, and after the Treaty of Peace of 1783, that the province of Nova Scotia extended to the southern boundary of the province of Quebec. It then irresistibly and inevitably follows that a west line from the bay de Chaleurs, intersecting a due north line from the monument, is the identical northwest angle. Now a line from Mar's Hill direct to Cape Rosiers, instead of being *easterly*, would be north of northeast, *crossing* the bay de Chaleurs. But passing along its north coast, as the proclamation provides, the line from this Mar's Hill must be more northerly still. Indeed the pretence that a pyramidal spur or peak, such as this hill, should constitute the range of highlands mentioned in the Treaty, is so utterly visionary that it is entitled to *no sort of respect*.

We may now, by these facts and reflections, give this inquiry a right direction, to wit: to the ascertainment of the north boundary of Nova Scotia, which is the southern boundary of Canada. We have always been lured from this by the British negotiators to the *left* or *west* of this north line from the monument.

No one who is the least conversant with the subject can suppose for a moment that this northwest angle can be found in such a direction. The question for us is, Are there any highlands north of the bay de Chaleurs, extending in a *western direction*, towards a north line drawn from the monument? If this line westerly from the bay be not distinctly marked so far as to intersect this north line, the principle is to extend it in the same direction to the place of intersection; that is, if the line between Nova Scotia and Canada is *west* to within say thirty miles of the north line from the monument, and the rest of the way is indefinite or obscure, extend it on in the same direction until you form a point of intersection, and this will be the northwest angle of Nova Scotia. But the truth is, *the highlands are there*, and have been found in running due north from the monument. The elevations were taken by the British surveyor from the source of the St. Croix, at the monument, to the first waters of the Ristigouche, and at Mar's Hill, forty miles, the summit of this isolated sugar-loaf was 1,100 feet, and at the termination of the survey at the Ristigouche waters, one hundred miles further, the elevation was 1,600 feet, consequently, the summit of Mar's Hill, 1,100 feet above the waters of the St. Croix, is 500 feet lower than the lands at the Ristigouche, and yet the pretence is that there are no highlands but this detached spur, Mar's Hill! Still further: the highest position surveyed is nearly fifty miles short of the Metis, which falls into the St. Lawrence, and we do not per-

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ceive that the elevations have been taken there at all; but we do find it is here that *the waters separate*, and consequently the land must be still higher.

In failure of highlands, (*assumed* not to exist,) the British negotiators claim a line which, instead of dividing the St. Lawrence and Atlantic waters, would actually extend between two rivers, *both of which fall into the Atlantic*.

To say nothing of the absurdity, not to say ignorance, of such a claim, it is enough that it is in the teeth of the Treaty itself. It is painful to repeat the argument that no other highlands were intended, for all others were expressly excluded but those which divide the waters that flow in those different directions. The effect of their construction, as we all know, is to give them the whole of the St. John, with all its tributaries, and a tract of territory south of that river, equal at least to seventy-five miles square.

Whether, from the peaceful spirit of our Government, the christian patience of Maine, or the "modest assurance" of the British negotiators, any or all, certain it is, that His Britannic Majesty's pretensions *are growing every day*. It is not only an after-thought, but one very recently conceived, that we were to be driven south of the St. John.

His Britannic Majesty's agent, (Mr. Chipman,) who has been lately urging us south of that river, was also agent to the commission under the Treaty of 1795, to ascertain the true St. Croix, and in insisting on a more *western* branch of this river, gives as a reason, that a line due north will cross the St. John's *farther up*, whereas, if you take an *eastern* branch, such line will cross near Frederickton, the seat of Government of New Brunswick, and materially infringe upon His Majesty's province. He not only admits, but contends, that this north line *must* cross the river. Here are his words: "This north line must of necessity cross the river St. John's." Mr. Liston, the British Minister, in a private letter to Mr. Chipman, of 23d October, 1798, recommends a modification of the powers of the commissioners, for the reason that *it might give Great Britain a greater extent of navigation on the St. John's river*. The same agent (Mr. Chipman) was also agent under the fourth article of the Treaty of Ghent, and we find him contending there, that the northwest angle of Nova Scotia is the same designated in the grant to Sir William Alexander in 1621, subject only to such alterations as were occasioned by the erection of the province of Quebec in 1763. Now we have already seen that this south line of the province of Quebec, so far from *altering* this N. W. angle, in fact confirms it.

In perfect accordance with this disposition to encroach, is a proposition of the British Minister, (Mr. Vaughan,) that inasmuch as the highlands cannot be found by a due north direction from the monument, we should *vary west* until we should intersect them, *but not EAST!* Now that, in case a monument cannot be found in the course prescribed, you should look for it *at the left, but not to the right*, seems to us a very *sinister* proposition. We have shown, and, as we think, conclusively, that the range of highlands is to be looked for on British ground, and nowhere else; because it is their own boundary, and a line which must, with an ascertained north line, form the angle of one of their own provinces. And yet we are not to examine there at all; we have never explored the country there, and are expected to yield to such arrogant, extravagant, and baseless pretensions!

We would ask, why, in what justice, if we cannot find the object in the route prescribed, are we to be thus trammelled? where is the *reciprocity* of such a proposition, so degrading to the dignity and insulting to the rights and liberties of this State? No! the people of Maine will not now, and we trust they never will, tamely submit to such a *one-sided* measure.

The next restriction or limitation with which this negotiation is to be clogged, is an admission that the Ristigouche and St. John's are not Atlantic rivers, because one flows into the bay de Chaleurs and the other into the bay of Fundy, yet neither falls into the river St. Lawrence. They would then find those highlands between the St. John's and the Penobscot. There cannot be a more arrogant pretension or palpable absurdity. Suppose the waters of both these rivers are excluded, as flowing *neither way*, still the waters that flow *each way* are so far separated as to leave a tract of country which, if equally divided, would carry us far beyond the St. John's. But we admit no such hypothesis. The *Atlantic* and the *sea* are used in the charters as synonymous terms. The Ristigouche, uniting with the bay de Chaleurs, which communicates with the sea, and the St. John's, uniting with the bay of Fundy, which also communicates with the sea, and that, too, by a mouth of ninety miles wide, are both Atlantic rivers. These rivers were known by the negotiators not to be *St. Lawrence rivers*; they were known to exist, for they were rivers of the first class. If they were neither St. Lawrence nor Atlantic, why were they not excepted? They were not of the former, therefore they must be included in the latter description. Indeed, if rivers uniting with Atlantic bays are not Atlantic rivers, the Penobscot and Kennebec, which unite with the respective bays of Penobscot and Sagadahock, would not be Atlantic rivers; and then, where are those highlands which divide the waters referred to in the Treaty of 1783? Should we leave this question unsettled a little longer, and the British claims continue to increase, we might very soon find these highlands south of the Connecticut, and all the intermediate country would be *recolonized* by "construction." We therefore invoke the sympathy of all New England, with New York besides, to unite against this progressive claim—this avalanche, which threatens to overwhelm *them as well as ourselves*.

Again, if this Mar's Hill (and we confess we cannot speak of the pretension with any patience) is *the northwest angle*, and the north boundary of Nova Scotia and the south boundary of the province of Quebec are the same, and north of the bay de Chaleurs, then

there is indeed *no* northwest angle; for a line due north from the monument, passing by Mar's Hill, must pursue nearly the same direction to get to the north of that bay without crossing it; and who ever thought of an angle at the side of a continuous line? Now, according to the British maps, taken in this very case, you must run a course of north about fourteen degrees east to obtain the north side of the bay without crossing it, and the distance would be, in this almost due north direction, more than one hundred miles, while that from the monument to Mar's Hill would be little more than forty. Now when we consider that this northerly line must form nearly a right angle to pass along the north shore of the bay de Chaleurs, that this is one hundred miles farther north than Mar's Hill, where, instead of an angle, there can be only an inclination of fourteen degrees, can there be a greater absurdity than the British claim, founded on these facts?

We will now present some facts and remarks in regard to the surveys and explorings made by the commission under the 5th article of the Treaty of Ghent: and the first fact that occurs is, that the elevations taken by the British surveyor stop far, short of where the waters divide, and we find no proof that these elevations were carried through by our own surveyors. If the British surveyor, after ascertaining *he was still ascending*, and had, in fact, arrived at the lands at a *branch of a river* elevated five hundred feet above the summit of Mars Hill, *found it prudent to stop short*, we see no good reason why the American agent did not *proceed on* and take accurate elevations at a place where the waters divide. If such a survey was made the committee have not been able to obtain the evidence; it is not in the maps or documents in the library or office of the Secretary of State, and the committee believe that no such elevations have been taken northerly of the first waters of the Ristigouche. It is, indeed, a little singular that we have so little evidence, not only in regard to this height of land, but also of the rivers which flow into the St. Lawrence *to the left*, and *especially to the right* of the north line from the monument.

We know some of them, to be sure, such as the *Oelle, Kamonska, Verte, Trois Pistoles, Remouskey*; and *Metis*, on the left, and the *Blanche, Louis, Magdalen*, and others, on the right of this line, but we know them chiefly as on *maps*, and as transcribed from older maps, but very little from actual survey or even exploration. An examination of the sources of those rivers at the right of this north line, with the important natural boundary, the north shore of the bay de Chaleurs, would accurately define the divisional line between the province of Quebec and Nova Scotia, which, extending west, would intersect the due north line, and thus form the northwest angle of Nova Scotia.

It moreover appears that little or no exploration has been made of the lands *east* of the due north line. It seems strange to us, although it may be satisfactorily explained, why we should have been drawn away from this very important region. It is, indeed, the true source of inquiry. In this direction the evidence is to be found; and Maine can never be satisfied until it is looked for here.

An extraordinary method of adjusting this question, though in perfect accordance with other pretensions, has been proposed by Great Britain—that the disputed territory should be divided in equal portions, each party being satisfied of the justice of its claims. To this proposition we cannot subscribe. It is equally unjust between nations and individuals. Whether a party in controversy is satisfied or not with the justice of his claims, is what is only known to himself, and, consequently, the one whose claims are most exorbitant, however unjust, will always get the best end of the bargain. But such a rule would, in this case, apply most unfortunately to Maine. We are limited, at farthest, to the St. Lawrence, and to a very narrow point there, while the British may extend their claims to the south and west indefinitely. Establish this principle and we shall soon find their claims, already so progressive, stretched over to the Piscataqua, and then if we are to divide equally both as to *quantity* and *quality*, the divisional line then would fall south of the Kennebec. If the want of the consent of Maine is the obstacle to such an adjustment, we trust it will always remain an insuperable one. Indeed, we protest against the application to us of such a rule, as manifestly unequal and unjust.

We come now to the recent transactions of the British colonial authorities, sanctioned, as it appears, by the Government at home; and we regret to perceive in them, also, those strong indications of continual and rapid encroachment which have characterized that Government in the whole of this controversy. Mr. Livingston, in his letter of the 21st of July, 1832, proposes that, "until the matter be brought to a final conclusion, both parties should refrain from the exercise of jurisdiction;" and Mr. Vaughan, in reply of 14th April, 1833, in behalf of his Government, "entirely concurs." Here, then, the faith of the two Governments is *pledged* to abstain from acts of jurisdiction until all is settled. Now how are the facts? We understand, and, indeed, it appears by documents herewith exhibited, that an act has passed the Legislature of New Brunswick, "incorporating the St. Andrew's and Quebec railroad company;" that the King has granted £10,000 to aid the enterprise, and that the Legislature of Lower Canada, by its resolutions of both Houses, has approved the scheme and promised its co-operation. It may be that the Government at home was not aware that this railroad must inevitably cross the disputed territory.

But this ignorance of the subject seems incredible. A railroad from St. Andrew's to Quebec would be *impossible* unless it crossed the territory in question—even next to impossible and totally useless were it to pass at the north of the St. John's. It seems therefore extraordinary indeed, that the British Government, even in the incipient stages of this enterprise, should make an appropriation which is in direct violation of its solemn pledge. To give to a railroad corporation powers over our rights and property is the strongest act of

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sovereignty. It is an act of delegated power which we ourselves give to our own citizens with extreme caution, and with guarded restrictions and reservations. This railroad must not only cross the disputed territory, but it crosses it fifty miles south of the St. John's, and almost to the southerly extremity of the British claim, extravagant as it is. By the map herewith exhibited of the survey of the route, it appears that the road crosses our due north line at Mars Hill, thence doubling round it towards the south, it crosses the *Roostic* between the Great and Little *Machias*, the *Alleguash* at the outlet of *First Lake*, a branch of the St. John's south of *Black river*, and passes into Canada between "Spruce Hills" on the right, and "Three Hills," on the left, thus crossing a tract of country south of the St. John's, one hundred by fifty miles. We have not a copy of the act of incorporation of New Brunswick, and cannot, therefore, say that the route there defined is the same as on the map. Be this as it may, certain it is, as any one will see, that no possible route can be devised which will not cross the territory in question. It is, then, a deliberate act of power, palpable and direct, claiming and exercising sovereignty far south even of the line recommended by the King of the Netherlands.

In all our inquiries and examinations of this subject there has been great negligence in regard to this N. W. angle. Judge Benson, one of the commissioners under Jay's treaty, in a letter to the President of the United States, expressly and clearly defines this angle. He states distinctly that the due north line from the source of the St. Croix, is *the west side line*, and the highlands are *the north side line* which form this angle, and this had never been questioned by the British themselves.

This due north line, viz: the west side line, was established by the commission of which Judge Benson was a member, and the British have made the north side line to be north of the bay de Chaleurs, and yet with these postulates, to pretend that the points of intersection cannot be found, is one of the greatest of their absurdities. And another absurdity quite equal is, that, after passing west along the north shore of this bay, they would fall down nearly south more than one hundred miles to Mars Hill, about sixty miles from the south shore of the province, at the bay of Passamaquoddy, which is a part of the bay of Fundy; and this point too of so little inclination, that it is a palpable perversion of language to call it *an angle*, much more a N. W. angle.

It is indeed time for us to begin to search, and in the right places too, in order to put a stop to these perpetual encroachments upon our territory and rights. Our first object should be to ascertain and trace the north boundary of Nova Scotia, which is the south boundary of the province of Quebec, and see if Canada comes as far down as Mars Hill. And we should proceed to finish taking the elevations on the due north line to some point where the waters divide. The General Government should be immediately called on to execute the work, with the co-operation of Massachusetts and Maine. Notice should be given to the British authorities to unite in the undertaking, and, if they refuse, our Government ought to proceed *ex parte*. The act would be entirely pacific, as the object would be to *ascertain facts*; much more pacific than the survey, *without notice*, of the St. Andrew's and Quebec railroad, through our territory, not for the purpose of ascertaining a boundary, but to assume jurisdiction.

Your committee have gone through this tedious investigation with all the deliberation, exactness, and candor, which our time, means, and feelings would allow. Our animadversions may, in some instances, have been strong, and even severe, but we think we have expressed the sentiments and feelings of the people of Maine, suffering under protracted injuries. This state should take a firm, deliberate, and dignified stand, and one which it will not retract. While it awards to the General Government all its legitimate powers, it will not be forgetful of its own. We call upon the President and Congress; we invoke that aid and sympathy of our sister States which Maine has always accorded to them; we ask, nay, we demand, in the name of justice, HOW LONG we are to be thus trampled down by a foreign people? and we trust we shall meet a cordial and patriotic response in the breast of every republican of the Union.

Your committee, therefore, submit the following resolutions.

L. J. HAM,
NATH'L S. LITTLEFIELD,
SAMUEL P. BENSON,
EBENEZER HIGGINS,
JOHN R. REDMAN,

Of the Senate.

JOHN HOLMES,
J. A. LOWELL,
NATHAN IDE,
DANIEL SMALL,
SEWALL PRESCOTT,
EPHRAIM WEEKS,
JAMES BURBANK,
CHARLES HUNT,
JOHN D. RICHARDS,

Of the House.

STATE OF MAINE.

Resolves relative to the Northeastern Boundary.

Resolved, That we view with much solicitude the British usurpations and encroachments on the northeastern part of the territory of this State.

Resolved, That pretensions so groundless and extravagant indicate a spirit of hostility which we had no reason to expect from a nation with whom we are at peace.

Resolved, That vigilance, resolution, firmness, and union on the part of this State, are necessary in this state of the controversy.

Resolved, That the Governor be authorized and requested to call on the President of the United States to cause the northeastern boundary of this State to be explored and surveyed and monuments erected according to the *Treaty* of 1783.

Resolved, That the co-operation of Massachusetts be requested.

Resolved, That our Senators in Congress be *instructed* and our Representatives *requested* to endeavor to obtain a *speedy* adjustment of the controversy.

Resolved, That copies of this report and resolution be transmitted to the Governor of Massachusetts, the President of the United States, to each of our Senators and Representatives in Congress, and other Senators in Congress, and the Governors of the several States.

In the House of Representatives, March 24, 1837. Read and passed.

H. HAMLIN, *Speaker*.

In Senate, March 25, 1837. Read and passed.

J. C. TALBOT, *President*.

March 25, 1837. Approved.

ROBERT P. DUNLAP.

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Boundary.

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sonment of
E. Greely.

Projected Railway
between Quebec
and St. Andrews.

No. 3.—*The Governor of Maine to the President of the United States.*

Sir,

Executive Department, Augusta, June 27, 1837.

I LOSE no time in communicating to your excellency a copy of a letter from Sir John Harvey, Lieutenant-Governor of the province of New Brunswick, and also a letter from J. A. Maclauchlan to Sir John Harvey, in relation to the arrest and imprisonment of Ebenezer S. Greely.

I have the honor to be, with high considerations, &c.

ROBERT P. DUNLAP.

His Excellency Martin Van Buren,
President of the United States.

Sir,

Government House, Frederickton, N. B. June 12, 1837.

SINCE I had the honor of addressing your Excellency under date the 6th instant, announcing my assumption of the administration of this Government, a report has been laid before me by the warden of the disputed territory, a copy of which I feel it to be an act of courtesy towards your Excellency to lose no time in communicating to you.

In including the territory within the limits of the British claim in the census which "Ebenezer Greely" appears to have been instructed to take of the population of the county of "Penobscot," he has evidently acted in ignorance or under a misconception of the subsisting relations betwixt England and the United States of America, which I cannot allow myself to doubt that your Excellency will lose no time in causing to be explained and removed. Though necessarily committed to confinement, I have desired that every regard may be shown to Greely's personal convenience, consistent with the position in which he has "voluntarily" placed himself: I use this expression because, as your Excellency will observe, Greely was informed by the warden that if he would desist from the act in which he was engaged and the language which he was holding to the people of the Madawaska settlement, (acts constituting not only an interference with the acknowledged rights of jurisdiction of this province but the positive exercise within its limits of actual jurisdiction, however unauthorized on the part of the State of Maine,) and would withdraw from this district, he should be allowed to do so, otherwise, that in the discharge of the duties imposed upon him by his office, he (the warden) who is in the commission of the peace, must be under the necessity of apprehending, in order to make him amenable to the laws of the province. This proposal Greely rejected, and was accordingly committed to jail, to be dealt with according to law. In the mean time, as an evidence of my desire to cultivate the most friendly understanding with the Government of the State of which Greely is a citizen, I lose no time in saying that, upon receiving an assurance from your Excellency that your authority shall be exerted in restraining this or any other citizen of the State of Maine from adopting proceedings within the British limits, (as claimed,) calculated to infringe the authority and jurisdiction of this province and to disturb, and unsettle the minds of that portion of its inhabitants residing in the disputed territories, until the question in dispute be brought to a final settlement, Greely shall be immediately enlarged.

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Trusting that your Excellency will see in this proposition an anxious desire on my part to redeem the pledge given in my communication of the 6th instant.

I have the honor to be, &c.

His Excellency the Governor
of the State of Maine.

J. HARVEY,
M. G., Lt. Governor, &c.

Frederickton, New Brunswick, June 10, 1837.

MAY IT PLEASE YOUR EXCELLENCY: In obedience to your Excellency's instructions, communicated to me through the Advocate General, in the absence of the Attorney and Solicitor Generals, I have now the honor to report, for the information of your Excellency, that I proceeded with the least possible delay to the Madawaska settlement. On my arrival at the Great falls, one hundred and thirty miles from hence, I was informed that the American citizen, Ebenezer S. Greely had passed up the day previous, for the purpose of again proceeding with the census of the inhabitants of Madawaska, under authority from the State of Maine. Aware of the probable excitement that would naturally arise between the two Governments from this circumstance, and at the same time fully convinced that his Majesty's Government would but regret any unnecessary misunderstanding during the pending negotiation, I thought it advisable to call upon Mr. Coombs, a magistrate residing twelve miles above the falls, and request him to accompany me, which he readily did, to witness the conversation between Mr. Greely and myself.

We then proceeded, and overtook Mr. Greely a short distance above Green river, about twenty-four miles from the falls, having ascertained by the inhabitants, as he passed up the river, that Mr. Greely was the whole of the previous day employed in taking down their names, number of each family, and stating they would shortly receive from the State of Maine, a sum of money not exceeding three dollars for each head of family, out of the surplus revenue of the United States.

I required Mr. Greely to show me his instructions for exercising authority in Madawaska, when he handed me a document, a copy of which I beg to enclose to your Excellency, and after perusing the same I returned it, with my opinion that I really thought he (Mr. Greely) had mistaken the intention of his instructions, as no allusion was made either to that settlement or the territory in dispute, and therefore, if he would then desist in taking the census, I would take no notice of what had passed. Moreover, in reply to my advice and request, he (Mr. Greely) remonstrated, and attempted to make it appear that he would be fully borne out by his Government in what he had done; and that it was also his intention to complete the census if he was not prevented. This reply I regret having left me no alternative but to make him a prisoner, which I did on Wednesday the 7th instant. On Friday evening I arrived at Frederickton, and this morning, (Saturday,) by the advice of the Advocate Generals, I committed him to the jail of the county of York.

I have the honor to be, &c.

J. A. MACLAUHLAN,
Warden of the disputed territory.

His Excellency Maj. Gen. Sir John Harvey,
Lieutenant Governor, &c.

No. 4.—The Governor of Maine to the President of the United States.

Sir,

Executive Department, June 19, 1837.

I HAVE the honor to enclose to your Excellency the copy of a letter which came to hand by the last mail, by which it appears that Ebenezer S. Greely, Esq., the agent employed by the county commissioners for the county of Penobscot to take the census of the town of Madawaska, has been arrested by the authorities of the province of New Brunswick, and is now incarcerated in the jail at Frederickton.

In this state of things it becomes my painful duty to make this communication to your Excellency, and to insist that prompt measures be adopted by the Government of the United States to effect the early release of the aforementioned citizen.

I have the honor to be, &c.

His Excellency Martin Van Buren,
President of the United States.

ROBERT P. DUNLAP.

Sir,

Frederickton, Province of New Brunswick, June 12, 1837.

ON the 15th of May last, I was appointed by the county commissioners of Penobscot county to take the census of Madawaska. On the 6th of June instant, I was arrested by Mr. Maclauchlan, from this place, and committed to jail by him, and there I now remain in the prison at Frederickton. I was committed on the 10th instant. I addressed a letter to you on the 10th, which has gone by the way of St. Andrew's. Fearing that letter will not arrive soon, I write again to-day by way of Houlton. I have described my arrest more particularly in my first letter, which you will undoubtedly receive before long; therefore, I only give the facts in this, having a chance, by the assistance of Mr.

Lombard, of Hallowell, of forwarding this to Houlton privately. I was employed in business of the State, and do expect my Government will intercede and liberate me from prison in a foreign and adjacent province. I shall be pleased to receive a line from you expressing your opinion, direction, &c.

I remain, &c.

Robert P. Dunlap, Esq.
Governor of Maine.

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No. 5.—*The Secretary of State to the Governor of Maine.*

Sir,

Department of State, Washington, June 26, 1837.

I HAVE the honor, by direction of the President, to acknowledge the receipt of your letter to him of the 19th instant, enclosing the copy of a communication dated the 12th of the same month, addressed to you by Ebenezer S. Greely, Esq., the agent employed by the county commissioners for the county of Penobscot to take the census of the town of Madawaska; from which it appears that he has been arrested by the authorities of the province of New Brunswick, and is now in confinement in the jail at Frederickton; and insisting that prompt measures be adopted by the Government of the United States to effect the early release of the above-named citizen.

The circumstances attending this outrage, as given in Mr. Greely's letter, are not sufficient, in the view of the President, to warrant the interference of the Government at present. For what cause, at what place, and by what authority, the arrest was made, is not stated. The necessary explanations may be found, perhaps, in the previous communication which Mr. Greely refers to as having been addressed to you by him on the 10th June; if not, it is probable that you will easily be able to obtain explicit information from other sources, and communicate it to this Department. It is indispensable that a full knowledge of all the facts illustrative of the case should be in possession of the Government before any formal application for redress can be properly preferred.

In the mean time, I have, in conversation, unofficially called the attention of Mr. Fox, the British Minister at Washington, to this complaint, and he has given me an assurance that he will immediately address a representation on the subject to the Governor of New Brunswick, requesting, unless there shall be some very extraordinary reasons against it, that Mr. Greely may be set at liberty.

I am, &c.

His Excellency Robert P. Dunlap, Esq.
Governor of Maine.

JOHN FORSYTH.

No. 6.—*The Governor of Maine to the Secretary of State.*

Sir,

Executive Department, July 3, 1837.

I HAVE had the honor to receive yours of the 26th of June last; in which, by direction of the President, you indicate that the circumstances detailed in Mr. Greely's letter relative to his arrest and imprisonment are not of themselves, without further explanation, sufficient to justify the interference of the Government of the United States. This information is received with some surprise, and much regret: surprise, because I had understood Mr. Greely's communication to show, that while employed within the limits of this State, and under its authority, on a business intrusted to him by the laws of the State, he was, without being charged or suspected of any other offence, seized and transported to a foreign jail; regret, inasmuch as the feelings of the people of this State have been strongly excited by this outrage upon the honor and sovereignty of Maine; and each additional day's confinement which that unoffending citizen endures, is adding to the indignation of our citizens. I therefore hasten to lay before you a summary of the transactions connected with this subject, as they are gathered from Mr. Greely's communications to this Department. The facts are to be considered the less indisputable, because they are in the main confirmed by the statements contained in the letter of the Lieutenant Governor of the province of New Brunswick, by whose order the imprisonment was made, and a copy of which I recently had the honor of transmitting to the President.

On the eighth day of March last, the Legislature of this State passed an act relative to the surplus revenue, a copy of which is enclosed, to the eleventh, twelfth, and thirteenth sections of which I beg leave to refer your attention. An additional act was passed on the 29th day of March last, a copy of which I also enclose. By this last-named act, it became the duty of the county commissioners of Penobscot county to cause an enumeration to be taken of the inhabitants of said county residing north of the surveyed and located townships. The tract thus defined comprised the town of Madawaska, which was incorporated by this State on the 15th of March, 1831. Pursuant to that requirement, the county commissioners of said county appointed Ebenezer S. Greely to perform that service; and being duly commissioned, he forthwith proceeded to the place designated, and entered upon the required operations. Being thus employed, he was, on the 29th day of May last, arrested by the authorities of the province of New Brunswick, and conveyed to Woodstock, in the county of Carleton, in said province; but the sheriff of the county refused to commit him to jail, and he was accordingly discharged. He immediately returned to the Madawaska settlements, to enter again upon the duty intrusted to him. On the 6th

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day of June last, he was arrested a second time by the same authorities, and committed to the jail at Frederickton. It is for this act of obedience to the laws of his Government, that Mr. Greely now lies incarcerated in a public jail in the province of New Brunswick. Is not redress urgently called for? Must not this unoffending citizen be immediately released?

Permit me, sir, to add my confident belief that the President, on this presentation of the facts relative to this outrage upon the National as well as the State rights, will not fail to demand the immediate release of Ebenezer S. Greely, and to interpose suitable claims of indemnity for the wrongs so wantonly enforced upon him.

I am, &c.

Hon. John Forsyth,
Secretary of State of the United States.

ROBERT P. DUNLAP.

An additional Act providing for the distribution and repayment of the public money apportioned to the State of Maine on deposit by the Government of the United States.

Sec. 1. Be it enacted by the Senate and House of Representatives in Legislature assembled, That the time allowed to the respective cities, towns, and plantations, in which to take the census and make returns thereof to the State treasurer is hereby extended to the twentieth day of June next.

Sec. 2. Be it further enacted, That the treasurer is hereby directed to distribute the amount of the second instalment of the surplus revenue among the cities, towns, and plantations, according to the number of their respective scholars, as borne on the school fund apportionment of the present year. And the third instalment shall be distributed according to the same apportionment, unless the census required by the act to which this is additional shall be fully made, and the returns thereof to the treasurer completed, by the first day of July next.

Sec. 3. Be it further enacted, That the third and fourth instalments shall be distributed among the towns, plantations, cities, and unincorporated places, in such manner as that the aggregate of the four instalments shall be in exact proportion to their population, as ascertained by said census.

Sec. 4. Be it further enacted, That, in addition to the enumeration required by the act aforesaid to be taken by the county commissioners, it shall be the duty of the county commissioners of the county of Penobscot to take the enumeration or census of all the inhabitants of said county residing north of the surveyed and located townships.

Sec. 5. Be it further enacted, That the treasurer be directed to cause the first section of this act to be forthwith published in all the newspapers that publish the laws of the State.

Sec. 6. Be it further enacted, That the act to which this is additional, and also this act, shall take effect and be in force from the times of the passage thereof respectively.

[Approved by the Governor, March 29, 1837.]

11th, 12th and 13th Sections of an Act providing for the disposition and repayment of the public money apportioned to the State of Maine on deposit by the Government of the United States.

Sec. 11. Be it further enacted, That, for the purpose of ascertaining the population of the several cities, towns, and plantations, in this State, the aldermen of cities, the selectmen of towns, and the assessors of plantations, are hereby authorized, at the expense of their respective cities, towns, and plantations, to cause the number of the inhabitants thereof, (omitting in such enumeration foreigners not naturalized, whose residence has not been established at least four years in any of the cities, towns, or plantations, or other place wherein such enumeration is to be made, and Indians not taxed,) to be taken, according to the directions of this act. The said enumeration shall distinguish all persons under the age of four years; those of four and under twenty-one; and those of twenty-one and upwards, belonging to each city, town, and plantation in this State, on the first day of March, eighteen hundred and thirty-seven.

Sec. 12. Be it further enacted, That said aldermen, selectmen, or assessors, or such person or persons as shall be appointed by them for that purpose, shall respectively, before entering upon the performance of their duty as aforesaid, take and subscribe an oath or affirmation, before some justice of the peace, for the faithful performance of their duties, in substance as follows:

I, ———, of ———, do solemnly swear (or affirm) that I will truly and faithfully make a full and perfect enumeration and description of the persons resident with the ——— of ——— on the first day of March, eighteen hundred and thirty-seven, and return the same to the treasurer of Maine, agreeably to the directions of an act entitled "An act providing for the disposition and repayment of the public money apportioned to the State of Maine on deposit by the Government of the United States," according to the best of my ability; and that I will make said enumeration and description by actual inquiry at

every dwelling-house in said — or personal inquiry of the head of every family, and not otherwise.

Sec. 13. Be it further enacted, That said enumeration shall be fully completed, and accurate returns thereof made to the treasurer of the State, on or before the twentieth day of April next; which returns shall be made in a schedule, the form of which (with the form of the oath specified in this section) shall be provided and furnished by said treasurer, and they shall distinguish the several families by the name of their master, mistress, or head. And the person taking such enumeration shall take and subscribe upon the returns rendered by him, an oath or affirmation as follows:

I, ———, do solemnly swear (or affirm) that the number of persons set forth in the return made by me, agreeably to the provisions of the act entitled "An act providing for the disposition and repayment of the public money apportioned to the State of Maine on deposit by the Government of the United States," has been ascertained by an actual inquiry at every dwelling-house, or a personal inquiry of the head of every family, in conformity with the provisions of said act; and that the return aforesaid is correct and true, according to the best of my knowledge and belief.

A. B.

And the blank forms which the treasurer is to transmit shall be forwarded to the sheriffs of the respective counties, whose duty it shall be to cause the same to be forthwith distributed to the clerks of the respective cities, towns, and plantations. And the sheriff's bill therefor shall be presented to the Legislature for allowance.

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No. 7.—*The Secretary of State to the Governor of Maine.*

Sir, *Department of State, Washington, July 14, 1837.*
YOUR letter of the 3d instant has been received. The surprise you express that the information contained in the letter of Mr. Greely, which accompanied your former communication, was not considered sufficient to enable the President to make a formal application to the British Government for his release, has probably arisen from your not having adverted particularly to the defects of his statement. It was not expressly mentioned for what offence the arrest was made, nor where it took place, upon the territory in dispute between the United States and Great Britain, or beyond it. The character of the charge and the place at which the offence was committed might have been inferred from what was stated; but you must perceive the impropriety of a formal complaint from one Government to another founded upon inference, when the means of ascertaining and presenting the facts distinctly were within the power of the party complaining. But although this Department felt itself constrained by these considerations to delay a formal application to the British Government for the release of Mr. Greely, it lost no time, as has been already stated, in procuring the interference to that end of the British Minister near this Government; and I have now the satisfaction to inform you that I have learnt from him that he has opened a correspondence with the Lieutenant-Governor of New Brunswick, which it is expected will lead to the release of Greely from confinement, without waiting for the decision of His Britannic Majesty's Government on the whole question.

The information communicated to the Department since the receipt of your letter of the 3d instant, is sufficiently explicit, and a note founded upon it has been, by direction of the President, addressed to Mr. Stevenson, instructing him to demand the immediate liberation of Mr. Greely, and indemnity for his imprisonment.

I have the honor to be, &c.

Hon. Robert P. Dunlap,
Governor of the State of Maine.

JOHN FORSYTH.

P. S. The papers asked for in your letter of the 27th ultimo will be sent to you.

No. 8.—*The Governor of Maine to the Secretary of State.*

Sir, *Executive Department, Augusta, June 27, 1837.*
I WOULD respectfully solicit copies of all documents and papers in the Department of State of the United States, in relation to the subject of the Northeastern boundary, with the exception of such as were furnished this Department by the General Government in the year 1827. It is understood that copies have been furnished relative to this subject down to the respective statements submitted by the two Governments to the King of the Netherlands, but the arguments we have not been furnished with.

I am, &c.

Hon. John Forsyth,
Secretary of State of the United States.

ROBERT P. DUNLAP.

No. 9.—*The Secretary of State to the Governor of Maine.*

Sir, *Department of State, Washington, July 19, 1837.*
IN compliance with the request contained in your letter of the 27th ultimo, I have the honor to transmit to you a printed volume, containing a statement on the part of the United States of the case referred, in pursuance of the Convention of the 29th September, 1827, between the said States and Great Britain, to the King of the Netherlands, for his decision thereon, and to refer you, for such other papers and documents in relation to the Northeastern boundary as have not been specially furnished by this Department to the Executive of Maine, to the following numbers in the volumes of documents of the

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Senate and House of Representatives, distributed under a resolution of Congress, and which have been from time to time transmitted to the several State Governments, including that of Maine.

Documents of the House of Representatives.

1st session 20th Congress, No. 217, 218.
2d session 20th Congress, No. 90.
2d session 23d Congress, No. 62.

Documents of the Senate.

1st session 24th Congress, No. 414.

I have the honor to be, &c.

Hon. Robert P. Dunlap,
Governor of Maine.

JOHN FORSYTH,
Secretary of State.

No. 10.—*The Governor of Maine to the Secretary of State.*

Sir,

Executive Department, July 28, 1837.

IMPELLED by a sense of duty, arising from the oversight committed to me of the rights and interests of this State, I beg leave to invite the attention of your Excellency to the subject of the Northeastern boundary of Maine. By the Federal Compact, the obligation of defending each State against foreign invasion, and of protecting it in the exercise of its jurisdictional rights up to its extreme line of boundary, is devolved upon the National Government. Permit me respectfully to inform the President that, in the opinion of the people of Maine, the justice due to this State, in this respect, has not been rendered.

Let it not be suspected that the discontents which are moving strongly and deeply through the public mind, flow from any deficiency of attachment or practical adhesion to our National Government. Without appealing to the blood so freely poured out in war by the citizens of Maine; to the privations so cheerfully endured while the restrictive measures of the Government were prostrating the most important interests of this commercial people, or to the support of the Union so cordially given through every vicissitude up to the present hour: such a suspicion, if it could arise, would be sufficiently refuted by merely adverting to the forbearance with which they have so long endured the aggressions by a foreign Government upon their sovereignty, their citizens, and their soil.

It would be easy to prove that the territory of Maine extends to the highlands north of the St. John. But that point, having been not only admitted but successfully demonstrated by the Federal Government, needs not now to be discussed. Candor, however, requires me to say that this conceded and undeniable position ill accords with the proceedings in which the British authorities have for many years been indulged, and by which the rightful jurisdiction of Maine has been subverted, her lands ravaged of their most valuable products, and her citizens dragged beyond the limits of the State, to undergo the sufferings and ignominies of a foreign jail. These outrages have been made known to the Federal Government, they have been the subject of repeated remonstrances by the State, and these remonstrances seem as often to have been contemned. It cannot be deemed irrelevant for me here to ask, amid all these various impositions, and while Maine has been vigorously employed in sustaining the Union and in training her children to the same high standard of devotion to the political institutions of the country, what relief has been brought to us by the Federal Government? The invaders have not been expelled. The sovereignty and soil of the State are yet stained by the hostile machinations of resident emissaries of a foreign Government. The territory and the jurisdiction of six millions of acres, our title to which the Government of the United States has pronounced to be perfect, have, without the knowledge of Maine, been once put entirely at hazard. Grave discussions, treaty arrangements, and sovereign arbitration have been resorted to, in which Maine was not permitted to speak, and they have resulted, not in removing the factitious pretensions, but in supplying new encouragements to the aggressors. Diplomatic ingenuity, the only foundation of the British claim, has been arrayed against the perfect right.

In the mean time a stipulation made by the Executive of the nation, without the knowledge of Maine, purported to preclude her from reclaiming her rightful jurisdiction until the slow process of a negotiation should be brought to a close. Whatever the real force of that stipulation might be, made as it was without the concurrence of the two branches of the treaty-making power, it was hoped, when it expired by the closing up of that negotiation, that a measure fraught with such hurtful consequences to Maine would not again be attempted. But that hope was to be disappointed, and now, by a compact of similar character, a writ of protection appears to have been spread by our own Government over the whole mass of British aggressions. What then has the Federal Government done for this State? May it not be said, in the language of another, "Maine has not been treated as she endeavored to deserve."

On the twenty-second day of April last, I had the honor to transmit to your Excellency certain resolves passed by the Legislature of this State, relative to the Northeastern boundary, and, in behalf of the State, to call upon the President of the United States to cause the line to be explored and surveyed, and monuments thereon erected. That this

call, made by direction of the Legislature, did not extend to the expulsion of invaders, but merely to the ascertainment of the treaty line, will, I trust, be viewed as it was designed to be, not only as an evidence of the continued forbearance of Maine, but as a testimonial of the confidence she cherished that the Federal Executive would protect the territory, after its limitation should be ascertained. That this application would meet with favor from the Federal Executive was expected, more especially as Congress had made a specific appropriation for the purpose. I will not attempt to conceal the mortification I have realized, that no reply has been made to that communication, nor any measures taken, so far as my information extends, for effecting the object proposed.

It now remains, that in the exercise of that faithfulness for which I stand solemnly pledged to the people of Maine, I should again commend to the attention of the National Executive this apparently unwelcome but really important subject.

I have therefore the honor again to request that the President will cause the treaty line upon the Northeastern limits of Maine to be run and marked, and I cannot but hope that, on a re-examination of the subject, your Excellency will concur with this State in relation to the rightfulness and the necessity of the measure proposed, as well as to all the remedies to be adopted for restoring to Maine the invaluable rights from which she has so long been debarred.

I have the honor to be, &c.

To his Excellency Martin Van Buren,
President of the United States.

ROBERT P. DUNLAP.

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No. 11.—*The Secretary of State to the Governor of Maine.*

SIR, *Department of State, Washington, August 17, 1837.*

YOUR letter of the 28th ultimo, to the President, was duly received. It has been referred to this Department, with instructions to make a suitable reply.

Your Excellency is of opinion that the Federal Government has, for a series of years, failed to protect the State of Maine in the exercise of her jurisdictional rights to the extent of her boundary, and complains that these rights have been, in consequence thereof, subverted, the lands of the State ravaged of their most valuable productions, and her citizens subjected to imprisonment in a foreign jail. Your Excellency particularly objects to the course of the Federal Government for having, without the knowledge of the State, put entirely at hazard the title of Maine, admitted by the Government of the United States to be perfect, to the territory in question, by the resort to diplomatic discussions, treaty arrangements, and foreign arbitration, in which Maine was not permitted to speak; for having entered into a stipulation, without her consent, purporting to preclude the State from retaining her rightful jurisdiction, pending a negotiation, and for the continuance of it after that negotiation was supposed to have been concluded; and for an omission, on the part of the Executive of the United States, to comply with an application of the State, made through her Legislature, to have the boundary line between Maine and the British North American possessions explored, surveyed, and monuments erected thereon, in pursuance of the authority conferred on the President by Congress, and of a request made by your Excellency, which is now renewed.

The views which your Excellency has been pleased to take of the subject at this time, embrace measures, some of which have long since ceased to be operative, and reach back to the propriety of the stipulations entered into by the Treaty of Ghent; also, of the subsequent negotiation designed to bring those stipulations to a satisfactory result, in the mode prescribed by that Treaty—that of arbitrement. It being, as your Excellency states, the opinion of Maine that those proceedings were unjust and unwise, it is, in a matter in which she is so deeply interested, her undoubted right to say so; yet the President thinks that he cannot be mistaken in believing that no practical good can, at this time, be expected from discussion between the Federal and State Governments upon those points. That the measures referred to have not been as fortunate in their results as was hoped, is entirely true, but your Excellency may nevertheless be assured that they had their origin in a sincere desire, on the part of the Federal Government, to discharge all its duties towards the State of Maine as a member of the Union, and were resorted to in the full belief that her just rights would be promoted by their adoption.

In speaking of the restrictions imposed upon Maine in reclaiming her rightful jurisdiction, your Excellency doubtlessly refers to the understanding between the Federal Government and that of Great Britain, that each party should abstain from the exercise of jurisdiction over the disputed territory during the pendency of negotiation. Unless it be correct to say that the controversy was one that did not admit of negotiation, and that the duty of the Federal Government consisted only in an immediate resort to maintain the construction put by itself upon its own rights and those of the State of Maine, there would seem to be no reasonable objection to such an arrangement as that alluded to, whether it be viewed in respect to the interests or the pacific and just characters of the respective Governments. That this arrangement was not abrogated at the period at which your Excellency is understood to suppose that it ought to have been done, viz.: upon the failure of a settlement of the controversy by arbitration, is explained by events of subsequent occurrence. When the award of the arbitrator was submitted by the late President to the Senate of the United States, that body refused its advice and consent to the execution of the award, and passed a resolution recommending to him to open a new negotiation

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with Great Britain for the ascertainment of the boundary according to the Treaty of Peace of 1783. That negotiation was forthwith entered upon by the executive, is still pending, and has been prosecuted with unremitting assiduity. It is under such circumstances that the Federal Executive has decided upon a continued compliance with the arrangement referred to, and has insisted also upon its observance on the part of Great Britain.

Considerations of a similar nature have induced the President to refrain hitherto from exercising the discretionary authority with which he is invested, to cause the boundary line in dispute to be explored, surveyed, and monuments to be erected thereon. Coinciding with the Government of Maine on the question of the true boundary between the British Provinces and the State, the President is yet bound by duty to consider the claim which has been set up by a foreign power in amity with the United States, and the circumstances under which the negotiation for the adjustment of that claim has been transmitted to him. It could not be useful to examine the foundation of the British claim in a letter to your Excellency. Respect for the authorities of a friendly nation compels us to admit that they have persuaded themselves that their claim is justly grounded. However that may be, the present President of the United States, upon entering on the discharge of the duties of his office, found that a distinct proposition has been made by his predecessors for the purpose of amicably settling this long-disputed controversy, to which no answer has yet been received. Under such circumstances, the President was not able to satisfy himself, however anxious to gratify the people and the Legislature of Maine, that a step like that recommended by them could be usefully or properly taken.

The clause containing the specific appropriation made by the last Congress, for exploring, surveying, and marking certain portions of the Northeastern boundary of the United States, to which your Excellency alludes, is by no means imperative in its character. The simple legislative act of placing a sum of money under the control of the executive for a designated object, is not understood to be a direction that it must in any event be immediately applied to the prosecution of that object. On the contrary, so far from implying that the end in view is to be attained at all hazards, it is believed that it merely vests a discretionary power in the President to carry out the views of Congress, on his own responsibility, should contingencies arise to render expedient the proposed expenditure.

Under existing circumstances, the President deems it proper to wait for the definitive answer of the British Government to the last proposition offered by the United States; when received, a further communication to your Excellency may be found proper; and if so, will be made without unnecessary delay.

It cannot be necessary to assure your Excellency that the omission to reply to your communication, forwarding to this Department the resolutions of the Legislature of Maine, did not, in any degree, arise either from a want of respect for the wishes of your Excellency, or from indifference to the interests of the State. When these resolutions were received, there was every reason, at no distant day to expect, what is now daily looked for, a definitive answer to the proposition just alluded to, to which the attention of the British Government had been again forcibly invited about the time those resolutions were on their passage. Under this expectation, a reply to the application from Maine was temporarily delayed; the more readily, as, about the time of its reception, the Representatives of Maine, acting in reference to one of those resolutions, had a full and free conversation with the President.

The most recent proceedings relative to the question of boundary were shown to them in this Department by his directions, and the occasion thus afforded was cheerfully embraced of offering frank and unreserved explanations of the President's views.

Of the recent events which have called the attention of the State of Maine to the question of the northeastern boundary, and which have been brought by it to the notice of the President, one, the arrest and imprisonment of Mr. Greeley, has already been made the subject of communication with your Excellency. All that it was competent for the Federal Executive to do, has been done. Redress has been demanded, will be insisted upon, and is expected from that authority from whom alone redress can properly be sought. The President has followed the same course that was pursued by one of his predecessors, and which was understood to be satisfactory to the State of Maine, under circumstances of a somewhat similar character. In respect to the other, the projected construction of a railroad between St. Andrews's and Quebec, a representation has been addressed to the British Government, stating that the proposed measure is inconsistent with the understanding between the two Governments to preserve the *status quo* in the disputed territory until the question of boundary be satisfactorily adjusted, remonstrating against the project as contrary to the American claim, and demanding a suspension of all further movements in execution of it. No answer has yet been received to this communication. From an informal conversation between the British Minister at Washington and myself, at the Department of State, the President is, however, firm in the conviction that the attempt to make the road in question will not be farther prosecuted.

I am, in conclusion, directed to inform you that, however unbounded may be the confidence of the Legislature and people of Maine in the justice of their claim to the boundary contended for by the United States, the President's is not less so; and your Excellency may rest assured that no exertions have been, or shall be spared on his part, to bring to a favorable and speedy termination, a question involving interests so highly important to Maine and to the Union.

I have the honor to be, &c.,

JOHN FORSYTH.

His Excellency Robert P. Dunlap, *Governor of Maine.*

No. 12.—*The Secretary of State to the Governor of Maine.*

Sir, *Department of State, Washington, August 25, 1837.*

I HAVE the honor to transmit to your excellency, by direction of the President, the copy of a note from the British Minister at Washington, dated yesterday, stating that the Government of Her Britannic Majesty has been pleased to direct the immediate discontinuance, by the colonial authorities of Lower Canada and New Brunswick, respectively, of all operations connected with the projected railroad between the cities of Quebec and St. Andrew's.

Mr. Fox took occasion, on Wednesday last, to inform me that Mr. Greely had been discharged from imprisonment at Fredrickton; a fact of which, doubtlessly, your excellency has been sometime since apprized.

I have the honor to be, &c.

JOHN FORSYTH.

His Excellency Robert P. Dunlap, Governor of Maine.

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No. 13.—*Mr. Forsyth to Mr. Fox.—Department of State, Washington, March 23, 1837.*

[See VI.—Inclosure 1 in No. 1. Page 49.]

No. 14.—*Mr. Fox to Mr. Forsyth.—Washington, March 28, 1837.*

[See VI.—Inclosure 2 in No. 1. Page 50.]

No. 15.—*Mr. Fox to Mr. Forsyth.*

Sir, *Washington, August 24, 1837.*

WITH reference to the official note which, by direction of the President, you addressed to me on the 23rd of March last, respecting a projected railroad between the cities of Quebec and St. Andrew's, which, it was apprehended, would, if carried into effect, traverse a part of the territory at present in dispute between Great Britain and the United States, I am now enabled to inform you that, in consideration of the arguments and observations contained in your note, Her Majesty's Government has been pleased to direct the colonial authorities of Lower Canada and New Brunswick, respectively, to cause all operations connected with the above-mentioned project, within the limits of the disputed territory, to be immediately discontinued.

I have the honour to be, sir, with high respect, &c.

Hon. John Forsyth, Secretary of State.

H. S. FOX.

No. 16.—*Mr. Stevenson to Viscount Palmerston.*

(Extract.)

23, Portland Place, August 10, 1837.

THE undersigned will avail himself of the occasion to remind Lord Palmerston of the urgency which exists for the immediate and final adjustment of this long-pending controversy, [respecting the north-eastern boundary,] and the increased obstacles which will be thrown in the way of its harmonious settlement by these repeated collisions of authority, and the exercise of exclusive jurisdiction by either party within the disputed territory.

He begs leave, also, to repeat to his Lordship assurances of the earnest and unabated desire which the President feels, that the controversy should be speedily and amicably settled, and to express the anxiety with which the Government of the United States is waiting the promised decision of Her Majesty's Government upon the proposition submitted to it as far back as July, 1836, and which the undersigned had been led to believe would long since have been given; and he has been further directed to say, that should this proposition be disapproved, the President entertains the hope that some new one, on the part of Her Majesty's Government, will immediately be made for the final and favourable termination of this protracted and deeply-exciting controversy.

The undersigned begs Lord Palmerston to receive renewed assurances of his distinguished consideration.

A. STEVENSON.

XII.

Correspondence between the State of Maine and the General Government, under a Resolution of the House of Representatives of Maine, passed March 3, 1832. Message of the Governor and Reports and Proceedings of the Legislature of Maine, respecting the North-eastern Boundary, the Arrest of Greely, and Fortifications.—1838.

No. 1.—*J. T. Sherwood, Esq. to John Bidwell, Esq.—(Received April 14.)*

*British Consulate, Maine and New Hampshire,
Portland, March 14, 1838.*

Sir,

THE only intelligence which has lately transpired within this Consulate in relation to the North-eastern Boundary, being the correspondence between the Commissioners on the part of the State of Maine under a Resolve of its Legislature, passed March 3rd, 1832, and the late Secretaries of the Treasury and Navy on the part of the General Government of the United States, heretofore kept secret, I beg leave to inclose* the same to you for the information of his Lordship Viscount Palmerston.

I am, &c.

(Signed)

J. T. SHERWOOD.

*John Bidwell, Esq.
&c. &c. &c.*

No. 2.—*J. T. Sherwood, Esq. to John Bidwell, Esq.—(Received April 14.)*

*British Consulate, Maine and New Hampshire,
Portland, March 15, 1838.*

Sir,

THE Documents lately received from the General Government of the United States, by the Governor of the State of Maine, in relation to the North Eastern Boundary, proposing to have a Conventional Line run by a scientific Board of Commissioners, to be mutually agreed on by Her Majesty's Government and that of The United States, having been, on the 14th instant, communicated to the Legislature of this State for its consent, I have to acquaint you, for the information of my Lord Palmerston, that His Excellency Edward Kent, the present Governor, in his Message accompanying the said Documents, strongly disapproves of the State giving its consent to any such agreement being entered into.

The subject, however, has not yet been acted upon by the Legislature, but, in my opinion, from the feelings of that Body, this recommendation or disapproval will be fully adhered to, and the line insisted upon being run according to the Treaty.

I also have the honour to inclose you a Newspaper, "Maine Daily Journal," (published this day) containing a report of the Committee to whom was referred so much of the Governor's Address to the Legislature, at his inauguration over the State of Maine, (copies of which I forwarded you) as relates to the North-Eastern Boundary, and to the arrest of E. S. Greely, in Her Majesty's Province of New Brunswick.

I have, &c.,

(Signed)

JOS. T. SHERWOOD.

John Bidwell, Esq.

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THE joint select Committee, composed of Messrs. Osgood, Boutelle, Ham, Higgins, Whipple, Sheldon, Tenney, Dudley, Levensaler, Goodenow, Roberts, Small, Fowler, Harris and West, to whom was referred so much of the Governor's address as relates to the North Eastern Boundary; and also the papers and correspondence relating to the arrest of E. S. Greely, by the officers of the British Government, in the Province of New Brunswick—have had the same under consideration, and ask leave to

REPORT.

THE deliberations of your Committee led them to the conclusion that it was neither necessary nor expedient for them to enter upon an elaborate argument to prove the validity of our claims to the territory in dispute. That has been so frequently and ably done by committees of previous Legislatures, and in various other ways, that it is presumed no citizen of the United States, who knows any thing of the subject, can entertain a shadow of a doubt in relation to it. Your Committee will, therefore, waive all discussion upon this

* The Inclosures here referred to, are a letter from Mr. Kent to the Speaker of the House of Representatives, communicating the "Report of the Commissioners who were appointed under a Resolve respecting the Territory lying North and East of the Rivers St. John and St. Francis, passed March 3, 1832," and the other Documents therein referred to. See Inclosure No. 1 in No. 3

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point, adopting in its broadest import, the language of the Governor, that "If there is any meaning in plain language, and any binding force in treaty engagement,—if recognition and acquiescence for a long series of years, on the part of Great Britain, in one uniform expression and construction of the boundaries of her Provinces of Canada and Nova Scotia—is of any weight, then the right of Maine to the territory in dispute, is as clear and unquestionable as to the spot upon which we stand. It requires, indeed, the exercise of charity to reconcile the claim made by Great Britain with her professions of strict integrity and high sense of justice in her dealings with other nations; for it is a claim of very recent origin, growing from an admitted right in us, and proceeding, first, to a request to vary our acknowledged line for an equivalent, and then, upon a denial, to a wavering doubt, and from thence to an absolute claim."

It has required, and still requires, all the talents of her statesmen and skill of her diplomatists, to render that obscure and indefinite which is clear and unambiguous; and we "cannot for a moment doubt, that if the same question should arise in private life, in relation to the boundaries of two adjacent farms, with the same evidence and the same arguments, it would be decided by any court, in any civilized country, without hesitation or doubt, according to our claim."

Indeed, upon a review of the whole history of the North Eastern Boundary, the conviction fixes itself upon the minds of your Committee, that the British Government has been all along conscious of the weakness of their claim to the disputed territory, and has been seeking to strengthen it by the exercise of jurisdictional authority over that territory.

The first intimation of a claim to a rightful exercise of sovereignty or jurisdiction, on the part of Great Britain, your Committee believe is to be found in a letter from Mr. Addington, the British Minister at Washington, to Mr. Clay, dated May 23, 1825; and the doctrine is first distinctly avowed in a letter from Mr. Vaughan, the successor of Mr. Addington, in a letter to Mr. Clay, dated 17th Sept., 1827. In both these letters, however, it is worthy of notice, that the exercise of acts of sovereignty over any part of the disputed territory, except the "Ancient British Settlement" of Madawaska, as Mr. Vaughan terms it, is rather hesitatingly asserted. Indeed, Mr. Addington admitted that the exclusive jurisdiction over the Aroostic territory could not be claimed by either party. He says "both parties claim, and it appears have exercised an equal right over it." But it seems that, in 1827, the British Government not only determined to claim the actual jurisdiction over other parts of the Territory besides Madawaska, but actually attempted its exercise in those parts, by seizing the property of American citizens resident on the Aroostic river, thirty miles from the British line, and by the actual arrest and imprisonment of another citizen, John Baker, who lived on the Merumticook River, many miles westward of the Madawaska. From that time to the present, your Committee believe, that the arrogant and unjustifiable pretension to exercise an exclusive jurisdiction over the whole disputed territory has not been abandoned, though sometimes partially suspended in compliance with a conventional arrangement between the two Governments, but again resumed the moment occasion was presented. Nor are these gross assumptions of sovereign authority the mere acts of colonial officers. They have been sustained by the British Government, and defended by her ministers at Washington.

In reviewing the history of the extraordinary claims of the British Government, and the unwarrantable doctrines of British diplomacy, in relation to the disputed territory, your Committee are bound in justice to state, that in every stage of these encroachments, the people of Maine have earnestly and [earnestly] denied their validity, and have been constant and unremitting in their demands upon the United States' Government for the protection and preservation of their territorial rights. Nor has the General Government been wholly inattentive to those repeated demands.

When the claim to exercise jurisdiction, by the British Government, was first intimated through Mr. Addington and Mr. Vaughan, to Mr. Clay, then Secretary of State, he strongly resisted the new and strange doctrine. In a letter dated November 17, 1827, addressed to Mr. Vaughan, and transmitting to him information of the encroachments upon the Territory of Maine by provincial officers, Mr. Clay earnestly demanded an explanation. This demand elicited a communication from Mr. Vaughan, dated November 21, 1827, distinctly asserting the right to exercise jurisdiction in the disputed territory. To this Mr. Clay replied at great length, under date of February 20, 1828. From this letter we make the following extract:—"The Undersigned cannot agree with Mr. Vaughan, in the conclusion to which he has brought himself, that the sovereignty and jurisdiction over the territory in dispute have remained with Great Britain, because the two Governments have been unable to reconcile the difference between them respecting the boundary. Nor can he assent to the proposition stated by him, that the occupation and possession of that territory was in the Crown of Great Britain prior to the conclusion of the Treaty of 1783, if it were his intention to describe any other than a constructive possession. Prior to that epoch, the whole country now in contest was an uninhabited waste. Being then, an undisputed part of the territory of the King of Great Britain, he had the constructive, and the right to actual possession. If, as the Government of The United States contends, the disputed territory is included within their limits, as defined in the Treaty of 1783, the prior right of Great Britain became, thereby, transferred to the Government of the United States; and it drew after it the constructive possession of the disputed territory. The settle-

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ment on the Madawaska, the earliest that has been made within its limits, was an unauthorized intrusion on the property of the State of Massachusetts, to which the Territory then belonged, by individuals, posterior to the Treaty of 1783. That settlement of those individuals could not affect or impair, in any manner whatever, the right of the State of Massachusetts, or give any strength to the pretensions of the British Government. The settlers, in consequence, probably of their remoteness and their quiet and peaceful conduct, do not appear, for a long time, to have attracted the attention of either the State of Massachusetts or that of the adjoining British Province. It was not until the year 1790 that the Government of New Brunswick took upon itself to grant lands to the intruders. No knowledge of these grants is believed to have been obtained, until recently, by either the Government of Massachusetts or Maine, or that of the United States. The Provincial Government had no color of authority to issue those grants for lands then lying within the State of Massachusetts. It cannot be admitted that they affected the rights of the United States, as acquired by the Treaty of Peace." And Mr. Clay concluded his communication with the following emphatic protest:—"The Undersigned must protest, in behalf of his Government, against any exercise of acts of exclusive jurisdiction, by the British authority, on the Madawaska, the Aroostic, or within any other part of the disputed territory, before the final settlement of the question; and he is directed to express the President's expectation that Mr. Vaughan will make such representations as will prevent, in future, any such jurisdiction from being exerted."

Again, in a letter from Mr. Clay to Mr. Vaughan, dated March 17, 1828, he uses this language—"It follows from the view now presented, that the Undersigned cannot subscribe to the opinion that the jurisdiction of the British Government, through its provincial authority, over the disputed territory, has continued with Great Britain, notwithstanding the Treaty of 1783. To maintain that opinion, Mr. Vaughan must make out either first that the terms of the Treaty do exclude altogether the disputed territory; or, that, if they include it, actual possession of the disputed territory was with Great Britain in 1783. Neither proposition can be established." In the conclusion of this letter, Mr. Clay again says, that he is charged by the President "to protest against the exercise of all and every act of exclusive jurisdiction on the part of the Province of New Brunswick, and to announce to Mr. Vaughan, that the Government will be responsible for all the consequences, whatever they may be, to which any of those acts of jurisdiction may lead."

The same views continued to be urged upon the British Ministry, through the American minister, Mr. Lawrence, with force and ability, throughout the Summer of 1828.

Your Committee do not find, that any correspondence with the British Government, in relation to the northeastern Boundary, was had from the close of the year 1828 until 1832. At least, they believe, that none has been made public; and as repeated calls by both houses of Congress for the publication of all the correspondence in relation to that subject have been made, the presumption is, none was had. But if any such correspondence does exist, your Committee cannot for a moment believe that any surrender of the principle so earnestly enforced by Mr. Clay, will be found to have been made by the National Administration during that period. At any rate, your Committee are quite certain that no such surrender has been, nor ever will be, sanctioned by the people of Maine.

For many years, until recently, nothing has occurred to bring into discussion the question of actual or rightful jurisdiction. If, however, proof were needed by your Committee to show that the British Government have not abandoned that doctrine, it is amply furnished by the two successive arrests of Mr. Greely.

When the arrest and imprisonment of Greely was communicated to the General Government by Governor Dunlap, Mr. Forsyth addressed a communication to Mr. Stevenson, our Minister at the British Court, on the subject, in which he says, "it is expected that the Government of Great Britain will promptly mark its disapproval of this act of violence, committed by the provincial authorities, so inconsistent with those amicable feelings under which the negotiation has been hitherto conducted, and so essential to bring it to a happy termination."

Mr. Stevenson, in his communication to Lord Palmerston, Her Britannic Majesty's Secretary of State for Foreign Affairs, dated August 10, 1837, on the same subject, says: the mutual understanding between the two Governments on the subject (of the boundary) and the moderation which both Governments have manifested, forbid the exercise by either, of such high acts of sovereign power as those which have been exerted in the present case." Again, in the same communication, "wherever then, the right of jurisdiction and sovereignty over this territory may dwell, the Undersigned feels satisfied that Her Majesty's Government cannot fail to perceive, that the arrest and imprisonment of Mr. Greely, under the circumstances of the case, was not only a violation of the rights of the United States, but was wholly irreconcilable with that moderation and forbearance which it is so peculiarly the duty of both Governments to maintain until the question of right shall be definitively settled."

And our minister demands "as a matter of justice and right, the immediate discharge of Mr. Greeley from imprisonment, and suitable indemnity for the wrongs he has sustained."

And when a second arrest and imprisonment of the same agent and for the same cause was made, Mr. Forsyth, in the instructions of our Government to its minister, Mr. Ste-

venson, uses the following emphatic language: "You will remonstrate in a respectful but earnest manner, against the second violation of the rights of Maine, in the person of her agent, and demand the prompt release of Mr. Greely, with such additional indemnification as the nature of the outrage calls for." And Mr. Stevenson, in pursuance of these instructions did remonstrate against these violations of the rights of Maine, and claimed indemnity.

Notwithstanding all these complaints and calls for redress, the British Government have not even attempted a justification; a strong and conclusive proof that no arguments could be found by its agents, which they believed would bear examination, but on the other hand, the admission of Mr. Fox, the British Minister at Washington, and the subsequent conduct of the officers of the Provincial Government, in the repeated release of Mr. Greely, are incontestible evidence of the absolute want of any foundation to their claim.

When Mr. Greely has been arrested and imprisoned, for alleged violations of the rights of the Province and the Crown, no attempt has been made to bring him to a trial for any offence whatever against their laws; and your Committee are satisfied from the fact, that the British Government are so aware of the total want of title to the territory, as to deem it an act of hazard to persist in carrying the outrage against our citizens to a greater extent. Still the claim is not relinquished; and we are sorry to say that the repeated and earnest applications to the United States Government for relief have been in vain. Year after year we have patiently waited, confidently hoping that our territorial and jurisdictional rights would be protected and defended; and our fellow-citizens allowed, unmolested, to exercise all the privileges secured by the Constitution to every individual in the union. But we regret to add, that nothing but disappointment has followed our fondest hopes of redress and remuneration.

Our citizens are imprisoned with impunity, and when they are released from a long confinement, without even being brought to a trial, they are left at the prison door in penury to return to their homes, from which they have been cruelly torn—our valuable lands occupied by foreigners, and the timber pillaged and destroyed; and we have been compelled to fold our arms and look on and witness these flagrant violations of our dearest rights. True, our General Government have made demands for "disapproval" and "indemnity," but the people of this State can no longer be satisfied with the "protests" and "demands" made, it would seem, only to quiet our citizens, and apparently forgotten as soon as the aggressions which have given rise to them have been suspended.

It being a question entirely settled in the opinion of our General and State Governments, that the territory put in dispute by the unwarrantable claim of Great Britain, on which are thousands who are in reality citizens of this State, is entitled to the protection of the Government; no doubt is, or can be entertained, of the propriety of sending an agent to enumerate the inhabitants upon this territory. In strict obedience to the authority of the State, Mr. Greely was sent to perform this service, and was arrested and incarcerated for alleged acts of aggression upon a part of the territory in the possession, and under the jurisdiction of the Province; and although he constantly protested against the authority thus exercised, and asserted the right to fulfil the business of his agency, he was released by order of the Lieutenant-Governor of New Brunswick, under a pretence that the lawful act under which he was engaged would no longer be persisted in.

Your Committee feel fully authorized in declaring, that no department of our General or State Governments, nor the agent on whom the unwarrantable power was exercised, have in any manner induced the belief, that the original purpose entertained in sending Mr. Greely on to that part of our State, would not be rigidly adhered to. And your Committee deem it proper for this State to demand of the General Government, protection in carrying into full effect their design, which has been attempted, and which was frustrated by the unlawful exercise of foreign power—the more so as the claim of Maine has been repeatedly, and for a long time made, and fully and unequivocally admitted, by the United States.

Nor do our grievances stop here. Within a few months, Her Britannic Majesty's troops, without authority, have been marched over this our territory, on their way from one of her provinces to another. This your Committee believe to be an exercise of power, new and aggravated; a new and aggravated infringement of the jurisdiction and sovereignty of the State, which she is entitled to hold, and a gross violation of those rights which your Committee believe to be guaranteed by the Federal Constitution.

The British Minister informs Mr. Forsyth, that this marching of troops over our territory "is undertaken in pursuance of superior orders." He does not condescend to ask permission of our Government for this outrage upon our territorial rights, but merely informs him of their intention to pass their troops over our Territory. And in December, after the British troops had passed, or were passing, Mr. F. communicates the fact to Governor Dunlap, and uses this remarkable language: "Although the necessity of explaining a circumstance so little likely to be misapprehended by the Government or people of the United States, or of individual States, is not apparent, the motive of that explanation should be duly appreciated." Is it then of no consequence, that in time of peace, one nation transports its troops and munitions of war over the territory of another? And how were these troops passed up? Not, as it is said, by the "route heretofore used by the British for the transmission of the mail, and for other ordinary communications between the two countries," but by cutting out a new road, as your Committee are credibly informed, through our territory, for a distance of forty miles, and over which they transported their troops and munitions of war. Your Committee cannot but view this act, under all its cir-

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cumstances, as an outrage on our territorial rights, of an aggravated character, and against which this State ought most solemnly to protest.

Several years ago, without consulting the United States Government, or the authorities of the State, the British Government appointed a "Warden" of the territory, whose business it seems to have been, to take the entire charge of this whole territory. When we say a warden was appointed without the knowledge of the United States Government, we mean to be understood to say, that after a careful search through the correspondence, we find no intimation that our General Government had ever concurred in such an appointment. But it is a fact worthy of remark, that Sir A. Campbell, in his letter to Mr. Vaughan, the British Minister at Washington, under date of January 20th, 1834, says, "the warden, Lieutenant Maclauchlan, was appointed to the wardenship of the country with the knowledge and concurrence of the President." So long ago as September, 1833, we find the same warden, in his letter to Sir A. Campbell, complaining that the proper agents of Maine and Massachusetts interfered with his charge of the territory, by undertaking to give licence to our people, on this territory, to cut timber. This warden still continues his wardenship, and was active in the arrest of Mr. Greely. It presents a somewhat singular case that this warden should have the effrontery to complain of the acts of our authorized agents, unless he had the countenance of the General Government, and yet we would be slow to believe that if this warden was appointed by the concurrence of the President of the United States, he should have withheld information of the fact from the Government of this State so long a time.

Your Committee are satisfied, from all the information they have obtained, that the inhabitants on this territory, including Madawaska, are well disposed towards this State, and are desirous to be released from British thralldom, and to have the benefit of our laws and institutions.

But we can have no access to them, or they to us, except by passing over British ground, or passing through the wilderness. If the road leading from the military road, and which has been already opened and partially made to the Aroostic, should be continued to the mouth of the Madawaska, it would open a communication between the inhabitants of the town of Madawaska and the adjacent country, and with the Penobscot River, as well as the whole eastern section of our State. This State will then be able to do, what it long since ought to have done, extend the protection of its laws to all its inhabitants. It has been the policy of the British to spare no pains or expence in making and completing a good road on and along the St. John's River, from Fredericton to the town of Madawaska, and thus brought the inhabitants of this town and vicinity into contact and close communication with Fredericton. Your Committee find, that so long ago as 1831, the Legislature of this State authorized the land agent to make a road from the military road of St. John's in conjunction with the land agent of Massachusetts, and appropriated ten per cent. of the sales of timber and land for this object. But the resolve of 1832, authorizing commissioners to cede a portion of our territory for an ample indemnity, introduced a new policy in relation to this territory, and threw doubt and uncertainty over the whole subject—paralyzed the efforts of Massachusetts, and disheartened our people living on this territory, by producing an impression that they were abandoned. Since that time little progress has been made in opening this road. The tract of country through which this road will pass, is known to be of the first quality for settling, and will soon be purchased and taken up by actual settlers. The road will soon become a great thoroughfare for our people in Madawaska and vicinity, and enable them to find a profitable market for their productions at Bangor. In every view we are able to take of the subject, we are clear that every consideration of sound policy requires, that this road should be opened and made; and we believe it to be vitally important to the settlement of this long vexed question, inasmuch as it presents the only practicable mode by which this State can effectually extend the protection of its laws, to the people of this territory. The cost of opening a winter road, as proposed, if one half of the expence is borne by Massachusetts, will not exceed 3,500 dollars. We believe the people of this State are tired of the diplomacy and delay of the General Government, in relation to this territory, and loudly call on the Legislature to have some decided action, to take some effectual measures, to have our laws extended to all the inhabitants of our State, and over every portion of it, and to demand of the General Government that protection and support in the execution of our laws, which it is bound by the Constitution to afford.

Your Committee have dwelt somewhat longer upon the subject of jurisdictional-claims than may appear necessary at the first view in the persuasion that it now presents one of the most important features of the long protracted controversy, in relation to our north-eastern boundary. If the Government of New Brunswick are permitted to exercise uncontrolled jurisdiction over that territory, it is of little consequence to the British Government whether the Boundary ever be settled. Indeed, it is obvious, that every possible scheme of procrastination will be resorted to for avoiding a settlement, so long as doubts exist, that their claim may not be sustained by any fair mode of adjustment.

It is well known, that the chief value of the territory in dispute, to Great Britain, consists in its lying in the only feasible line of communication between Halifax and Quebec; and also as furnishing at the forks of the Madawaska and St. John's Rivers, a military position of great natural advantages. Being persuaded, as that Government must needs be, that the north-west angle of Nova Scotia is the north-east angle of Maine, as described in the Treaty of 1783; and that that angle lies far to the north of Madawaska; and forms the true north-east boundary of the United States, it is but natural to presume that she will con-

tinue to interpose obstacles in the way of its final establishment. In conclusion, your Committee ask leave to present the annexed resolutions.

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Boundary.
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Fortifications.

T. BOUTELLE,
EBEN'R HIGGINS, } of the Senate.
S. S. WHIPPLE,

P. SHELDON,
JOHN S. TENNY,
R. K. GOODENOW,
NORMAN E. ROBARTS, } of the House.
PETER T. HARRIS,
THOMAS FOWLER, JR.
JOHN WEST,
BENJ. DUDLEY.

Resolved, That the Legislature heartily respond to the sentiments of the chief Magistrate of the State, in recommending an earnest demand upon the General Government, to put an end to the intrusive and unjustifiable jurisdiction over our citizens and soil, by a foreign power.

Resolved, That perceiving no ground of hope, that great Britain will yield to the rightful claims of Maine, while by procrastination or diplomacy it can be avoided, we deem it the imperative duty of the General Government to run and establish the line according to the Treaty of 1783, and that the State demands an early accomplishment of this object.

Resolved, That the use which has been made of the territory by the British Government, as a thoroughfare for its troops, and a place on which they have encamped without authority, is a palpable outrage upon the sovereignty of this State, and of the United States, and a fresh cause of complaint.

Resolved, That the Government and all executive officers ought to take prompt and effectual measures, to cause all our laws to be rigidly enforced against persons who may assume, or attempt to violate the right of the State, or of the citizens occupying the disputed territory, and that measures be taken to arrest offenders against those laws, and cause them to be brought to trial before our own judicial tribunals.

Resolved, that the opening of a winter road, from the Aroostic to the mouth of Madawaska River, is all important, as enabling that State to extend the protection of its laws to the people of Madawaska and vicinity; and that Massachusetts be requested to co-operate with this State in effecting this object.

No. 3.—*J. T. Sherwood, Esq. to John Bidwell, Esq.*

(Extract.)

Portland, March 22, 1838.—(Received May 21.)

IN order that Lord Palmerston may be kept informed of all that is interesting to Her Majesty's Government, in relation to the North-eastern Boundary,—I ask the honour to transmit to you the inclosed reports Nos. 1 and 2 on that subject.

Inclosure 1 in No. 3.

To the Speaker of the House of Representatives.

IN compliance with an order of the House of Representatives, passed the 23rd ultimo, I herewith communicate the "Report of the Commissioners who were appointed under a resolve respecting the territory lying north and east of the rivers St. John and St. Francis, passed March 3, 1832."

(Signed) EDWARD KENT.

Council Chamber, February 27, 1838.

REPORT.

Sir,

Portland, January 14, 1833.

WE have the honor to enclose copies of four letters bearing date July 4, July 10, July 25, and August 21, 1832, being all the letters relating to our north-eastern boundary, which have passed between the Secretaries of State of the treasury and of the navy, on the one part, and ourselves on the other, since our return home at the close of June, The mail is also this day charged with a letter addressed to you, bearing even date with the present, and containing the provisional agreement referred to in the letter of July 25th to us, and ours of August 21st in reply. While the time and manner of laying that agreement, with the letter which accompanies and contains it, before the Legislature, rests wholly with yourself, we cannot forbear suggesting the inquiry, whether the adoption of a

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course, which should render the whole proceeding public, might or might not in the present stage of the negotiation operate injuriously to the interests of the State. Having made the suggestion, we respectfully submit the whole matter to the wisdom of the Executive and the Legislature.

It will be perceived, on reference to the provisional agreement, that we have carefully abstained from entering into any stipulation whatever in regard to the rights or claims of Massachusetts. The reasons for adhering to this course are too obvious to require any allusion to them on our part. The whole territory north and east of the St. John and St. Francis, claimed as lying within the true exterior limits of the State of Maine, contains, by calculation made by order of the Government, according to the best data in its possession, 2,195,360 acres, mountains, lakes and rivers included. This fact, we have thought it proper to state to you, in order that the Legislature may be the better enabled to form a satisfactory judgment in regard to the extent and value of the claim and jurisdiction, proposed to be ceded, on the one part, and to the adequacy in any event of the indemnity, proposed to be pledged on the other.

We are, &c.

(Signed)

WM. P. PREBLE.
REUEL WILLIAMS.
NICHOLAS EMERY.

His Excellency Samuel E. Smith, Governor of Maine.

To William Pitt Preble, R. Williams, and N. Emery, Esqrs.

Gentlemen,

Washington, July 4, 1832.

THE Senate having finally acted upon the message of the President respecting the north-eastern boundary, it is desirable to know, and we therefore have the honor to inquire, if the Commissioners on the part of the State of Maine are now prepared to resume the conferences which were suspended at their instance, for that event.

We have the honor to be, &c.

(Signed)

LOUIS M'LANE.
LEVI WOODBURY.

Gentlemen,

Portland, July 10, 1832.

WE have this day had the honor to receive your note of the 4th instant. In reply, we repeat to you, that we are ready, on our part, to execute the project we submitted to your consideration on the 6th ultimo. We shall also be ready to suggest to you, if wished, our views as to such modifications, &c. of the line as we think desirable in case it should be found wholly impracticable to have the true boundary run and marked, as well as to receive and consider any suggestions you may please to make to us on the subject.

We have the honor to be, &c.

(Signed)

WM. P. PREBLE.
REUEL WILLIAMS,
NICHOLAS EMERY.

*The Hon. Louis M'Lane, Secretary of the Treasury.
Levi Woodbury, Secretary of the Navy.*

Gentlemen,

July 25, 1832.

WE have the honor to enclose, duly executed by us, a copy of the agreement which you had prepared, making a slight alteration rendered necessary by the resolution of the Senate, advising a further negotiation. You will please to send a counterpart executed by you as soon as possible, together with information at what time it will probably be placed under the consideration of your Legislature, whose action on the subject would seem to be required before the matter can be submitted to Congress.

(Signed)

EDWARD LIVINGSTON,
LOUIS M'LANE.
LEVI WOODBURY.

*Wm. P. Preble,
Reuel Williams,
Nicholas Emery, Esq.* } *Commissioners, &c.*

Gentlemen,

Portland, August 21, 1832.

WE have had the honor to receive your note of the 25th ultimo, with the document which it enclosed. Agreeably to your request, we now transmit a counterpart executed by us.

The Legislature of Maine will not be in session prior to next January, and the subject cannot well come under their consideration until after the organization of the Government shall have been completed. Should the state of the intended new negotiation in the opinion of the President render a postponement of the communication to our Legislature desirable, we would in that case suspend the communication on your suggestion until the first of February next,

We have the honor to be, &c.

(Signed)

WM. P. PREBLE,
REUEL WILLIAMS.
NICHOLAS EMERY.

Edward Livingston, Esq., Secretary of State.
Louis M' Lane, Esq., Secretary of the Treasury.
Levi Woodbury, Esq., Secretary of the Navy.

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Sir,

Portland, January 14, 1833.

WE have the honor to transmit to you, to be laid before the Legislature, a provisional agreement relating to our north-eastern boundary, entered into in August last, between the Secretaries of State of the treasury and of the navy, in behalf of the United States on the one part, and ourselves as Commissioners in behalf of the State of Maine, on the other.

After the solemn and formal establishment of the monument at the source of the River St. Croix, in 1798, by the authority of the United States and Great Britain, nothing seemed to remain but to survey and mark the line of the boundary according to the plain, precise, and explicit language of the Treaty of 1783. For at that day it was admitted by the official agent of the British Government, that the line could only be where Maine now contends, and has ever contended, it is. Had the state of Massachusetts, therefore, been then so disposed, she might without serious obstacle or difficulty have marked out her exterior boundary, and afterwards, and until Maine became a separate state, might without giving occasion for the slightest complaint to the adjoining British Colonies, have maintained uninterrupted and exclusive jurisdiction over the whole extent of our territory. Such a course would have saved our infant state much trouble and vexation, and would seem to have comported with the usual vigilance and sagacity of the parent commonwealth.

When, however, in 1820, Maine became a separate State, she found her boundaries and territory still unsurveyed and unexplored; while far within her limits had been suffered to spring up, unnoticed by the authorities of the parent State established and permanent settlements of several hundred souls, holding their lands under grants from New Brunswick of nearly thirty years standing, and yielding a reluctant, but unresisting obedience to British laws; Maine also found, that under color of those stipulations in the treaty of Ghent, which provide for surveying and marking certain boundaries, in conformity to the line of demarkation prescribed by the Treaty of 1783, a claim for about eleven millions acres of her territory had been set up in behalf of Great Britain, and that this claim, though a gross and palpable fraud upon the stipulations of the Treaty of Ghent, and demonstrably in violation of the Treaty of independence, had not been promptly, and at once repelled and rejected by the American Government, but had become a subject of grave and solemn discussion before the Commissioners of the two Governments. Again, in 1827, Maine further learned that the United States and Great Britain had, by convention agreed to refer to an Arbiter, the questions which had arisen out of the claim made in behalf of Great Britain, and that the decision of the Arbiter on the questions submitted, was to be final between the parties. Under such an arrangement, every thing must depend upon the position and character of the person selected to decide between the parties. If the Arbiter to be selected should think himself at liberty to advert to his own condition, or to be governed in framing a decision by motives of state policy, or by any other considerations than those of the justice of the case and the rights of the parties, it was evident one third of the territory of Maine was placed in imminent jeopardy. But fortunately for the State, the Arbiter actually selected, instead of sanctioning to their full extent, the pretensions of Great Britain, thought proper to restrain himself to a recommendation, advising the parties to adopt for boundary, a line described by him, leaving, beyond the limits, of Maine the extreme corner of her territory, containing by calculation about two millions two hundred thousand acres, and assigning to the British Government about one-fifth of the territory to which it had laid claim.

We have adverted in this place, to some few of the more prominent facts in the history of our boundary controversy, in order that, taken in connection with other facts within the recollection of all, they might enable us to perceive how forbearance has emboldened the spirit of encroachment,—how procrastination on our part, instead of contributing to remove the evil, of which we have so much reason to complain, has constantly been the occasion of aggravating it, and how, at every step since taken, the question has become more and more complicated and embarrassed. Meantime, new causes of trouble have begun rapidly to develop themselves. There is danger, lest our border difficulties assume a serious aspect. Under these circumstances the peace of the United States, the internal tranquillity of the State itself—its growing importance, its general and commercial

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prosperity, would seem imperiously to require, that the subject matter of this protracted and irritating dispute should be amicably arranged without further delay, if it can be done without too great a sacrifice. In fact, so grave and various were the considerations arising out of the actual state of the controversy a year since, that many who stand high in the confidence of the country, were of opinion, that it would be judicious on the part of Maine, as well as of the United States, to acquiesce in the advice of the Arbitrator. Against the acceptance and ratification of the award by the Government of the United States, the Legislature of Maine, on mature consideration of the subject, with great unanimity, solemnly protested; but apprehensive, lest the award should be ratified notwithstanding such protest, if the State persisted in rejecting all advances made towards an amicable adjustment, the Legislature, in a spirit of conciliation, agreed to receive and consider, by means of Commissioners, whatever might be proposed on behalf the United States, with a view to bring the controversy to a speedy and final termination; with the express reservation, however, that the doings of such commissioners should, in no respect, be obligatory on the State, until ratified and confirmed by the Legislature itself.

The result of the acts of the Legislature and of the doings of the Commissioners appointed by its authority, is the enclosed provisional agreement already mentioned, and to which we beg leave to refer. It will be perceived by that agreement, that the President of the United States proposes to "open new negotiations with Great Britain, for the purpose of having the line, designated by the Treaty of 1783, run and marked according to that Treaty;" and if that should be found impracticable, "for the establishment of such a new boundary between the dominions of the United States and Great Britain, as should be mutually convenient," and also "for making arrangements relative to the navigation of the river St. John and the adjustment of other points, that may be necessary for the convenience of the parties interested;" and, that he deems "a cession from the State of Maine of all her jurisdiction and right of soil over the territory" claimed by her, lying north and east of the rivers St. John and St. Francis, "as indispensable to the success of such negotiation." However direct the interest of the State in the question at issue on the one hand, as a foreign Government is urging its pretensions on the other, the Government of the United States is the only constitutional and competent agent to take charge of the controversy. Still the power of that Government over the subject is not unlimited.

The State has its constitutional rights which she may invoke, and which must be respected. If, then, in the progress of the contemplated negotiation, it should be found, that what is demanded as her right by Maine, is now utterly unattainable; and if the State, insisting upon its extreme right, denies to the United States all power under any circumstances, to make even a beneficial compromise; it is well to enquire at this stage of the proceedings, where is the controversy and the well known state of things, and the onward course of events within the State, to lead us to? Hence, in order that the President may be enabled to open such negotiation, unembarrassed by any questions of conflicting power and jurisdiction, and with a reasonable or possible prospect of bringing the controversy to an amicable close, the proposition, "that the Legislature of Maine should provisionally surrender to the United States, all claim to jurisdiction and right of soil over the territory lying north of the River St. John and east of the River St. Francis as heretofore described," Maine in such case, and in any event to be indemnified for any portion of the territory, thus provisionally surrendered to the United States, if ultimately lost to the State, by adjoining territory to be acquired; and so far as that should prove inadequate, at the rate of one million of acres of land in Michigan for the claim to, and over the whole territory surrendered—said lands, thus to be appropriated, to be sold by the United States at their expense, and the proceeds to be paid without deduction into the Treasury of the State. We deem it proper, in connection with this subject, to add, that the present minimum price of the public lands of the United States, is one dollar twenty-five cents the acre; that those situated in the territory of Michigan are rapidly coming into the market, and that the demand for them, it is understood, is steady and increasing. We also take the liberty in this place to express the opinion, that should the agreement we have entered into in behalf of the State, be ratified by the Legislature, and should the proper authorities of the United States avail themselves of its provisions, and ratify it on their part, and should the Congress of the United States by any act of legislation, diminish the value of the lands, proposed to be appropriated and pledged as an indemnity to the State, the United States would be bound in good faith to further indemnify the State for such diminution in value caused by their own acts.—It is with these general views of the subject, and in full and entire confidence in the good faith of the Government of the United States, and in the several branches of its high constituted authorities, that we have been induced, after the most mature consideration we have been able to give to the subject, to accede on our part to the provisional agreement, we now respectfully submit to the wisdom of the Legislature.

We have the honor to be, &c.

(Signed)

WM. P. RREBLE,
 REUEL WILLIAMS.
 NICHOLAS EMERY.

His Excellency Samuel E. Smith, Governor of Maine.

THE King of the Netherlands, mutually selected as Arbitrer by the King of the United Kingdom of Great Britain and Ireland, and the President of the United States, and invited to investigate and make a decision upon the points of difference which had arisen under the Treaty of Ghent, of 1814, in ascertaining that point of the highlands lying due north from the source of the River St. Croix, designated by the Treaty of Peace of 1783 as the north west angle of Nova Scotia, and in surveying the boundary line between the dominions of the United States and Great Britain, 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, to the north-westernmost head of Connecticut River, having officially communicated his opinion that it will be suitable to adopt for boundary between the two States (qu'il conviendra d'adopter pour limite des Etats) a line drawn due north from the source of the river St. Croix, to the point where it intersects the middle of the thalweg of the river St. John; thence the middle of the thalweg of that river, ascending to the point where the river St. Francis empties itself into the river St. John, thence the middle of thalweg of the river St. Francis, ascending to the source of its south-westernmost branch designated on map A. by the letter X, thence a line drawn due west to the highlands, thence along the said highlands which divide those rivers that empty themselves into the river St. Lawrence from those that fall into the Atlantic ocean to the north-westernmost head of Connecticut River: And the Legislature of the State of Maine having protested and continuing to protest against the adoption by the Government of the United States of the line of boundary thus described by the King of the Netherlands, as a dismemberment of her territory, and a violation of her constitutional rights: And the President of the United States having appointed the undersigned Secretaries of the Departments of State of the Treasury, and of the Navy, to meet with such persons as might be appointed by the State of Maine, for the purpose of entering into a provisional agreement as to the quantity and selection of lands of the United States, which the State of Maine might be willing to take, and the President would be willing to recommend to Congress to give for a release on her part of all claim of jurisdiction to and of her interests in the lands lying north and east of the line so designated as a boundary by the King of the Netherlands: And the Governor of Maine, by virtue of the authority vested in him, having appointed the undersigned William Pitt Preble, Reuel Williams, and Nicholas Emery, Commissioners on the part of said State, to meet and confer with the said Secretaries of State, of the Treasury, and of the Navy, thus authorized as aforesaid, with a view to an amicable understanding and satisfactory arrangement and settlement of all disputes which had arisen, or might arise, in regard to the north eastern boundary of said State and of the United States: And several meetings and conferences having been had at Washington between the 18th day of May, and the 2d day of June, 1832; and the said Commissioners, on the part of the State of Maine, having distinctly declared, that said State did not withdraw her protest against the adoption of the line designated as a boundary by the King of the Netherlands, but would continue to protest against the same; and that it was the desire of the Legislature and Government of Maine, that new negotiations should be opened for the purpose of having the line designated by the Treaty of Peace of 1783, run and marked according to that Treaty; and if that should be found impracticable for the establishment of such a new boundary between the dominions of the United States and Great Britain, as should be mutually convenient, Maine in such case to be indemnified, so far as practicable, for jurisdiction and territory lost in consequence of any such new boundary, by jurisdictional and other rights to be acquired by the United States over adjacent territory; and transferred to said State. And for these purposes the Undersigned Commissioners were ready to enter into a provisional agreement to release to the United States the rights and claim of Maine to jurisdiction over the territory lying north and east of the line designated by the Arbitrer, and her interest in the same, the said State of Maine and the State of Massachusetts being owners of the land in equal shares; suggesting at the same time the propriety of suspending the conferences until the Senate of the United States, whose advice it had become the duty of the President to take, and before whom his message for that purpose was then under consideration, should finally act in the matter, in which suggestion the Secretaries of State of the Treasury and of the Navy concurred.

And the Senate of the United States, did on the 23rd day of June, 1832, pass a resolution in the words following:

Resolved, that the Senate advise the President to open a new negotiation with his Britannic Majesty's Government, for the ascertainment of the boundary between the possessions of the United States and those of Great Britain, on the north-east frontier of the United States, according to the Treaty of Peace of 1783.

Whereupon the Secretaries of State of the Treasury, and of the Navy, did renew their communications with the Commissioners on the part of the State of Maine, and state it to be the wish and intention of the President to open a negotiation with the Government of Great Britain for the purposes mentioned by the said Commissioners, and also for making arrangements relative to the navigation of the River St. John, and the adjustment of other points that may be necessary for the convenience of the parties interested; but deeming a cession from the State of Maine, of all her jurisdiction and right of soil over the territory heretofore described, and in the manner heretofore stated as indispensable to the success of such negotiation, the Secretaries of State of the Treasury, and of the Navy,

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did declare and propose, that in consideration of such cession, the President will, as soon as the State of the negotiation with Great Britain may render it proper to do so, recommend to Congress to grant to the State of Maine an indemnity for the release on her part, of all right and claim to jurisdiction over, and her interest in the territory beyond the line so designated by the King of the Netherlands. The said indemnity to consist of one million acres of land to be selected by the State of Maine, and located in a square form, as near as may be out of the unappropriated lands of the United States within the territory of Michigan—the said lands to be surveyed and sold by the United States at their expense, in the same manner, and under the same regulations which apply to the public lands—and the whole proceeds, without deduction, to be paid over to the State of Maine as they shall be received. But if, in the result of any negotiation as aforesaid with Great Britain, the State of Maine shall ultimately lose less of the territory claimed by her, north and east of the Rivers St. John and St. Francis, than she would according to the line designated by the King of the Netherlands, the aforesaid indemnity shall be proportioned to the actual loss; and if any new territory contiguous to the State of Maine, not now within her limits, shall be acquired by such negotiation from Great Britain, the same shall be annexed to and be made a part of said State.—And a farther proportionate deduction shall be made from the indemnity above-mentioned. But if such attempt on the part of the President to negotiate, should wholly fail, and in that case, and not otherwise, the proper authority of the United States should, on full consideration, determine to acquiesce in the line designated by the King of the Netherlands, and to establish the same as the north east boundary of the United States, the State of Maine shall be entitled to receive the proceeds of the said million of acres, without any abatement or deduction—which offer the Undersigned Commissioners provisionally accede to, and on condition of the due performance of, all and singular, the things which by the declaration of the Secretaries of State of the Treasury, and the Navy, and by the proposal aforementioned are to be performed, or intended to be performed, they agree to recommend to the Legislature of the State of Maine, to accept said indemnity, and to release and assign to the United States, all right and claim to jurisdiction, and all her interest in the Territory north and east of the line designated by the King of the Netherlands. But it is distinctly understood, that until this agreement shall have been accepted and ratified by the Legislature of Maine, nothing herein, shall in any wise be construed, as derogating from the claims and pretensions of the said State to the whole extent of her territory as asserted by her Legislature.

Nor shall any thing herein contained, be construed so as to express or imply on the part of the President, any opinion whatever on the question of the validity of the decision of the King of the Netherlands, or of the obligation or expediency of carrying the same into effect.

(Signed)

EDW. LIVINGSTON.
LOUIS M'LANE.
LEVI WOODBURY.
WM. P. PREBLE.
REUEL WILLIAMS.
NICHOLAS EMERY.

Documents published in the resolves of 1832.

To the Senate and House of Representatives.

I HEREWITH communicate, confidentially, for the consideration of the Legislature, copies of two letters from Mr. Preble, the Agent of this State at Washington, in relation to the question respecting our north-eastern boundary, now pending before the Government of the United States. By these letters I am informed that it is expected the award and recommendation of the Arbiter will eventually be adopted by the General Government, and that it has been proposed that Maine should cede to the United States her claim to the territory which lies northward and eastward of the line recommended by the Arbiter, for an ample indemnity, in order that the General Government may be enabled to make such an arrangement with Great Britain as shall comport with the interest and the honor of the United States.

The expediency of authorizing the Agent of this State at Washington to make an arrangement with the General Government for the purposes contemplated, is now respectfully submitted to your consideration.

The decided and unanimous opinion of our Agent and the united delegation of this State in Congress cannot fail to be received with great deference, and under existing circumstances, it is believed that an arrangement of the kind proposed will not, in any respect, compromit the honor of the State, or operate injuriously to her interest. In a pecuniary point of view, she will be amply remunerated for the loss sustained, and the principle for which she has uniformly contended, that the United States have not constitutional power to alienate any portion of the territory of a State, without its consen

will not be abandoned. The adjustment of the controversy will also relieve the United States from much embarrassment in their relations with Great Britain, and terminate those collisions with the British Authorities, which if continued would inevitably prevent the settlement of the territory and endanger the peace of the nation.

I would further suggest the necessity of acting with promptness upon this subject after it shall have received that attentive consideration to which, by its importance to the honour and interests of the State, and the welfare of the United States, it is eminently entitled.

As the Government of Massachusetts has been invited to co-operate in the measures heretofore taken by this Legislature, it may also be proper that she should be requested to unite with us in the proposed arrangement, if upon consideration its adoption should be deemed expedient.

(Signed) SAMUEL E. SMITH.

Council Chamber, Augusta, February 22, 1832.

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Sir,

Washington, February 3, 1832.

AFTER one of the most fatiguing and uncomfortable journeys I have ever made, I succeeded in arriving at this place last evening. The business of our north-eastern boundary is still before the Senate and in the hands of its Committee of Foreign Relations. I called on the President of the United States this morning, and delivered to him an authentic copy of the report and resolutions, adopted by the Legislature. They will be communicated by the President to the Senate by special message immediately. The only additional fact I deem it necessary to lay before you at this moment is, that among the papers laid before the Senate is a letter from Mr. Bankhead, the British Chargé d'Affaires, to Mr. Livingston, Secretary of State, calling, by order of his Government, on the Government of the United States, to carry into effect the opinion and advice of the Arbitrator, insisting upon its being binding on the United States, and within the limits of the powers delegated to the Arbitrator by the Treaty of Ghent and Convention of September 29, 1827. I will also add that I am met, as I apprehended, at the threshold, with those very difficulties which I suggested, before leaving Augusta, to yourself personally and to the members of the Legislature.

I have the honor to be, &c.

(Signed) WM. P. PREBLE.

His Excellency Samuel E. Smith, Governor of Maine.

Sir,

Washington, February 15, 1832.

I HAD a long conversation last week with Mr. Tazewell of the Senate, Chairman of their Committee of Foreign Relations. He went into a very full discussion of the subject of our boundary, not so much on the question of abstract right as on that of interest and sound policy. He endeavoured to sustain and enforce the position that Maine, in resisting the advice of the Arbitrator, was jeopardizing her own interests—that by setting aside that advice, Maine would be more likely to fare worse than better—that the decision is far more favorable to her rights and pretensions than he had ever expected it would be—that if set aside, besides the irritating border difficulties, which endanger the peace of the country, the embarrassments arising out of the British possession and pretensions, with the disposition prevalent in New Brunswick, would subject Maine to constant inconvenience and vexation—if not ultimate loss. He was willing to fight if Maine said so; but it was best to pause and weigh the consequences:—and on one point he never felt clearer, viz. that on the score of policy, and with an eye to her own peace and her own best interests, Maine had better acquiesce in the award, than contend farther. Prior to this, some members of our delegation, with myself, had waited on Mr. Calhoun, and subsequently I held a conversation with Mr. Clay. These two gentlemen assume the position that the Senate has nothing to do with the subject in the shape in which it is now before them. In fact they are evidently inclined to seize, with or without just foundation, according to my views, upon mere matters of form, as a justification or excuse for declining to act all. In a word, the result of my experience so far is, that there is a general desire to get rid of the subject, and its inherent difficulties;—by right if it can be done conveniently; by wrong, if no other mode presents itself. We are not, however, without our friends; but to use once more the language of Mr. Tazewell;—notwithstanding all your delegation and you may urge in regard to the award, and, however just your views may be, “with most people that award will still go for something.” While, continued he, I agree with you in most of your abstract propositions, and in some of them probably go still farther than you do, we must look at the thing as practical men—we must consider how other nations will regard us—and we cannot get rid of the fact that the Arbitrator, we agreed to, has pronounced against us. In connection with these remarks, as Mr. T. referred to our delegation, I will beg leave to say, that from all I can learn, I believe they have been faithful advocates of our rights, and are disposed to do every thing in their power to protect the interests of Maine. In regard to our Senators, as their proceedings are in secret session, I cannot have so good means of judging, and, therefore, at present neither form nor express an opinion. Our

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delegation meet at my rooms this evening. In the meantime I have received an invitation to call on the Secretary of State. I have been expecting it. If the object of the interview is connected with our business in any thing that is important, I shall not fail to make it known to you.

I have the honor to be, &c.

(Signed) WM. P. PREBLE.

His Excellency Samuel E. Smith, Governor of Maine.

Sir,

Washington, February 16, 1832.

IT is now very late, or rather very early—but I cannot retire without first laying before you the results of the day and of the evening. Our delegation has been together, as suggested in my letter No. 5—and the business of our boundary generally, and of our prospects in regard to it, have been the subjects of consultation and consideration. The delegation agree in the views expressed in my letter, which I took occasion to lay before them, and all concur in the sentiment and apprehension that Maine will probably be ultimately compelled to acquiesce in the award, with a claim for indemnity. We do not despair altogether; yet such are our fears, and I deem it infidelity to the interests of the State for me to conceal them from you. I also laid before them the subjects of consideration between myself and the Secretary of State; I will proceed to lay them before you. I am justified in saying, that the delegation are nearly, if not absolutely, unanimous in commending the propositions to the favourable consideration of the Legislature. The Government of the United States feel themselves embarrassed by the posture of affairs, in relation to the north-eastern boundary. They are anxious to save the rights of Maine, and preserve what is thought to be the honor of the country, and to prevent its peace being put in jeopardy. Without therefore undertaking to say whether Maine is right or is wrong in her doctrines, but believing that she is greatly injured as a matter of fact, it is proposed that Maine should cede to the United States her claim and jurisdiction over that portion of territory which lies northerly and easterly of the line, recommended by the Arbitrator, for an indemnity, in order that the United States may be enabled to make such an arrangement with Great Britain, as may best comport with the interests and honor of the United States. And for this purpose it is proposed, that the Agent of Maine should be authorized to enter into a negotiation with such person or persons, as may be designated by the President for the cession of jurisdiction on the one part, and the settlement of the indemnity on the other, the agreement that may be thus entered into, to be subject to ratification, &c. It is proposed that the indemnity should be in land. On this proposition, after the most mature consideration, we agree, that it saves the honor of the State; that it relieves the United States, and that so far as pecuniary interests are concerned, it will be immensely advantageous to Maine. Also, if Maine is disposed to make a bargain, we all agree this is the favorable moment. Suffer it to pass unimproved and it is gone forever. I have stated the proposition just as made. Doubtless the Government of the United States would negotiate as readily with any other person as with the person who at this moment holds the place of Maine's Agent. If he should be authorized, he ought of course to consult with our delegation. These propositions are made confidentially, and to be laid before the Legislature of Maine confidentially, and their action thereon, and whatever relates to the subject, must be regarded as confidential. Let this business, I pray, be acted upon as speedily as possible, and the results be communicated without unnecessary delay. I repeat, in our deliberations there was but one opinion among our delegation on this subject.

I have the honor to be, &c.

(Signed) WM. P. PREBLE.

His Excellency Samuel E. Smith, Governor of Maine,

P. S.—A more ample indemnity could be obtained in land than in money.

W. P. P.

To the Speaker of the House of Representatives.

AGREEABLY to the request of the House of Representatives, I herewith communicate, confidentially, for their consideration, copies of all the official letters of William P. Preble, the Agent of this State at Washington, in relation to the subject of the north-eastern boundary; together with the documents accompanying the same, which were received before my last confidential communication, or have been received since, with the exception of those before communicated; and a letter dated February 20th, number 2, and marked "private and confidential," communicating certain documents now before the General Government, which cannot, consistently with my public duty, and without a violation of confidence, be formally laid before the Legislature. But I have placed these papers in the hands of the Chairman of the Committee on this subject on the part of the House of Representatives, to be used as in his discretion shall appear proper and consistent with the public interest and the honor of the Government.

I also communicate a copy of a letter directed to Mr. Preble from John Anderson, Rufus McIntire, Leonard Jarvis, Cornelius Holland, James Bates and Edward Kavanagh, and a copy of a letter from George Evans, Representatives in Congress from this State in relation to this subject.

(Signed) SAMUEL E. SMITH.

Council Chamber, February 29, 1832.

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Sir,

Washington, February 17, 1832.

I DID myself the honour, in my letter No. 6, to lay before you the result of a confidential consultation among the members of our delegation—also certain propositions, which had been made, confidentially, with a view of being communicated to you, in order that they may be laid confidentially before the Legislature of Maine. These propositions, it is true, are, as is usual, in the first instance, made informally, in order to see whether they would be met in a spirit of reciprocity and accommodation, and were carried so far as to suggest the name of an individual to act on the part of the United States, * * * * an individual whom I know to be personally well disposed. I am, therefore, a little surprised at the objection suggested in the letter of Mr. Evans in regard to form; and, as to the mode of conducting the business, if the Legislature should think favorably of entertaining the propositions at all, that suggested by Mr. Evans is only calculated to embarrass and not to bring matters to an amicable termination. If the Legislature reserve to itself, as proposed, the right of ratification, it reserves all that any Government ever reserves. In regard to Massachusetts, her interests must be respected of course. No one could desire to have it otherwise. She could be indemnified by other lands in Maine, or in such form as Maine and herself may agree, but surely she cannot expect to be consulted on the question, whether Maine will enter upon a negotiation to cede her own jurisdiction to the United States. Referring you, however, to the letter of Mr. Evans, a copy of which is inclosed, I take the liberty to lay before you some of the views and modes of thinking which seem to be regarded here as deserving consideration.

The prevailing opinion of nearly our whole delegation from the State has been, as I learn, that from the all-absorbing nature of the subjects of discussion and contest, which at this time agitate Congress—from a desire on the part of gentlemen generally to get rid of present and avoid future difficulties—from a mistaken view of what is required by national honor—from considerations such as those suggested by Mr. Tazewell, adverted to in my letter No. 5—from a prevalent belief that the subject matter of the controversy is not worth the hazard of disturbing the peace of the country and jeopardizing its national and commercial interests; and I will add, on my own responsibility, from the extreme remoteness of our situation—our infancy as a State, and the consequent very limited influence and consideration Maine enjoys, notwithstanding the acknowledged personal respectability and merit of our present delegation, Maine would probably, ultimately, be obliged to submit, however she may resist the idea, to a modification of her boundary line, and that afterwards her only practicable remedy would be an application or petition to Congress for indemnity. But to have our territory wrested from us would be too humiliating; and after having been compelled to submit to the violation of our State rights, to prefer a petition for indemnity would, in my apprehension, be at least a mortifying state of things. Besides, it is certain there are members of Congress even now, who say they would not allow to Maine one single cent. This covering, such as it is, for our wounded State pride and violated State rights, in the form of an indemnity, therefore might be withheld, or if any thing were offered it might be some miserable bagatelle in amount, more offensive than a total refusal. In a word, the injury being consummated upon us, I could not but consider, whatever may be urged to the contrary by Mr. Evans, that we should be wholly at the mercy of Congress, with nothing left us but a sense of our injury and the right of complaining. These views are not very flattering to our State pride, but let us not suffer our honorable feelings to mislead our judgment, or prevent us from seeing things as they exist. It is not a matter of private interest, in which we may indulge our personal feelings without being responsible to any one. It is the interests of the State which are committed to its functionaries. In the course suggested by the propositions communicated to you, it appears to me Maine is treated with courtesy and respect. She does not make the proposition—she is invited to negotiate. Her wrongs are in effect admitted—her nationality is appealed to. She is not asked to yield to foreign encroachment or usurpation. She is requested to consent, in consideration of existing embarrassments and difficulties, which have arisen out of unforeseen causes and providential events, to cede to the United States for a full equivalent and indemnity, to be mutually agreed upon, her claim and jurisdiction to that portion of her territory lying northerly and easterly of the line recommended as a boundary by the Arbiter; and she is requested to do this, in order that the Government of the United States may then proceed to make such a definite arrangement, as shall relieve Maine herself from all farther annoyance and trouble, and promote the interests and consolidate the peace of the union, of which Maine is a member. It is with a view to all these considerations, as I understand, enforced upon their minds by all the means of judging their position affords, that our delegation have united, with the exception of Mr. Evans, in recommending to the favorable attention of

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yourself and of the Legislature of Maine, the propositions I had the honor to lay before you. At the same time it is understood, all will unite, until otherwise instructed, in maintaining the rights of the State and enforcing the views expressed by the Legislature in their resolutions of the 19th of January last. In one sentiment I believe we all, Senators, delegation and myself, concur. It is, that though we all have our fears, we do not, any of us, wholly despair of the republic. Discussion and time are favorable to a just perception of our rights. The resolves introduced into the Senate of Massachusetts come to our aid; but there are too many who perceive what are our rights; yet from motives of what they perhaps call national policy, are determined to do us wrong.

In laying this subject and these considerations before you, I feel called upon to submit one remark in regard to myself. If, after due deliberation, the Legislature of Maine should deem it for the interest of the State to enter into negotiation, I am not anxious that it should be committed to me. It is from no personal views that I resist the notions of Mr. Evans. What nation or State ever negotiated by the immediate action of its Legislature?

I have the honor to be, &c.,

(Signed) WILLIAM P. PREBLE.

His Excellency Samuel E. Smith, Governor of Maine.

House of Representatives, February 16, 1832.

Dear Sir

THE communication which you made to us last evening, of the informal proposition of the Executive of the United States, the object of which is to procure, by negotiation, from Maine, a cession to the United States of the territory belonging to the State north and east of the Rivers St. John and St. Francis, for an adequate compensation, has received from us the most careful consideration.

It is not necessary for us to enlarge upon topics upon which all parties in Maine are agreed. The resolutions adopted by both branches of the Legislature of the State, and approved by the Governor on the 19th day of January last, are entitled to and have received our most respectful attention, and we concur fully in all the opinions and sentiments they express. It is our settled conviction that Maine ought not to consent to any dismemberment of her territory, to be made merely by force of the late pretended award of the King of the Netherlands, and we do not believe that she will ever acquiesce in any violation of her constitutional rights as a Sovereign State, or as a member of this confederacy; and if, in the proposal now submitted to us, there were the possibility of a construction, which would yield even the smallest particle of those rights, we would at once and without hesitation repel the offer, however advantageous to her in a pecuniary view, and however desirable its acceptance might be to the General Government. But, considering as we do that the very proposition puts us upon high ground, that it may be considered as yielding the pretensions heretofore advanced that Maine could have no voice in the disposal of her territory; that it tacitly recognizes the rights of our State, and by implication acknowledges the justness of the view, which its constituted authorities have constantly taken, we are at liberty to turn our attention to its political bearing upon Maine and upon the relations of the United States with foreign countries.

From information we have gathered of the present situation of the correspondence between the Government of the United States and that of Great Britain, in relation to the doings of the late Arbitrator, the conviction is forced upon us that the rejection of his pretended award will involve our country in difficulties which may lead to an interruption of that friendly intercourse which now subsists between the United States and Great Britain; a result which we presume no man in the Union can desire, and which every good citizen would deplore. If such a crisis were inevitable, it would be met with fortitude, but certainly it ought to be avoided if to be done with honor. It cannot at present answer any useful purpose to review the past history of a question which now presents itself for final action amidst so many embarrassments. If, therefore, the United States can, without infringing on the constitutional rights and prerogatives of Maine, continue to maintain with all foreign nations that friendly intercourse which is dictated both by duty and good policy, we believe that our fellow citizens will feel satisfied with the result.

We are well convinced that few eras have existed since the establishment of our Government so inauspicious as the present to an unbiassed action of the federal authorities on the question now pending in behalf of our State. We know that it has been referred by the Executive to the Senate as a co-ordinate branch of the treaty-making power for their advice, and that it is yet pending before that body; but we cannot venture to predict the result of their deliberations thereon. In common with yourself we have what we believe to be well grounded fears that a decision may be made adverse to the rights and interests of Maine and productive of consequences which may for years place her, in relation to her sister States, in a position which may detract from that harmony which our purest patriots have ever sought to maintain between all the members of this confederacy. In such a result will Maine resist, or will she seek indemnity? Should she decline the first alternative, will she in the second place, invested as she is with the character and attributes of so-

verignty, choose to appear at the bar of the Union in the attitude of a petitioner? We believe not, so long as any other mode offers itself to secure perfect indemnity.

We have enumerated some of the reasons which have influenced us in forming an opinion on the question which you have submitted. There are many others which either necessarily result from the general ones stated above, or will readily suggest themselves to all who, with a knowledge of the facts and circumstances disclosed, will give their attention to the subject.

We are therefore of opinion that the proposition of the Executive of the United States ought to be met by the State of Maine in the same friendly and conciliatory spirit in which it has been made, and we are satisfied that in so doing all the interests of Maine will be materially promoted.

(Signed)

JOHN ANDERSON,
RUFUS McINTIRE,
LEO. JARVIS,
CORNELIUS HOLLAND,
JAMES BATES,
EDWARD KAVANAGH.

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House of Representatives, February 16, 1832.

Sir,

UNDERSTANDING from yourself, that an informal proposition has been made to you by the General Government, through its proper officers, the object of which is to procure from the State of Maine, its assent to the adoption of the line of boundary recommended by the King of Holland, upon full indemnity to be made by the United States to the State of Maine, or for a cession of the territory north and east of the St. John's River to the United States for ample consideration to be made, and my opinion having been requested as to the course proper to be pursued in the present juncture, I beg leave to submit it in writing.

The State of Maine has protested earnestly against the adoption of the line recommended by the Umpire, and has requested the exertions of its Representatives to prevent any transfer of the territory in question. As to the question of right, I trust there can be no diversity of opinion, certainly none in our State: nor as it seems to me, can there be any doubt that the opinion of the Umpire is by no means whatever obligatory upon this Government. I concur in the resolutions adopted by the Legislature of Maine upon these topics. Maine has therefore nothing more to do, than to insist, as it has insisted, upon its rights; and to protest earnestly and constantly, against any infringement upon them. Her course is plain, and I trust all the Representatives from that State are prepared to vindicate her rights. If the General Government finds itself embarrassed in its proceedings upon this subject, and desires the assent of Maine to enable it to act freely, its course is also plain—and it seems to me, the proper step to be taken is, that the General Government should signify formally and officially to the Government of Maine its wishes, accompanied perhaps by propositions on its part which the Legislature of that State may deliberate upon, for the accommodation of this embarrassing question. The decided measures which Maine has already adopted, seem to me to preclude any advances or propositions coming from that quarter. She stands upon her rights, and has no concessions to make. They who wish them should take the first steps to procure them.

As the subject is now before the Senate in executive session, we, of course, are wholly ignorant of its present posture, and have scarcely any means of forming an opinion as to the final disposition of the subject. I cannot, however, for a single moment entertain the opinion, that the recommendation of the Umpire will be adopted as a decision, without full indemnity being made to Maine, and I have reason to believe, that the administration of the General Government have been entirely willing to do this. It is quite clear to me, therefore, that we hazard nothing, so far as indemnity to us is concerned, by omitting to make advances for a compromise with the General Government. I can have not the remotest objection to any negotiation between the Legislature of Maine and the General Government, which the parties may choose to institute—but upon a consideration of the whole subject, I cannot recommend that the State of Maine propose to the General Government a cession of territory, or assent to the line, for an indemnity to be received, until the Government of the United States have recognized the rights of Maine, and requested that assent as the basis of its action. When that is done, the Legislature of Maine is abundantly competent to decide whether it will yield its assent, and upon what terms and conditions. While therefore I agree that Maine should be always ready to receive propositions upon this subject, I cannot advise that she should volunteer terms of compromise, more especially, until her rights are admitted. If it may be considered a favorable time to push a good bargain in a pecuniary point of view, and should therefore be embraced, I can only say, that in the worst possible result, I have no fear that full indemnity will be refused us; and, indeed, if the line be adopted against our protestations, the claim for compensation will be stronger, than if adopted by our consent. It seems to me, that as a member of the House, I have nothing more to do in discharging my duties to Maine, than

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to maintain the principles contained in the resolutions of the Legislature until a different course is prescribed by themselves, or a change of circumstances requires a different course of action.

The preceding has been written in much haste, and amid the noise of business in the House; and may be imperfectly expressed—I hope however it is intelligible.

I have the honor to be, &c.

Hon. William P. Preble.

(Signed)

GEO. EVANS.

P. S. Since writing the preceding letter, I have seen the proceedings of the Legislature of Massachusetts upon the subject of the boundary, adopted in pursuance of the request of Maine; and fully sustaining all the claims, rights and principles of Maine. As we have invited the co-operation of that State, which has been yielded in pursuance of our request, I think it will well admit of a serious doubt whether we ought to take any step without her concurrence, or at least without advising her of our intended proceedings.

(Signed) G. E.

Sir,

Washington, February 20, 1832.

ON the suggestion of our Senators, the Committee of foreign relations will, it is said, postpone their report for a short time, the object being, it is presumed, to afford time to hear from you. I beg leave, therefore, to press upon your consideration, the desirableness of an early answer in relation to the propositions which have been made to you.

In listening to the various suggestions which have been made and continue to be so, the following views, thrown out in casual conversation, have arrested my attention.

1. That a great portion of the territory of Maine, claimed by the British Government, northerly and easterly of the St. John and St. Francis, is a barren, mountainous region, wholly unfit for settlement and cultivation, particularly the region northerly and easterly of the St. John and Madawaska, and consequently never will sustain a population sufficient to add much to our relative weight and influence in the Union.

2. That if the British Government were to make a military road by the River St. John through the territory; on account of the highlands and mountainous region between the waters of the St. John and Restigouche on the one hand, and between the St. John and St. Lawrence on the other, it could only be sustained in time of war at an enormous expense, provided the United States should lay a road cutting it in a proper manner, as it is supposed they would do; and that in time of peace such a road would be useful to Maine rather than injurious, especially on the hypothesis that the United States laid out and made their road.

In regard to these two propositions, I think I understand their intended bearing. Of course we repel every suggestion that goes to undervalue our territory; and in our turn maintain, that these highlands and inhospitable regions are our natural barrier, which Maine prefers to any other.

And now, Sir, I will take occasion to say to you, that I regard the tour of duty, prescribed by the resolves of the Legislature of Maine, as nearly completed. I might perhaps be of some service, if I were to remain until the business of the award was disposed of by the Senate and by the House also, if it should be laid before that body. But the subject may hang along yet for weeks; and the care of the interests of the State before Congress, may be safely left where our Constitution and laws have placed it. The propositions I have had the honor to lay before you, I regard as too interesting to the State to be lightly rejected, believing as I do, that as faithful servants of Maine and good citizens of the United States, we are bound to look at the risks to be run as well as the advantages to be gained; and the certainty, to my mind the moral certainty, that Maine never will hereafter be able to negotiate under circumstances so favorable to her as the present. In laying these propositions before you and the state of things as we apprehended it to exist here, I have done my duty to the Legislature. It is now for the Legislature to take the subject into consideration and dispose of it as in their wisdom the best interests of the State and of the United States seem to require.

I have the honor to be, &c.

(Signed)

WM. P. PREBLE.

His Excellency Samuel E. Smith, Governor of Maine.

Sir,

Washington, February 23, 1832.

I AM now well satisfied that the Senate, as a branch of the Treaty making power, will not give their advice and consent to the ratifications of the *quasi* award of the Arbiter; but the subject is before them, and what will they do with it? I think they will avoid the question by throwing the whole subject back upon the President. What course will the President then adopt? That, I think, is not yet finally settled. One course suggested

is, to lay the award before Congress in such a manner, as to lead to a discussion in regard to an appropriation to carry it, the award, into effect. At all events, back before Congress it will come in some form or other. If then we assume the hypothesis that, as many believe, Maine will be ultimately driven to ask for a redress of her wrongs under the form of an indemnity, what course best comports with her honor and her interests? Is it best for Maine to comply with the request, and accept the invitation to negotiate in the present stage of the business; or to wait the movement and decision of the Senate? If we postpone negotiating until after the Senate shall have acted, is it best then to enter upon a negotiation, or to wait the final decision of Congress? In a word, is it best for Maine to negotiate at all, or while she stands insisting on her rights, to wait the issue of events? These are grave questions, and Maine cannot avoid answering them. If she declines to answer, that fact of itself is an answer. It declares her intention to be, to wait the issue of events. Our cause is gaining strength, that is certain; but it must gain a good deal yet, to insure our success. Grant us all the success we can ask, and there still remains an uncertain state of things before us. Were it not for this last consideration, success would, I think, be certain.

I transmitted to you, accompanying my letter No. 7, a copy of a letter addressed to me by Mr. Evans. I now enclose a letter from the rest of our delegation, to which I beg leave to refer you; and at the same time I take occasion to say, this is probably the last communication I shall address to you, until I hear from you.

I have the honor to be, &c.

(Signed)

WM. P. PREBLE.

His Excellency Samuel E. Smith, Governor of Maine.

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Sir,

Washington, March 10, 1832.

I DEEM it proper to communicate to you the enclosed copy of the minutes of a conference between the Secretary of State and myself, and at the same time to take occasion to say to you that I read to Mr. Livingston that passage of my letter in which I communicated to you his proposition, and he expressed himself as fully satisfied with it. And in connection with this subject, I will also add, that in all my conferences with the Secretary of State, the other members of the Cabinet and the President, I have insisted that Maine's sole wish and desire was to abide by her ancient boundaries; that if, under the present circumstances, or any which might arise, it should be necessary, in order to preserve the peace of the country, for the Government of the United States to consent to modify the line of 1783, such modification ought to be one which would accommodate the people of our State in that quarter, and the State itself, as well as Great Britain and her subjects—a modification which would partially indemnify Maine for the position and territory lost;—and, further, that in my opinion, Great Britain, in a case in which she must know that she is in the wrong, would be glad to get rid of the subject by such a modification.

Accept assurances, &c.

(Signed)

WM. P. PREBLE.

His Excellency Samuel E. Smith, Governor of Maine.

Sir,

Washington, March 13, 1832.

A MEMBER of the Committee of Foreign Relations in the Senate had intimated, that the Committee were ready to report, and postponed doing so only at the request of our Senators. Having also heard intimations of what that report was probably to be, I expressed to our Senators the opinion that, under these circumstances, it was desirable the Committee should report without further delay. To this both assented, and a suggestion to that effect, was as I understood, made to the Chairman. No report, however, has yet been made. I regret this the more, as I wish to see it before I leave, or at least know its precise contents, so that I may give what aid I can preparatory to meeting its positions, so far as they may be adverse to the rights of Maine. I could wish also to hear from you before I leave; but I have long been impatient to return home. Already I have been absent nearly six weeks, and I hope I shall not be thought unreasonable, when I add, that I could not consent to remain but a few days longer.

I have the honor to be, &c.

(Signed)

WM. P. PREBLE.

His Excellency Samuel E. Smith, Governor of Maine.

To the Senate and House of Representatives.

Council Chamber, March 9, 1832.

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THE order of the two branches of the Legislature authorizing the Governor, with advice of Council, to remove the injunction of secrecy, when in their opinion it may be done in safety to the interest of the State, has been under the consideration of this department, and for the reasons stated in the report of the Council herewith communicated, and in pursuance of said order, I hereby, with the advice of Council, remove the injunction of secrecy on the proceedings of the Legislature, from and after this day.

(Signed) SAMUEL E. SMITH.

STATE OF MAINE.

Resolve respecting the territory lying north and east of the Rivers St. John and St. Francis.

Approved, March 3, 1832.

WHEREAS information has been communicated by the Agent of this State at Washington, that it is proposed that Maine should cede to the United States her claim and jurisdiction over that portion of territory which lies northerly and easterly of the line recommended by the Arbiter, for an ample indemnity, in order that the United States may be enabled to make such an arrangement with Great Britain as may best comport with the interests and honor of the United States:

And whereas the Government of Maine has repeatedly declared, and now declares, that the right of soil and jurisdiction in said territory, according to the provisions of the Treaty of 1783, is in the State of Maine, as a sovereign and independent State, and has denied, and continues to deny, the right of the General Government to cede the same to any foreign power without the consent of Maine; and has communicated resolutions to that effect to the General Government, and has claimed of that Government the protection guaranteed to every State by the constitution of the United States:

And whereas the Legislature of Maine is disposed to regard the proposition aforesaid as emanating from a disposition on the part of the General Government, to promote the interests, and to preserve the peace of the nation, without violating the rights of Maine, or disregarding the obligation resting upon the whole Union to protect each State in the full enjoyment of all its territory and right of jurisdiction, and willing to meet the proposition in a like spirit in which it is believed to have been made:

Therefore Resolved, That upon the appointment by the President of the United States, of a person or persons to enter into negotiation with this State for the relinquishment, by this State to the United States, of her claim to said territory and for the cession of the jurisdiction thereof, on the one part; and for an ample indemnity therefore, on the other part; and notice thereof being communicated to the Governor, the Governor, with advice of Council be, and he is hereby, authorized and requested to appoint three Commissioners on the part and in behalf of this State, to treat with such person or persons, so appointed by the President, on the subjects aforesaid; and any agreement or Treaty to be made in pursuance of this resolve, is to be submitted to the Legislature of Maine for approval or rejection; and until such agreement or Treaty be so submitted to, and approved by the Legislature of Maine, nothing herein contained shall be construed, in any way, as implying the assent of this State to the line of boundary recommended by the Arbiter, or to the right of the General Government to adopt or sanction that line instead of the line described in the Treaty of 1783.

Resolved, that the Governor be requested forthwith to communicate the foregoing preamble and resolution, confidentially, to the Agent of this State at Washington, and also to the Executive of the Commonwealth of Massachusetts, to afford to that Commonwealth the opportunity of adopting such measures as she may consider expedient in relation to her interest in said territory.

Inclosure No. 2 in No. 3.

Message of the Governor on the North American Boundary.

To the Senate and House of Representatives.

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

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

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

It is certainly gratifying to perceive that the right of Maine to be heard and consulted before the treaty line is abandoned, is fully recognized by the General Government, and I have no doubt the Legislature of Maine will approach the consideration of the proposition in the same spirit it is offered, and with an anxious desire to terminate this long pending and embarrassing question; if it can be done without too great a sacrifice of honour and right. Although the documents are somewhat voluminous, the proposition is single and simple in its character and easily understood.

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

I think that the most cursory examination of the correspondence and movements on the part of Great Britain, must satisfy any one, that the leading objects which her diplomatists have had in view since the result of the arbitration, has been to destroy, or lay aside the treaty line—to lead us away from the clear, unambiguous, definite terms of that treaty—and involve us in interminable discussions, propositions and replies in relation to conventional lines, no one of which would be acceptable unless it gave to them a large part of our territory.

We find that in May 1833, very soon after the President in pursuance of the advice of the Senate had opened a new negotiation to ascertain the line *according to the Treaty of 1783*—to which treaty line, the negotiation of course was confined, the British Minister suggested, "That this perplexed and hitherto interminable question could only be set at rest by an abandonment of the *defective* description of boundary contained in the Treaty, and by the two Governments mutually agreeing upon a *conventional* line more convenient to both parties."

The same intention is apparent in the refusal to acquiesce in the proposition to refer the settlement of the treaty line to a commission, to be constituted of an equal number chosen by each party, with an umpire to be designated by a friendly power from the most skilful men in Europe; or secondly, that the commission should be entirely composed of such scientific men in Europe, to be selected by some friendly power, to be attended in the survey and view of the country by agents appointed by the parties.

It was in answer to this proposition, that the suggestion of the impracticability of the treaty line was made, and the intention became apparent to lead us away from that inconvenient obstacle to their wishes and plans—the treaty language. The proposition was so equitable and fair—so just to all parties, and so full of promise of adjustment upon proceedings satisfactory to us, that it could not be peremptorily rejected.

But although it was entertained, the answer to it clogged the proposition with so

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many conditions, and so limited the powers of the commissioners, and required the concession on our part of the all important fact that the St. Johns and Restigooch are not Atlantic rivers—that the original plan was at once deprived of all vitality or power or use, and in fact the reference would have been merely an agreement to abide by the decision, provided both parties should be satisfied and assent to it.

It is certainly somewhat remarkable that if the assumed fact is true, viz. that the treaty line can not be laid down or fixed according to the Treaty, that so much unwillingness should be exhibited to have an attempt made to ascertain it,—or if Great Britain is so strongly convinced of the justice and strength of her argument and claim, that she should be so reluctant to refer the whole question to disinterested and scientific Europeans.

There is an apparent, and I doubt not, a real anxiety to avoid discussion or examination based upon the Treaty, and I fear that if we once abandon that line in search of a conventional one, we shall never be able to bring them back again to consider the present line, or to recognise the Treaty as of any binding efficacy. I fear too that the only question in negotiations for a conventional line, will be, how large a portion of our territory we must yield up. The suggestions made by our Government to take the River St. Johns from its mouth to its source, as the boundary, was rejected, with a simple expression of wonder that it should have been made; and our Government is told explicitly that “His Majesty’s Government can not consent to embarrass the negotiation respecting the boundary by mixing up with it a discussion regarding the navigation of the St. John, as an integral part of the question.”

The intimation seems plain, that no negotiation for an exchange of territory or privileges will be entered into, but the single point will be, how shall the disputed territory be divided between the parties. I fear that if we abandon the treaty language, so clear and so decided in our favor, and so much at variance with their claim, we shall leave a certainty for an uncertainty, and throw doubt, confusion and embarrassment over our claim and our course of action, and yield to Great Britain the great obstacle we now present to her grasping spirit—the solemn Treaty of ’83.

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

In 1814, when the negotiations which resulted in the Treaty of Ghent, were in progress, no pretence was made that our line did not extend beyond the St. John’s and according to our present views.

Great Britain then by her negotiators expressly stated that she “desires the revision of the frontier between her North American dominions and those of the United States, not with any view to an acquisition of territory, as such, but for the purpose of securing her possessions, and preventing future disputes, and such a VARIATION of the line of

frontier as may secure a direct communication between Quebec and Halifax." And when our negotiators peremptorily refused to agree to any *cession* of territory, the answer was that they "were not prepared to anticipate the objections contained in the note of the American Plenipotentiaries, that they were instructed to treat for the revision of their boundary lines, with the statement which they have subsequently made, that they had no authority to *cede* any part, however insignificant, of the territories of the United States, although the proposal left it open for them to demand an *equivalent* for such *cession* in territory or otherwise." And yet now that territory, which they then offered to pay us for, is claimed as clearly their own, and that line which then was admitted and recognized as including the territory as claimed by us, is now declared to be impracticable and must be abandoned, and a more convenient one sought for and established.

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

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

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

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

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

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

Our situation in relation to this interesting question at this moment demands the exercise of cool and dispassionate judgment, and careful, cautious, but firm action. We owe it to the General Government, and our sister States, to do nothing rashly or hastily—to bear and forbear for the sake of the peace of the nation and the quiet of our borders. But we have a duty to perform to ourselves and our constituents, who have entrusted the rights and honor of Maine to our keeping. Relying upon your patriotism and intelligence and caution, I place these documents before you, and ask your action upon them, in the confident hope that the rights and the territories secured to us by our fathers, in the field and the cabinet, will not be impaired or surrendered.

EDWARD KENT.

Council Chamber, March 14, 1838.

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STATE OF MAINE.

In Senate, March 14, 1838.

Read and referred to the Committee on the North Eastern Boundary.
Sent down for concurrence.

NATH'L S. LITTLEFIELD,
President.

House of Representatives, March 14, 1838.

Read and referred in concurrence; and *ordered* that said Committee be instructed to procure the printing of 5000 copies thereof together with the accompanying papers for the use of the Legislature as soon as it can be done in the printing offices of this and the neighbouring towns.

Sent up for concurrence.

E. H. ALLEN,
Speaker.

In Senate, March 14, 1838.

The Senate nonconcur the House in the printing of these documents.
Sent down for concurrence.

N. S. LITTLEFIELD,
President.

House of Representatives, March 15, 1838.

The House recede and concur.

E. H. ALLEN,
Speaker.

Extract of a Letter from the Hon. John Forsyth to Governor Kent.

In January last, Mr. Fox, the British Minister at Washington, made a communication to the Department of State in which with reference to the objection preferred by the American Government, that it had no power, without the consent of Maine, to agree to the arrangement proposed by Great Britain, since it would be considered by that State as equivalent to a cession of what she regards as a part of her territory,—he observed, that the objection of the State could not be admitted as valid, for the principle on which it rested was as good for Great Britain as it was for Maine---that if the State was entitled to contend that, until the treaty line was determined, the boundary claimed by Maine must be regarded as the right one, Great Britain was still more entitled to insist on a similar pretension, and to assert that, until the line of the Treaty shall be established satisfactorily, the whole of the disputed territory ought to be considered as belonging to the British Crown; since Great Britain was the original possessor, and all the territory which had not been proved to have been, by treaty, ceded by her, must be deemed to belong to her still. But Mr. Fox said the existence of these conflicting pretensions pointed out the expediency of a compromise—and why, he asked, as a conventional line different from that described in the Treaty was agreed to with respect to the boundary westward from the Lake of the Woods, should such a line not be agreed to likewise for the boundary eastward from the Connecticut? Her Majesty's Government could not, he added, refrain from again pressing this proposition upon the serious consideration of the United States as the arrangement best calculated to effect a prompt and satisfactory settlement between the two powers.

With reference to the American proposition to make the River St. John, from its mouth to its source, the boundary, Mr. Fox remarked that it was difficult to understand upon what grounds any expectation could have been formed that such a proposal could be entertained by the British Government; for such an arrangement would give to the United States even greater advantages than they would obtain by an unconditional acquiescence in their claims to the whole of the disputed territory—because it would give to Maine all the disputed territory lying south of the St. John—and in exchange for the remaining part of the territory lying to the north of the St. John, would add to the State of Maine a large district of New Brunswick—a district smaller in extent, but much more considerable in value than the portion of the disputed territory which lies to the north of the St. John.

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

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

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

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

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

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vernment in understanding the grounds upon which such a proposal was expected to be entertained by it, since the precedent proposition of Mr. Bankhead just alluded to, although based upon the principle of an equal division between the parties, could not be justified by it, as it would have given nearly two-thirds of the disputed territory to Great Britain—that it was therefore fair to presume that the river line, in the opinion of Her Majesty's Government, presented advantages sufficient to counterbalance any loss of territory by either party, that might accrue from its adoption; and it was also supposed that another recommendation of this line would be seen by Great Britain in the fact that whilst by its adoption, the right of jurisdiction alone would have been yielded to the United States over that portion of New Brunswick south of the St. John, Great Britain would have acquired the right of soil and jurisdiction of all the disputed territory north of that river.

To correct a misapprehension into which Mr. Fox appeared to have fallen, the distinctive difference between the American proposition for a Commission, and the proposition as subsequently modified by Great Britain, was pointed out, and he was informed that although the proposal originated with this Government, the modification was so fundamentally important, that it entirely changed the nature of the proposition; and that the supposition, therefore, that it was rather for the Government of the United States than for that of Great Britain to answer the inquiry preferred by the Secretary of State for information relative to the manner in which the report of the Commission, as proposed to be constituted and instructed by the British Government, might tend to a practical result, was unfounded. Mr. Fox was also given to understand that any decision made by a Commission constituted in the manner proposed by the United States, and instructed to seek for the highlands of the Treaty of 1783, would be binding upon this Government, and could be carried into effect without unnecessary delay, but if the substitute presented by Her Majesty's Government should be insisted on, and its principles be adopted, it would then be necessary to resort to the State of Maine for her assent in all proceedings relative to the matter, since any arrangement under it can only be for a conventional line to which she must be a party.

In conclusion, it was intimated to Mr. Fox, that if a negotiation be entertained by this Government at all upon the unsatisfactory basis afforded by the British counter-proposition or substitute, the President will not invite it, unless the authorities of the State of Maine shall think it more likely to lead to an adjustment of the question of boundary than the General Government deemed [it] to be, although predisposed to see it in the most favorable light.

Your Excellency will perceive that, in the course of these proceedings, but without abandoning the attempt to adjust the treaty line, steps necessarily, from the want of power in the Federal Government, of an informal character have been taken, to test the dispositions of the respective Governments upon the subject of substituting a conventional for the treaty line. It will, also, be seen from the correspondence, that the British Government, despairing of a satisfactory adjustment of the line of the Treaty, avows its willingness to enter upon a direct negotiation for the settlement of a conventional line, if the assent of the State of Maine to that course, can be obtained.

Whilst the obligations of the Federal Government to do all in its power to effect a settlement of this boundary, are fully recognized on its part, it has in the event of its being unable to [do] so specifically by mutual consent, no other means to accomplish the object, amicably, than by another arbitration, or a Commission with an Umpire, in the nature of an arbitration. In the contingency of all other measures failing, the President will feel it to be his duty to submit another proposition to the Government of Great Britain to refer the decision of the question to a third party. He would not, however, be satisfied in taking this final step without having first ascertained the opinion and wishes of the State of Maine upon the subject of a negotiation for the establishment of a conventional line, and he conceives the present the proper time to seek it.

I am, therefore, directed by the President to invite your Excellency to adopt such measures as you may deem necessary to ascertain the sense of the State of Maine with respect to the expediency of attempting to establish a conventional line of boundary between that State and the British possessions, by direct negotiation between the Governments of the United States and Great Britain—and whether the State of Maine will agree, and upon what conditions, if she elects to prescribe any, to abide by such settlement, if the same be made? Should the State of Maine be of opinion that additional surveys and explorations might be useful, either in leading to a satisfactory adjustment of the controversy according to the terms of the Treaty, or in enabling the parties to decide more understandingly upon the expediency of opening a negotiation for the establishment of a line that would suit their mutual convenience, and be reconcilable to their conflicting interests,—and desire the creation, for that purpose, of a commission upon the principles, and with the limited powers, described in the letter of Mr. Fox, the President will, without hesitation, open a negotiation with Great Britain for the accomplishment of that object.

I have the honor to be, &c.

(Signed)

JOHN FORSYTH

No. 4.—*J. T. Sherwood, Esq. to J. Bidwell, Esq.—(Received May 3.)*

British Consulate, Maine and New Hampshire,

(Extract.)

Portland, March 23, 1838.

IN my despatch, dated the 15th inst., respecting the Governor's Message to the Legislature of the State of Maine, in relation to the recent propositions received from the Federal Government at Washington, on the subject of the North Eastern Boundary, I ventured to express my opinion, that the disapproval of the Governor, as mentioned in his Message, would be adhered to by the Legislature; how far I have erred in this opinion will be gathered from the inclosed copy of the Report of the Committee*, to whom the said Message was referred.

I have the honor to be, &c.

John Bidwell, Esq,

(Signed)

JOS. T. SHERWOOD.

[* See Inclosure 2 in No. 3.]

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No. 5.—*J. T. Sherwood, Esq. to John Bidwell, Esq.—(Received May 21.)*

British Consulate, Maine and New Hampshire,

(Extract.)

Portland, March 24, 1838.

HAVING already transmitted to you for the information of My Lord Palmerston, the several printed Reports and Proceedings thereon, in the Legislature of the State of Maine, in relation to the North Eastern Boundary,—

I have now the honor to inclose a newspaper containing a copy of the last Report and Resolves with the actions of the Senate on the same subject up to the evening of the 22d current month.

I am, &c.

John Bidwell, Esq.

(Signed)

JOS. T. SHERWOOD.

Inclosure in No. 5.

Tuesday, March 20, 1838.

The report and resolves in relation to the North-Eastern Boundary, were called up by Mr. Greene. Mr. Ham moved a recommitment, for he thought there were some objectionable points in the report. Mr. Dumont was astonished that *that* gentleman should have made such a motion, since his name was attached to the report, and he must have given his assent thereto. He trusted he would not be so fickle as to oppose his own report now. That report was signed by every member of the committee, and he saw no necessity for recommitting. Mr. Boutelle said he should have liked it better, if the gentleman from York had put his finger on the points to which he objected. The report was read to the committee, and some objections were made to it, and it was committed to a sub-committee, composed of the gentlemen from York, himself and two members of the House, and then was approved. He did not believe any good would result from the recommitment, nor did he think that any man was committed by accepting the report.

Mr. Dumont thought it was strange that the gentleman should declare that he did not understand the report; such an assertion was paying no great compliment to his intelligence. He trusted the gentleman would not *shrink from any responsibility* on this subject; that they were not about to abandon the Treaty of '83, and re-enact the farce of 1832. He had hoped that the Senate would come out like men, and speak with a united voice, and he believed the recommitment would cause needless delay, and prevent any action on the subject—any response to the general government.

Mr. Greene would never approve of a report that was drawn for *party* purposes; and agreed with the Governor that all *party* feelings should be thrown out of the scale. It was difficult to catch the meaning of any document by hearing it read, and he did not think that the gentlemen who signed the report were justly subject to the charge of vacillation, because they now ask for the recommitment. Are they, said Mr. G. because they signed that report, to be *dragooned* into sanctioning all the principles and reasoning there contained? He would never vote for imputations on the general government in the least particular.

Mr. DUMONT retorted; the gentleman has asked if those who signed the report, are to be dragooned into its support? Permit me, said he, to ask if they are to be *dragooned out of it*? Aye, that is the true question. Are they who approved yesterday, to be *dragooned out* of their opinion to-day? The gentleman says he will vote for no imputation on the General Government. I cannot blame him for that,—he would be *ungrateful*, if he did, under the *circumstances of the case*. But, it is said, this report is of a *party* character. Mr. D. could not see it. Why has not the gentleman pointed out its *party* features? It is the *truth* and nothing but the *truth*, and if he objects to *that*, he is welcome to his objections. We should look to the honor and integrity of the

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State—our own State, and not yield up every thing to the General Government, and indicate ourselves ready to sell our territory and our sovereignty for *swamps* in *Michigan*. If Maine had assumed high and manly ground—if there had been no cringing dough faces in the State Government, her rights would have been better respected and protected.

Mr. RANDALL said, if gentlemen would point out any thing that was not true in the report, he would be willing to favor the recommitment;—but if the *facts* cast a censure on the United States Government, then be it so. He was for telling the truth and nothing but the truth.

Mr. GREENE thought the gentleman from Kennebec, might be as much influenced in his action here, by favors expected, as any member of this board. He did not so much object to the *facts*, as to the *manner* in which they were expressed. He would not say that the course the General Government had pursued on this subject, was what it should have been, but they may have made propositions for its settlement, and these propositions been rejected; they may have done all they could towards a negotiation, and he did not believe they were willing to abandon this question.

Mr. E. ROBINSON was unwilling such a document should be of a party character, but still, whenever the rights and interests of Maine came in collision with the action of the Government, it was our duty to stand by our own State, point out and expose the erroneous doctrines of the United States. He could perceive no *party* feature in this report, and was willing to give it his support.

Mr. BOUTELLE thought the gentlemen who maintained that this was a *party* report, paid but little compliment to the sagacity of the gentlemen of *their own party* on the Committee who *signed* the report. Why did they then not see its party nature yesterday?—Have they received any *new light*, since that time? If so, *when*, *where*, and *how* did they receive it?—How does it happen that a report should be *perfectly correct*, contain no party doctrines, and receive the sanction and signature of the Committee yesterday, when to-day it savors so rankly of party, that gentlemen cannot stomach it?

Wednesday, March 21.

Messrs. Codman, Tenney, and Sheldon opposed the amendment, on the ground that the State has not the power to carry the line into effect; that power belongs to the Government of the United States. Messrs. Hamlin and Delesdernier replied. Mr. Codman spoke at length and with spirit against the amendment, as taunting and threatening towards the General Government. Mr. Hamlin replied, and proposed the following modification of the amendment—“and the people of this State believe they have the right, and will demand that it be carried into effect.” Mr. Codman asked how that varied the sense of the resolution? Mr. Hamlin read the resolution and amendment. Mr. Tenney replied to the remarks of Mr. H. and alluded to the former course of the two political parties. He concluded by saying that if the gentlemen from Hampden would point out a single new idea in the modification now proposed, and it were a proper one, he would go for it; until then he should prefer the resolutions as they are. Mr. Goodenow said the modification was not very important, but he hoped the House would adopt it for the sake of harmony. Mr. Underwood reminded the present minority, that when they were in the majority in 1833, they refused to modify their resolutions respecting South Carolina Nullification so that the then minority could vote for them—nor even so that one of their own number (Mr. Cilley) could vote for them. Farther remarks were made by Messrs. Levensaler and Codman, and the amendment was negatived, 45 to 74. Mr. Codman moved that the report and resolutions be laid on the table and 5000 copies be printed together with the Governor's Message and Mr. Livingston's communication—negatived. The resolutions were then unanimously passed.

Thursday, March 22.

THE Report and Resolves on the N. E. Boundary, came from the House no^d concurred. Mr. Ham moved to recede from the vote to recommit—prevailed. Mr. Ham then moved to amend by striking out his own name. Mr. Boutelle considered this report the property of the two branches, and that the Senate has no right to amend it. It has been printed by the gentleman's consent and with his name attached, and gone forth to the world, and he cannot now retract *that*.—Mr. B. trusted that the expunging system was not to come into practice in this body, for if he understood the motion, that would be its effect.

Mr. Belcher said the gentleman from York, (Mr. H.) yesterday was ready for *action*, immediate action, and he was glad to go with him in his action, but he thought the *reaction* he proposed was injudicious, and he should not go for it. Mr. Ham then withdrew his motion and asked that it be laid on the table; on which the yeas and nays were ordered, and decided by a *party* vote.

The Resolves were then taken up, and Mr. Ham moved to amend by striking out the words “The committee submit the following Resolutions,” and insert “State of Maine, Resolves relative to the N. E. Boundary,”—adopted by a party vote. Mr. Boutelle moved to consider the vote whereby the amendment of the House was accepted. Mr. Greene, Osgood, Smart, Emery and Dumont opposed; and Boutelle, Randall, Belcher and Robinson supported the motion—4 yeas and 19 nays. The resolves then passed to be engrossed *unanimously*.

STATE OF MAINE.

THE Joint Select Committee on the North Eastern Boundary, to whom was referred the Message of the Governor, transmitting a communication to him from the Secretary of the United States, with the correspondence therein referred to, in reference to the North Eastern Boundary, have had the same under consideration, and ask leave to

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REPORT :

THAT they have given to the interesting and grave subjects, presented in Mr. Forsyth's letter to the Governor, all the consideration which the very limited time allowed them, will permit. It is worthy of remark, that this is the first time since the commissioners under the Treaty of Ghent then made their respective reports in 1823 or 1824, that the government of the United States have thought it necessary to apply directly to this State for its consent to the action of the Federal Government. This state has always contended, and still contends, that the Federal Government has no authority to surrender or alienate, either with or without an "ample indemnity," any portion of our territory, unless the consent of the people of this State is first had and obtained. On the 21st July, 1832, Mr. Livingston informed Mr. Bankhead, the British Chargé d'Affaires, of the determination of the Senate of the United States not to consider the decision of the King of the Netherlands as obligatory, and that that body had advised the President of the United States to open a *new negotiation* with the British Government for settling of the Boundary line *according to the Treaty of 1783*. On the 28th April, 1835, Mr. Forsyth, in his letter to Sir Charles R. Vaughan, speaking of this determination and advice of the Senate of the United States says: "the parties were thus placed in respect to the disputed Boundary, in the situation respectively occupied by them, before the conclusion of the Convention of 24th Dec., 1814, in virtue of which, the various measures, that had been successively adopted, to bring this controversy to a satisfactory termination, were commenced, leaving the President with no other rightful authority for its adjustment, than that of opening a new negotiation for the settlement of the question according to the terms, and upon the principles of the Treaty of 1783." And Mr. Fox in his communication to Mr. Forsyth, of the 10th January, 1838, says: "thus then the award of the King of the Netherlands, has been abandoned, by both parties, in consequence of its rejection by the American Senate, and a negotiation between the two governments for a conventional line, suited to the interests and convenience of the two parties, has, for the present been rendered impossible, by difficulties arising on the part of the United States; and both governments are alike averse to a new arbitration."

The question here naturally arises, has the Federal Government since 1832, to the present moment, commenced a negotiation for the ascertainment of the line of 1783, and for no other? The answer to this is to be found in the correspondence between the Federal Government and the British minister, and we are constrained to say, from a careful examination of it, we cannot find the trace of such a negotiation; but we do find, that the Federal Government were willing to abandon the starting point in the Treaty of 1783, the North West Angle of Nova Scotia, and to run a line from the monument, not *due North*, but *Westerly*, so as to strike the highlands, if the highlands contemplated in the treaty could not be found in a *due North* course, and in all this, and in former negotiations, Maine was not consulted. Fortunately for us the British Minister, all willing as he was to be rid of the restraints of a *due "North line,"* refused to accede to this proposition. In this Maine was not, as she ought to have been, solicited by the Federal Government, to become a party—but why it may be asked, have almost six years been suffered to elapse, without opening such a new negotiation, as was contemplated by the resolutions of the United States Senate in July 1832; We are informed by the President in his message of 1837, "that we are apparently as far from its adjustment, as we were at the time of signing the Treaty of Peace in 1783." During the whole of this period the British Minister shews a very ardent zeal, and takes every occasion to propose to our government the expediency of treating for a conventional line, and, in his letter to Mr. Livingston of 11th May, 1833, says "he is convinced it is hopeless to expect a favorable result from a renewed negotiation upon that basis," the Treaty of 1783.

The great object of the British Government seems to have been to protract the negotiation, and to consume time, in order to obtain some admission from our government, which might have the effect to strengthen her claims; and in all this we are grieved to say, she has been but too successful. As to wasting time, she can well afford to be prodigal of it; for she now claims to have the exclusive jurisdiction, possession, and control of the whole territory, and if her pretensions, which have all sprung up within the last twenty years, which first consisted in asking a "*cession* of only that small portion of unsettled country, which interrupts the communication between Halifax and Quebec for an equivalent," and which have since expanded to a claim of more than one third of our State, can be tolerated for twenty years more, resistance to them will

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become unavailing. Maine then complains of this delay. The proposition is now made by the Federal Government, that this State shall give its consent, that the former may open a negotiation with the British Government, not on the basis of the Treaty of 1783, nor for any specific line, but for a conventional line—such a line, as we have reason to apprehend, as we find indicated in Mr. Bankhead's letter to Mr. Forsyth, under date Dec. 28, 1835; in which he says, "when a tract of country is claimed by each of two States, and each party is equally convinced of the justice of its own claims to the whole of the district in question, the just way of settling the controversy would seem to be to divide in *equal portions* between the two claimants the territory in dispute—such a mode of arrangement appears to be consistent with the natural principles of equity." He, therefore, proposes to adjust the present difference by *dividing equally* between Great Britain and the United States the territory in dispute. To which Mr. Forsyth, in his letter of the 29th February, 1836, to Mr. Bankhead, replies, "That equity in disputes about territory, when both parties are satisfied of the justice of their respective pretensions, requires a fair division of the disputed property, is a truth the President freely admits, but he is instructed to remind Mr. Bankhead of what has been heretofore stated, that, in a conventional line, the wishes and interests of the State of Maine were to be consulted, and that the President cannot, in justice to himself, or to that State, make any proposition utterly irreconcilable with its previous well known opinions on the subject."

The conventional line sought by Great Britain is here plainly indicated, and strange to say, the President seemed more than half disposed to yield to it, "but the well known opinions of Maine" forbade it. It is very evident from the whole correspondence, that the only conventional line in contemplation of the British Government, is a division of the territory, in some proportion, between Maine and New Brunswick. If to such a proposition Maine should give her assent, it is difficult to perceive how a dispute similar to the present is to be avoided; for the description of the boundary in the Treaty of 1783 is believed to be full, perfect, and explicit; and if a conventional line should be agreed upon between the two governments, how could such a line, described in a new Treaty, be found with more facility and certainty than that indicated by the Treaty of 1783? Until an attempt to trace the latter boundary shall be made and prove abortive, we cannot but fear, that, after a relinquishment of a portion of our rightful territory, the same obstacles will be presented in an effort to establish and trace a conventional line.

It appears that our government proposed to that of Great Britain, that a new survey of the disputed territory should be made by Commissioners to be named by the parties, and that the Commissioners should explore the country, and trace a boundary line conformable to the Treaty of 1783. To this it was replied by the British Government, that certain preliminary points must be settled before such Commissioners could be agreed upon; such as what were the kind of highlands required by the Treaty of 1783, and whether the rivers flowing into the Bay of Fundy could be considered Atlantic rivers. And Mr. Forsyth in his letter of 7th February, 1838, to Mr. Fox, in answer to his letter of 10th January, 1838, says, "he perceives, with feelings of deep disappointment, that the answer now presented to the propositions made by this government with the view of effecting that object, after having been so long delayed, notwithstanding the repeated intimations, that it was looked for here with much anxiety, is so indefinite in its terms, as to render it impracticable to ascertain, without further discussion, what are the real wishes and intentions of Her Majesty's Government respecting the proposed appointment of a Commission of exploration and survey to trace out a boundary according to the letter of the Treaty of 1783." In the same letter he says, "It is now intimated that Her Majesty's Government will not withhold its consent to such a commission, if 'the principle, upon which it is to be formed, and the manner in which it is to proceed, can be satisfactorily settled.'" This condition is partially explained by the suggestion afterwards made, that instead of leaving the umpire to be chosen by some friendly European Power, it might be better that he should be elected by the members of the Commission themselves; and a modification is then proposed, "that the Commission shall be instructed to look for highlands which both parties might acknowledge as fulfilling the conditions of the Treaty." The American proposition is intended, and if agreed to, would, doubtless, be successful to decide the question of boundary definitively by the adoption of the highlands reported by the Commissioners of surveys and would thus secure the treaty line. The British modification looks to no such object.

To such a conventional line, or to such a commission of survey, we believe the people of this State are not prepared to assent; they ask, and they think they have a right to demand, that after the lapse of more than half a century, the eastern line of our State in its whole extent shall be run and established according to the Treaty 1783. The Governor's Message, communicating Mr. Forsyth's letter, contains, as your Committee believe, sound views and doctrines, and will be responded to by every citizen of Maine.

Your Committee believe it extremely desirable, that the line should be run by the United States Government, and to this end, that the "Bill to provide for the survey of the North Eastern Boundary of the United States," &c. now pending in Congress, should become a law.

In regard to the intimation, that if this State will not consent to a conventional line, the President will feel himself bound to agree to an arbiter or third party, your

committee would suggest whether the fifth article in the Treaty of Ghent, relating to an arbiter, has not done its office, and is no longer in force; and we cannot believe that the British Government regard it as binding, when her Minister, Mr. Fox, has declared that "both Governments are alike averse to a new arbitration."

It is true that the late arbitration has failed to accomplish what was expected of it by the parties, but this failure is, in no respect, to be attributed to any fault on the part of the United States; but has arisen from circumstances beyond the control of the parties.

Mr. Forsyth, in his letter of 28th April, 1835, to Sir Charles R. Vaughan, seems to consider the subject in this light, as will be seen in the passage above quoted, and in the same letter he says, "the submission of the whole subject or any part of it, to a new arbitrator, promised too little to attract the favorable consideration of either party." To the correctness of which Mr. Vaughan assents in his letter to Mr. Forsyth of May 4, 1835.

While your Committee, on the one hand, would advise no rash measures, which might lead to collision on our borders, or compromit the peace of the country, we would say, if the time has not already come, it is fast approaching, when Maine should be prepared to assert her just rights to this territory, and extend the protection of her laws to all the people within her bounds; and she has a right to insist, and will insist, in this event, that it is the duty of the Federal Government to come up to her aid promptly and effectually, and that it will not then be said, in the language of the late Governor Dunlap, "that the justice due to this State in this respect has not been rendered."

E. L. OSGOOD,
T. BOUTELLE.
L. J. HAM,
EBEN. HIGGINS,
S. S. WHIPPLE,

} of the Senate.

P. SHELDON,
JOHN S. TENNEY,
R. K. GOODENOW,
N. E. ROBERTS,
THOMAS CARLL,
THOMAS FOWLER, Jun.
PETER T. HARRIS,
ATWOOD LEVENSALER,
JOHN SMALL, Jun.
RUFUS TRUSSELL,

} of the House.

The Committee submit the following resolutions.

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

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

Resolved, That our Senators and Representatives in Congress be requested to urge the passage of a Bill for the survey of the North-Eastern Boundary of the United States, &c. now pending in Congress.

Resolved, That the Governor be requested to transmit to the President of the United States one copy of his Message to the Legislature on the subject of the North Eastern Boundary, and this Report and Resolutions, and one copy of the same to each of the Heads of Departments at Washington; one copy to each of our Senators and Representatives in Congress, and one copy to the Governor of Massachusetts.

No. 6.—*J. T. Sherwood, Esq. to John Bidwell, Esq.—(Received April 26.)*

British Consulate, Maine and New Hampshire,

Portland, March 26, 1838.

Sir,

HAVING forwarded to you in my several Despatches of the 14th, 15th, 22d, 23d, and 24th inst., for the information of my Lord Palmerston, all the proceedings which have taken place in the Legislature of the State of Maine, in regard to the North Eastern Boundary, and the commerce with the Provinces of Nova Scotia and New Brunswick. —I now crave the honor to inclose you, for the like purpose, copies of the Resolves on the same subject, as finally passed that body, and approved by the Governor.

Also the Governor's Message and Resolves of the said Legislature, in relation to fortifications on the frontier, being the final Act, it having adjourned on the 24th instant, without day.

I have the honor to be, &c.

(Signed)

JOS. T. SHERWOOD.

John Bidwell, Esq.

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Message to the Senate and House of Representatives.

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I FEEL it my duty respectfully to call your attention to the propriety and expediency of taking some measures before you separate, to express and urge the claims and rights of this State, in relation to the fortifications and defences upon our coast and rivers. Former Legislatures have called the attention of the General Government to this subject; but the works have not yet been commenced, and no recent movement has been made. It is unnecessary for me to enter into a detail of reasons which, at this moment particularly, justify and require a strong and urgent representation addressed to the General Government on this subject. (Maine ought not to be left defenceless or exposed in so many points any longer. If her claims are presented by you, as representatives of the people, in respectful but strong language, we may confidently trust that they will not be neglected or postponed at this important crisis.

(Signed)

EDWARD KENT.

Council Chamber, March 22, 1838.

STATE OF MAINE.

Resolves relating to Fortifications on our Frontier.

RESOLVED—That the maritime frontier and the extensive interior position of this State, are in a defenceless and exposed situation, and we rely with confidence that the Federal Government will cause suitable fortifications to be erected for the defence of the same.

Resolved—That the erection of a strong fortification in some eligible position in the Eastern section of this State, is imperatively and loudly called for by the increasing necessity of extending the protection of our laws to the citizens living in that vicinity.

Resolved—That our Senators in Congress be instructed, and our Representatives requested, to use their influence to procure suitable appropriations for the objects contemplated in the foregoing Resolves.

Resolved—That the Governor be requested to send one copy of his Message to the Legislature, in relation to Fortifications; and one copy of these Resolves to the President and Vice President of the United States, to each of the Heads of Department at Washington, and to each of our Senators and Representatives in Congress.

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

(Signed)

ELISHA H. ALLEN, Speaker.

In Senate, March 23, 1838—Read and passed.

(Signed)

N. S. LITTLEFIELD, President.

March 23, 1838—Approved.

(Signed)

EDWARD KENT.

STATE OF MAINE.

Resolves in relation to the North Eastern Boundary.

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

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

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

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

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

(Signed)

E. H. ALLEN, Speaker.

In Senate, March 23, 1838—Read and passed.

(Signed)

N. S. LITTLEFIELD, President.

March 23, 1838—Approved.

(Signed)

EDWARD KENT.

