

MAINE STATE LEGISLATURE

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RESOLVES

OF THE

SEVENTH LEGISLATURE

OF THE

STATE OF MAINE,

PASSED AT THE SESSION

WHICH COMMENCED ON THE THIRD DAY OF JANUARY, AND ENDED
ON THE TWENTY-SIXTH DAY OF FEBRUARY, ONE THOUSAND
EIGHT HUNDRED AND TWENTY-SEVEN.

Published agreeably to the Resolve of the 20th June, 1820.

FORTLAND.

PRINTED BY THOMAS TODD.....PRINTER TO THE STATE
1827.

CHAPTER XXXII.

Resolve taxing Township Number five, in the second Range, in the County of Oxford, and establishing the valuation thereof.

Resolved, That Township number five, in the second range of townships, in the County of Oxford, be set in the State Valuation, at four thousand two hundred and seventy six dollars, and taxed accordingly.

[*Approved by the Governor, February 23, 1827.*]

CHAPTER XXXIII.

Resolve for the payment of contingent expenses.

Resolved, That there be appropriated the sum of seven hundred dollars, for the payment of contingent expenses of the current political year, to be placed at the disposal of the Governor, and for the expenditure of which he is to be accountable.

[*Approved by the Governor, February 23, 1827.*]

CHAPTER XXXIV.

Resolve for the purchase of Stationary.

Resolved, That there be appropriated the sum of three hundred dollars, for the purchase of Stationary, for the several offices and the Legislature, to be placed in the hands of the Secretary of State, and for the expenditure of which he is to be accountable.

[*Approved by the Governor, February 23, 1827.*]

MESSAGE OF THE GOVERNOR.

To the Senate and House of Representatives :

I have the honor to communicate for your consideration, a copy of a letter from the British Minister in this Country to the Secretary of State of the United States, having reference to the North Eastern Boundary of this State.

I have also received other documents, which I now transmit, together with a copy of a letter from me to the Governor of Massachusetts.

Permit me to add, that I trust the intelligence and integrity of Maine will direct its claims only to its rights, and that its spirit and firmness will sustain that intelligence and integrity.

ENOCH LINCOLN.

Council Chamber, February 12, 1827.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, February 16, 1827.

The Joint Select Committee to whom was referred so much of the Governor's Message as relates to the North Eastern Boundary, and to whom was also referred a communication from the Governor containing a copy of a letter from the British Minister in this country to the Secretary of State of the United States, having reference to the North Eastern Boundary of this State, have had the same under consideration and ask leave to REPORT :

That the territory lying within the limits of the State of Maine, the right of jurisdiction over which is now under discussion between the governments of the United States and Great Britain is highly important and valuable to the citizens of this State, as well from its extensive forests of timber, as for the richness and fertility of its soil and susceptibility of cultivation and improvement. Although its settlement is not rapid, arising no doubt, in some measure from the conflicting claims of national jurisdiction, yet it is destined at some future period to support a numerous, hardy and enterprising population. The government of the United States have an important interest in the decision of the question : So has the State of Massachusetts ; but however important those interests may be,—this State has a still more important one,—for her rights of sovereignty and property are both deeply concerned. Such, indeed, is the importance of this question to our State, that all her citizens ought to be alive to it, and all her public servants should use every exertion in their power to bring the subject to a speedy and correct issue.

Your Committee have examined the subject, with all the care and deliberation in their power, and are not aware that much, if any light can be derived from the ancient grants, proclamations and treaties of the governments of France and Great Britain, because there seems almost always to have been conflicting claims of jurisdiction, and few or no certain

boundaries established. The war of 1756 terminated the power of France in Canada and Acadie, and by the treaty of Fontainebleau, which terminated that war, she ceded those provinces to Great Britain. Great Britain then became as much possessed of Canada and Nova Scotia, or Acadie, as she was of her other colonies in North America, which she had settled and protected; and had over them the same political power and the same rights of changing, altering or modifying their jurisdictions, boundaries and governments. Such continued to be her rights over all her North American Colonies, until changed by the American Revolution, and consummated by the Treaty of 1783.

The Revolution brought into existence a new power, which Great Britain reluctantly acknowledged, but, when she consented to treat with that power, it was competent for the great contracting parties to make compacts, to prescribe such limits, and to establish and define such boundaries, as they pleased. This they have done in the treaty. Wherever the descriptions in the treaty are clear and not perplexed with ambiguity, there seems to be no necessity for resorting to any thing beyond its own provisions to settle its meaning, more especially when the instrument itself contains no such reference.

The treaty of 1783 contains a very clear description of the line constituting the North Eastern Boundary of the United States. The description is so accurate and well defined, that it could never have been doubtful, except at one point, to wit, —which of the rivers falling into the Bay of Passamaquoddy, and ultimately into the Bay of Fundy, was the true St. Croix, thereby intended. The Commissioners appointed under the treaty of 1794 have settled that question; and although there was much reason for fixing on the first river West of the St. John, as the true St. Croix of the treaty, still the Commissioners finally fixed upon the Schoodic as the true river, and ascertained its direction from the mouth to its source, and settled the line to the monument which they erected. However hard the bargain was for us, we were bound in good faith to acquiesce in the result, and still do, and are not now disposed to disturb any thing which was thus mutually settled.

There is not, to our knowledge, any controversy as to the point where the unsettled boundary commences, nor as to the course of the line,—for all parties commence their surveys at the same point, to wit, at the monument, and run the same course. The controversy is as to the length of the line, or in other words, what is meant by the North-west angle of

Nova Scotia and the highlands, as described in the treaty. The boundaries of the United States are described in the provisional articles between the United States and Great Britain, and are incorporated into the definitive treaty of peace, with a preface which gives them an increased solemnity and effect.

The first part of the second article of the treaty is as follows :—“ And that all disputes which might arise in future, “ on the subject of the boundaries of the said United States “ may be prevented, it is hereby agreed and declared, that “ the following are and shall be their boundaries, to wit : “ From the North-western 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 those rivers, which empty “ themselves into the St. Lawrence, from those which fall in- “ to the Atlantic Ocean, to the North-western-most head of “ Connecticut River,—thence down along the middle of that “ river to the forty-fifth degree of North Latitude,” &c.

We have before observed that the only point which admitted of doubt in the description of the North-eastern boundary, was the locality of the river St. Croix, that being the point of commencing the line defined by the treaty. Until that was settled, the guide for finding the Northwest angle of Nova Scotia could not be reduced to mathematical certainty. But, when settled, it became a certain and definite point, from which, connected with the other part of the description, to wit, the highlands which divide the waters which empty themselves into the St. Lawrence from those which fall into the Atlantic Ocean, the Northwest angle of Nova Scotia and the Northeast angle of the United States and this State with the intervening boundary, can be ascertained with absolute certainty. The treaty has no reference to any other description or boundary than such as are contained in its own provisions ; nor has it any reference to any rules of construction, or points for ascertaining its monuments, but such and such only as it gives. There is no ambiguity in its language, nor can there be any upon the face of the earth. It describes two classes of rivers,—one emptying themselves into the St. Lawrence, and the other into the Atlantic Ocean. It describes no third class, and all the rivers connected with the description of boundary must, therefore, be embraced in one or the other of the aforesaid classes. Nor does it mention the particular elevation of the highlands dividing the waters which empty themselves into the St. Lawrence from those which fall into the Atlantic Ocean. And their particular elevation is of no consequence, whether they be ten thousand

or one thousand feet above the level of the sea ; it is only necessary the highlands should be of sufficient elevation to divide the waters. There can be no doubt that there is such a range of highlands which do divide the waters emptying themselves into the St. Lawrence on the one hand and the Atlantic Ocean on the other.—Lest there should remain any doubt, in the description of the Northeastern boundary of the United States, it is again recurred to in the latter part of the second article of the treaty from which a quotation has already been made, in the following words :—“ *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.*”

Here again—but two classes of rivers are recognised as having any connexion with the boundary, in ascertaining its position or locality on the face of the earth, nor can we imagine that any other class could have been in the minds of any of the Commissioners. When all the descriptions are so clear and precise ; when we can discover nothing to excite doubts, we do not and cannot doubt. The rule for settling the boundary definitively, is clear and plain and explicit. Nor can we forbear to remark, that if views of national interest did not interfere there would be no difficulty in ascertaining the line.

The subject is again recurred to in the fifth article of the Treaty of Ghent, but not in a manner that recognizes the slightest alteration in the rights of the parties. By that instrument all rights in relation to the Northeastern boundary are recognised as still existing precisely as they were defined by the treaty of 1783 :—and as to all the claims made by the British Government, it is a sufficient answer that the war of the revolution had dissolved their former political connexion, and both, by the force of events, had become independent sovereignties. The principles of justice and national honor imperiously demand of both, a settlement of the boundary, in good faith, and according to the rules they have mutually prescribed. Let the boundary be thus settled, and we ask no more :—For the State neither seeks nor claims more than her own ; but she has a deep interest in preserving and retaining all to which she has a right :—and will not be wanting in any proper exertion to preserve and maintain the integrity of her territory.

The Government of the United States have manifested no disposition to yield any portion of our territory, under any

circumstances ; and from the past we are inspired with a belief and confidence that she will not, under any circumstances which may hereafter occur. We can anticipate only one class of events which would vest a right in the general government to give up any such territory ; and those events are such only, which from the application of external force would impair the national compact and destroy the present Union. In any other case, we deny the right of the government of the United States to yield any portion of our territory to any other independent sovereignty, unless by the consent of the State. Although more than forty-three years have elapsed since the treaty, and about thirty years since the designation of the river St. Croix and the settlement of the boundary line from its mouth to its source, yet for some cause or other, the final adjustment and survey of the line has been delayed ; not, as we presume from any fault or negligence on the part of the government of the United States. Our government has always claimed the country, and exercised over it all the jurisdiction which its circumstances and exigencies required.— The territory to which the British government pretend a claim, may, even now, be considered a mere wilderness, although there may be found upon it a few straggling settlements. The circumstances of the United States, and of Massachusetts, and of this State, have not hitherto required an appropriation of it to actual settlements. Wild lands situated near the sea board or containing other inducements have been sufficient for the accommodation of emigrants and the natural increase of population. But it is a fact, not to be denied, that the progress of settlement is towards the territory in question, and the interest of the State in the adjustment of the dispute is daily becoming more important.

While we cannot doubt that the title from the solemn compact is in us, we can neither admit the idea that any possessory or other act of the British government, inconsistent with the terms of that compact can even impair, much less divest our rights of property and of sovereignty. We cannot view the acts complained of by the British government as encroachments upon the rights of New Brunswick or Great Britain, for they relate, and were only intended to relate to the territory within the description of the treaty. Nor can we perceive that the British government have any reason to complain of those acts, except under a misapprehension of the rights of the respective parties.

By a resolve of the Legislature of this State, passed January twenty-sixth, eighteen hundred and twenty-six, the Governor of this State was authorized and requested to take such meas-

ures as he might think expedient and effectual to procure for the use of the State, certain copies and documents, &c. mentioned in said Resolve. The Governor having done all in his power to procure the information alluded to in said Resolve, but his efforts not having been successful, your Committee are of opinion that the interests of the State may be advanced by a renewal of the request to the Government of the United States, and have the fullest confidence that such request will be answered; and therefore report the subjoined Resolve.

JOHN G. DEANE, *Per Order.*

CHAPTER XXXV.

Resolve respecting the Northeastern Boundary of the State.

Resolved, That the Governor be, and he hereby is, requested to take all such measures, both in acquiring information, and in procuring a speedy adjustment of the dispute, according to the treaty of seventeen hundred and eighty three, as he may deem expedient and for the interest of the State.

[*Approved by the Governor, February 23, 1827.*]

CHAPTER XXXVI.

Resolve in favor of Joel Wellington and Samuel Whitney.

Resolved, That a township of land, of six miles square, (subject to the reservation provided in the eighth section of an Act to promote the sale and settlement of the public lands,) be granted to Joel Wellington and Samuel Whitney, upon the terms and conditions following; the said township to be selected within one year, from any of the townships belonging to this State, in the first five tiers of townships north of the line run due west from the monument at the source of the St. Croix, in the first, second, third and fourth ranges of townships west of said monument, not valuable principally for the timber upon it, but for settlement and cultivation, and within three years after such selection be made, the said Wellington and Whitney, shall cause said township to be surveyed into convenient lots for settlement, not exceeding two hundred acres each, and return a plan thereof into the Land Office, erect or cause to be erected in said township, a good saw mill and grist mill, with all necessary appurtenan-