

# MAINE STATE LEGISLATURE

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# **RESOLVES**

OF THE

**EIGHTH LEGISLATURE**

OF THE

**STATE OF MAINE,**

**PASSED AT THE SESSION**

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

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

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**PORTLAND.**

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

**1828.**

**[DUE TO ITS SIZE, THIS LAW HAS BEEN DIVIDED INTO TWO  
ELECTRONIC FILES. THIS IS THE SECOND FILE.]**

## APPENDIX.

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[DOCUMENTS REFERRED TO IN THE FOREGOING REPORT.]

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## NO. 1.

*An Extract from the grant of James 1st, to Sir William Alexander, (afterwards Lord Sterling,) passed September 10, 1621.*

We do by these presents give, grant and convey to the said Sir William Alexander his heirs and assigns, all and singular the lands upon the Continent, and the Islands situate, lying, and being in America, within the head or promontory commonly called Cape Sable, in the latitude of forty-three degrees, nearly or thereabouts, from that promontory along the shore, stretching to the west to the bay commonly called St. Mary's Bay, thence to the north by a direct line crossing the entrance or mouth of the great bay, which extends Eastward, between the countries of the Siroquois and Etchemins, so commonly called, to the river commonly called by the name of the Holy Cross, or the Saint Croix, and to the furthest source or spring, upon the western branch of the same, which first mingles its waters with those of the said river ; thence by an imaginary direct line, to be drawn or run through the country, or over the land, to the north, to the first bay, river or spring emptying itself into the great river of Canada ; and from thence running to the East, along the shores of the said river of Canada, to the river, bay or harbor commonly called and known by the name of Gachepe or Gaspee, and from thence southeast to the Islands called Baccalaos or Cape Breton, leaving the same Islands upon the right, and the Gulph of the said river or bay of Canada and Newfoundland, with the Islands thereunto belonging, upon the left ; and from thence to the head or promontory of Cape Breton aforesaid, lying near the latitude of forty-five degrees or thereabouts, and from the said promontory of Cape Breton, to the southward and westward to Cape Sable aforesaid, the place of beginning, including and comprehending within the said coasts and shores of the sea, and the circumferences thereof from sea to sea, all the lands upon the Continent, with the rivers, torrents, bays, shores, islands or seas, lying near to, or within six leagues from any part thereof, on the western, northern, or eastern parts of the said coasts and precincts of the same, and to the southeast where Cape Breton lies, and to the southward there-

of where Cape Sable lies, all the seas and islands, to the south, within forty leagues of the said shores, including the great island commonly called the Isle of Sable or Sablon, lying south-south-east in the ocean, about thirty leagues from Cape Breton aforesaid, and being in the latitude of forty-four degrees, or thereabouts.

All which lands aforesaid, shall at all times hereafter be called and known by the name of Nova Scotia or New Scotland, in America. And if any questions or doubts shall hereafter arise upon the interpretation or construction of any clause in the present letters patent contained, they shall all be taken and interpreted in the most extensive sense, and in favor of the said Sir William Alexander, his heirs and assigns aforesaid. Moreover, we, of our certain knowledge, our own proper motion, regal authority, and royal power, have made, united, annexed, erected, created and incorporated, and we do, by these our letters patent, make, unite, annex, erect, create, and incorporate the whole and entire province and lands of Nova Scotia aforesaid, with all the limits thereof, seas, &c. ; officers and jurisdictions, and all other things generally and specially abovementioned, into one entire and free dominion and barony, to be called at all times hereafter by the aforesaid name of Nova Scotia.

## NO. 2.

*Extract from the grant of Charles the 2d, to James, Duke of York, dated 12th of March, 1663.*

Know ye that we, for divers good causes, &c. have, &c. and by these presents, &c. do give and grant unto our dearest brother James, duke of York, his heirs and assigns, all that part of the main land of New England, beginning at a certain place, called or known by the name of St. Croix, next adjoining to New Scotland, in America ; and from thence extending along the sea coast unto a certain place called Pemaquid or Pemaquid, and so up the river thereof, to the farthest head of the same as it tendeth northward ; and extending from thence to the river *Kimbequin*, and so upwards, by the shortest course to the river of Canada, northward. And also all that island or islands commonly called by the several name or names of Matowacks or Long Island, situate, lying and being towards the west of Cape Cod and the Narrow Higansets, abutting upon the main land between the two rivers, there called or known by the several names of Connecticut and Hudson's river ; together, also, with the said river, called Hudson's river, and all the lands from the west side of Connecticut river, to the east side of Delaware bay. And also all

those several islands, called or known by the names of Martin's Vineyard, and Nantukes, or otherwise Nantucket.

## NO. 3.

*Extract from the Charter of the Province of the Massachusetts bay, in New-England, dated 7th Oct. 1691, 3d William & Mary.*

William and Mary, by the grace of God, King and Queen of England, Scotland, France, and Ireland, defenders of the faith, &c. to all to whom these presents shall come, Greeting. We do by these presents, for us, our heirs, and successors, will and ordain, that the territories and colonies, commonly called or known by the names of the colony of the Massachusetts Bay and colony of New Plymouth, the province of Maine, and the territory, called Acadia or Nova Scotia, and all that tract of land, lying between the said territories of Nova Scotia, and the said province of Maine, be erected, united and incorporated; and we do, by these presents, unite, erect, and incorporate the same into one real province, by the name of our province of the Massachusetts Bay in New England; and of our especial grace, certain knowledge, and mere motion, we have given and granted, and by these presents, for us, our heirs, and successors, do give and grant, unto our good subjects, the inhabitants of our said province or territory of Massachusetts Bay, and their successors, all that part of New England in America, lying and extending from the Great River, commonly called Monomack, alias Merrimack, on the north part, and from three miles northward of the said river to the Atlantic, or western sea or ocean, on the south part and all the lands and hereditaments whatever, lying within the limits aforesaid, and extending as far as the outermost points or promontories of land called Cape Cod and Cape Malabar, north and south, and in latitude, breadth, and in length, and longitude, of and within all the breadth and compass aforesaid, throughout the main land there, from the said Atlantic or Western sea and ocean, on the east part, towards the South sea, or westward, as far as our colonies of Rhode Island, Connecticut, and the Narragansett country; and, also, all that part and portion of Maine land, beginning at the entrance of Piscataqua harbor, and so to pass up the same into the river of Newichwannock, and through the same into the farthest head thereof, and from thence northwestward, till one hundred and twenty miles be finished, and from Piscataqua harbor mouth aforesaid, northeastward along the sea coast to Sagadehock,\* and from the

\*The following words, viz. "And up the river thereof to the Knybecky river, and through the same to the head thereof, and unto the land northwestward, until one hundred and twenty miles be ended, being accounted from the mouth of Sagadehock," as inserted in George's grants (from which the descriptive part of the boundaries of Maine in this charter is taken,) appear to have been inadvertently omitted, being necessary to render those boundaries intelligible; and should follow the word Sagadehock, to which the asterisk is affixed.

period of one hundred and twenty miles aforesaid, to cross over land from Piscataqua harbor, through Newichwannock river ; and also the north half of the Isles of Shoals, together with the Isles of Capawack and Nantucket, near Cape Cod aforesaid ; and also the lands and hereditaments lying and being in the country or territory commonly called Acadie, or Nova Scotia, and all those lands and hereditaments lying and extending between the said country or territory of Nova Scotia, and the said river of Sagadahock, or any part thereof.

That it shall and may be lawful for the said Governor and general assembly to make or pass any grant of lands lying within the bounds of the colonies formerly called the colonies of the Massachusetts Bay, and New-Plymouth, and province of Maine, in such manner as heretofore they might have done by virtue of any former charter or letters patent ; which grants of lands, within the bounds aforesaid we do hereby will and ordain to be and continue forever of full force and effect, without our further approbation or consent. And so as nevertheless, and it is our royal will and pleasure, that no grant or grants of any lands lying or extending from the river of Sagadahock to the gulf of St. Lawrence and Canada rivers, and to the main sea northward and eastward, to be made or past by the Governor and general assembly of our said province, be of any force, validity, or effect, until we, our heirs, or successors, shall have signified our approbation of the same.

## NO. 4.

*Copy of Col. Phillipps' Commission for the Government of Nova Scotia—1719.*

George by the Grace of God, &c. To our trusty and well beloved Richard Phillipps, Esq. GREETING :

Know ye that we reposing especial trust and confidence in the prudence, courage, and loyalty of you the said Richard Phillipps, out of our especial grace, certain knowledge, and mere motion, have thought fit to constitute and appoint, and by these presents do constitute and appoint you the said Richard Phillipps, to be our Governor of Placentia in Newfoundland ; and our Captain General and Governor in chief in and over our province of Nova Scotia or Acadie in America : and we do hereby require and command you to do and execute all things in due manner that shall belong unto your said command, and the trust we have reposed in you, according to the several powers and directions granted or appointed you by this present Commission, and the instructions herewith given you,

or by such further powers, instructions, or authorities as shall at any time hereafter be granted or appointed you, under our signet and sign manual or by our order in our Privy Council, and according to such reasonable Laws and Statutes, as shall hereafter be made and assented to by you, with the advice and consent of our Council and assembly of our said Province, hereafter to be appointed.

And for the better Administration of Justice and management of the Public affairs of our said Province, We hereby give and grant unto you the said Richard Phillipps full power and authority to choose, nominate, and appoint such fitting and discreet persons as you shall either find there or carry along with you, not exceeding the number of twelve to be of our Council in our said Province, till our further pleasure be known, any Five whereof we do hereby appoint to be a Quorum.

NO. 5.

*Draught of a commission for the Hon. Col. Cornwallis to be Governor of Nova Scotia—April 29, 1749.*

George the second by the Grace of God, of Great Britain, France and Ireland King, Defender of the faith, &c. To our trusty and well beloved The Hon. Edward Cornwallis Esq. Greeting. Whereas we did by our Letters Patent under our Great Seal of Great Britain bearing date at Westminster the 11th day of September in the second year of our Reign constitute and appoint Richard Phillipps, Esq. our Captain General and Governor in Chief in and over our Province of Nova Scotia or Acadie in America with all Rights, Members and Appurtenances whatever thereunto belonging for, and during our will and pleasure, as by the said recited Letters Patent relation being thereunto had, may more fully and at large appear: Now know you that We have revoked and determined, and by these presents, do revoke and determine, the said recited Letters Patent and every clause, article and thing therein contained; and further know you, that We, reposing especial trust and confidence in the prudence, courage and loyalty of you the said Edward Cornwallis, of our especial Grace, certain knowledge, and mere motion, have thought fit to constitute and appoint, and by these presents do constitute and appoint you the said Edward Cornwallis to be our Captain General and Governor in Chief in and over the Province of Nova Scotia or Acadie in America, with all the rights, members and appurtenances whatever thereunto belonging.

18th March 1752. The Commission given to Peregrine Thomas Hopson, as Governor of the Province of Nova Scotia is the same, *mutatis mutandis*, as that given to Edward Cornwallis, Esq.



## NO. 6.

*Extract from the Proclamation of the King of Great Britain, of the seventh of October, 1763, establishing four governments.*

BY THE KING, A PROCLAMATION.

GEORGE R.

Whereas, we have taken into our royal consideration the extensive and valuable acquisitions in America, secured to our Crown by the late definitive treaty of peace, concluded at Paris, the 10th day of February last ; and being desirous that all our loving subjects, as well of our kingdoms, as of our colonies in America, may avail themselves, with all convenient speed, of the great benefits and advantages which must accrue therefrom to their commerce, manufactures, and navigation, we have thought fit, with the advice of our privy council, to issue this our royal proclamation, hereby to publish and declare to all our loving subjects, that we have, with the advice of our said privy council, granted our letters patent under our great seal of Great Britain, to erect, within the countries and islands ceded and confirmed to us by the said treaty, four distinct and separate governments, styled and called by the names of Quebec, East Florida, West Florida, and Grenada, and limited and bounded as follows, viz :

First, the Government of Quebec, bounded on the Labrador coast by the river St. John, and from thence by a line drawn from the head of that river, through the lake St. John to the southend of the lake Nipissim; from whence the said line crossing the river St. Lawrence and the lake Champlain in forty five degrees of north latitude, passes *along the highlands which divide the rivers that empty themselves into the said St. Lawrence from those which fall into the sea* ; and also along the north coast of the Baye des Chaleurs, and the coast of the Gulf of St. Lawrence to Cape Rosieres, and from thence, crossing the mouth of the river St. Lawrence, by the west end of the island of Anticosti, terminates at the aforesaid river St. John.

Representation to his Majesty with the draught of a commission for Charles Lawrence, Esq. to be Governor of Nova Scotia.

To the King's Most Excellent Majesty.

May it please Your Majesty:

In obedience to your Majesty's Order in Council, dated the 18th inst. we have prepared the draught of a commission for Charles Lawrence, Esq. to be Captain General and Governor in chief of your Majesty's Province of Nova Scotia, in Ameri-

ca, which being in the usual form, we herewith humbly lay it before your Majesty, and shall prepare the necessary instructions for him with all possible dispatch.

Which is most humbly submitted.

(signed)

DUNK HALIFAX,  
J. PITT,  
JAMES OSWALD,  
ANDREW STONE.

*Whitehall, December 18, 1755.*

NO. 7.

*Governor Ellis's Commission, April 1, 1761.*

George the third, by the Grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, &c. To our Trusty and well beloved Henry Ellis, Esq. Greeting. Whereas our late Royal Grandfather of blessed memory, did by his Letters Patent under the Great Seal of Great Britain bearing date at Westminster the        of        in the        year of His Reign, constitute and appoint Charles Lawrence, Esq. Captain General and Governor in Chief, in and over our Province of Nova Scotia or Acadie in America, with all the Rights, Members and appurtenances whatever thereunto belonging for and during His late Majesty's Will and Pleasure, as by the said recited Letters Patent, relation being thereunto had, may more fully and at large appear : Now know you that We have revoked and determined, and by these Presents, do revoke and determine the said recited Letters Patent, and every clause, article and thing therein contained, and further know you that We, reposing especial Trust and confidence in the Prudence, Courage and Loyalty of you the said Henry Ellis, Esq. of our Especial Grace, certain knowledge and mere motion, have thought fit to constitute and appoint and by these presents do constitute and appoint you the said Henry Ellis to be our Captain General and Governor in Chief, in and over our Province of Nova Scotia or Acadie in America, with all the Rights, Members and appertenances whatever thereunto belonging.

NO. 8.

*Draught of a Commission for Montague Wilmot, Esq. to be Governor of Nova Scotia, dated October 1763.*

George the third, by the Grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, &c. To our Trusty and well beloved Montague Wilmot, Esq. Greeting.—Whereas we did by our Letters Patent under the Great Seal of

Great Britain, dated at Westminster, the       day       of       in the first year of our Reign, constitute and appoint Henry Ellis, Esq. Captain General and Governor in Chief, in and over our Province of Nova Scotia or Acadie in America, with all the Rights, Members and Appertenances thereunto belonging for and during our will and pleasure, as by the said recited Letters Patent, relation being thereunto had, may more fully and at large appear : Now know you that we have revoked and determined and by these Presents do revoke and determine the said recited Letters Patent and every clause, article and thing therein contained.

And further know you, that We, reposing especial Trust and confidence in the Prudence, Courage and Loyalty, of you the said Montague Wilmot, of our especial Grace, certain knowledge and mere motion, have thought fit to constitute and appoint, and by these Presents, We do constitute and appoint you, the said Montague Wilmot to be our Captain General and Governor in Chief in and over our Province of Nova Scotia, bounded on the westward by a line drawn from Cape Sable across the entrance of the Bay of Fundy, to the mouth of the river St. Croix, by the said river to its source and by a line drawn due North from thence to the Southern Boundary of Our Province of Quebec, to the Northward by the said boundary as far as the western extremity of the Baye des Chaleurs : To the eastward by the said Bay and the Gulph of St. Lawrence to the cape or promontory called Cape Breton, in the Island of the same name, including that Island, the Island of St. Johns, and all other Islands within six leagues of the coast, and to the southward by the Atlantic Ocean from said Cape to Cape Sable aforesaid, including the Island of that name and all other Islands within forty leagues of the coast, with all the rights, members and appurtenances whatsoever thereunto belonging.

#### NO. 9.

#### *Governor Legges' Commission.*

George the third, by the Grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, &c.—To our trusty and well beloved Francis Legge, Esq. GREETING :

Whereas, we did, by our letters patent, under our great seal of Great Britain, bearing date at Westminster, the eleventh day of August, in the sixth year of our reign—constitute and appoint William Campbell, Esq. commonly called Lord William Campbell, Captain General and Governor in Chief, in

and over our Province of Nova Scotia, in America, bounded on the westward by a line drawn from Cape Sable across the entrance of the bay of Fundy, to the mouth of the river St. Croix, by said river to its source, and by a line drawn due north from thence to the southern boundary of our Colony of Quebec. To the northward by the said boundary, as far as the western extremity of the bay des Chaleurs. To the eastward by the said bay and the Gulph of St. Lawrence, to the cape or promontory called Cape Breton, in the island of that name, including that island, the island of Saint John, and all other islands within six leagues of the coast; and to the southward by the Atlantic Ocean, from the said Cape to Cape Sable aforesaid, including the island of that name, and all other islands within forty leagues of the coast, with all the rights, members and appertenances, whatsoever, thereunto belonging, for and during our will and pleasure, as by the said recited letters patent, relation being thereunto had, may more fully and at large appear; Now, know you, that we have revoked and determined, and by these presents do revoke and determine, the said recited letters patent, and every clause, article and thing therein contained, and further, Know you that We, reposing especial confidence and trust in the prudence, courage and loyalty of you, the said Francis Legge, of our especial grace, certain knowledge and mere motion, We have thought fit to constitute and appoint you, the said Francis Legge, to be our Captain General and Governor in Chief of our said province of Nova Scotia, bounded on the westward by a line drawn from Cape Sable across the entrance of the Bay of Fundy, to the mouth of the river St. Croix, by the said river to its source, and by a line drawn due north from thence to the southern boundary of our colony of Quebec: To the northward by the said boundary, as far as the western extremity of the Bay des Chaleurs. To the eastward, by the said Bay, and the Gulph of St. Lawrence, to the cape or promontory, called Cape Breton, in the island of that name, including that island and all other islands *within six leagues of the coast*, excepting our said Island of St. John, which we have thought fit to erect into a separate government; and to the southward by the Atlantic Ocean, from the said Cape to Cape Sable aforesaid, including the island of that name, and all other islands within forty leagues of *the coast*. With all the rights, members and appertenances whatsoever, thereunto belonging.

And we do hereby require and command you to do and execute all things in due manner, that shall belong unto your said command, and the trust we have reposed in you according to the several powers and authorities granted or appoint-

ted you by the present commission, and the instructions herewith given you or by such further powers, instructions and authorities, as shall at any time hereafter be granted or appointed you under our signet and Sign Manual, or by our order in our Privy Council, and according to such reasonable Laws and Statutes as are now in force, or shall hereafter be made or agreed upon by you, with the advice and consent of our Council, and the assembly of our said Province under your Government, in such manner and form as is hereafter expressed.

## NO. 10.

*The act of the British Parliament of the 14th year of George 3d. (1774) relating to the province of Quebec, provides as follows :*

That all the Territories, Islands and Counties in North America belonging to the Crown of Great Britain bounded on the south by a line from the Bay of Chaleurs along the highlands which divide the rivers which empty themselves into the river St. Lawrence from those which fall into the sea ; to a point in the 45th 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 river St. Lawrence, from thence up the Eastern bank of said river to Lake Ontario, thence through the Lake Ontario and the river commonly called Niagara, and thence along by the eastern and south eastern bank of Lake Erie, following the said bank until the same shall be intersected by the Northern boundary granted by the Charter of the Province of Pennsylvania in case the same shall be so intersected, and from thence along the said North and West boundary of the said Province, until the said western boundary strikes the Ohio ; but in case the said Bank of said Lake shall not be found to be so intersected, then following the said bank until it shall arrive at that point of the said bank which shall be nearest to the Northwest angle of the said Province of Pennsylvania, and thence by a right line to the said northwest angle of said Province, and thence along the western boundary of said Province until it strikes the Ohio, and along the bank of the said river westward to the bank of the Mississippi, and North to the southern boundary of the territory granted to the Merchant adventurers of England trading to Hudson's Bay ; and also all such Territories, Islands and Counties which have since the tenth day of February, 1763, been made part of the Government of Newfoundland, be and they are hereby during His Majesty's pleasure, annexed to and made a part of the Province of Quebec, as created and established by the said Royal Proclamation of the 7th of October, 1763.

## NO. 11.

*Extract from the British agent's argument before the commissioners under the fifth article of the treaty of amity, commerce and navigation, concluded between the United States and Great Britain, at London, Nov. 19, 1794.*

By the 12th Section of the Act entitled "An Act to restrain the Trade and Commerce of the province of Massachusetts Bay and New-Hampshire, and Colonies of Connecticut, and Rhode Island and Providence plantations in North America, to Great Britain, Ireland and the British Islands in the West Indies, and to prohibit such Provinces and Colonies from carrying on any fishing on the banks of Newfoundland or other places therein mentioned, under certain conditions and limitations." They say, it is provided and enacted 'that the River which emptieth itself into Passamacadie or Passamaquaddy bay on the western side, and is commonly called or known by the name of St. Croix River be held and deemed for all the purposes in this act contained to be the boundary line between the Provinces of Massachusetts Bay and Nova Scotia.

This act creates no new boundary, it merely recognizes, confirms and establishes that River St. Croix as a boundary between the Provinces of Nova Scotia in the patent to Sir William Alexander in 1621; which was agreed upon, settled known and acknowledged, as the boundary between the Province of Nova Scotia and the territory of New England, granted to the council of Plymouth in the year 1620, which after the surrender of their Grand Charter was the boundary between Nova Scotia and the territory granted to the Duke of York in 1664, which was recognized as the western boundary of Nova Scotia by the charter of William and Mary to the Province of Massachusetts Bay in 1691, and which from the treaty of Utrecht in 1713 was the boundary between the Provinces of Massachusetts Bay and Nova Scotia, received and established by the Crown, and known, acknowledged and acquiesced in by the Government of Massachusetts Bay.

That from the time of the passing of this act of Parliament in 1774, the boundaries of the Province of Nova Scotia remain unaltered to the treaty of peace in 1783 will not, it is presumed, be denied. And it will not be difficult now to show that the River Scoudiac, under the name of the River Saint Croix formed a part of the boundary described in that treaty.

It is sufficient here to observe, that at the time the treaty of Peace was made in 1783, the Provinces of Quebec and Nova Scotia belonged to and were in the possession of the Crown of Great Britain, and that his Britannic Majesty at that time had an undoubted right to cede to the United States of A-

merica such part of these territories as he might think fit, and that in making the cession of the territory comprised within the boundaries of the United States as described in the second article of the treaty of peace, his Majesty must be supposed to have used the terms describing these boundaries in the sense in which they had been uniformly understood in the British Nation, and recognized in public documents and acts of government. In this sense, and in no other, could they have then been understood, or can they now be claimed or insisted upon by the United States. In this sense, and in no other, is his Majesty bound to give the possession. Whatever river was at that time known and recognized by his Majesty and the British Government as the River St. Croix, forming a boundary between the province of Massachusetts Bay and Nova Scotia, that River, and no other, can now be claimed as a part of the Eastern boundary of the United States. It is sufficient that in this act of Parliament the River Saint Croix is described by a particular location and boundaries which cannot be mistaken, known to both parties at the time, and assented to on the part of the United States by their accepting the act and not giving any local designation of the River which they now claim, or of any other river than that thus ascertained by precise description, and known by them to have been established and at the time contemplated by Great Britain as the boundary between the provinces.

If this principle were once departed from, there would be no check to construction on the subject, though it would be fortunate to his Majesty's interests if he were not thus bound, as it might be clearly shown in that case that the River Penobscot, once indiscriminately with other Rivers upon this coast called the St. Croix, was the true boundary, by which Nova Scotia or Acadie was ceded to his Majesty by the treaty of Utrecht, and ought in such case by the principles of the law of Nations to be established as the Eastern boundary of the United States.

But the words in the twelfth section of the Act of Parliament above recited do not in any wise relate to, or suppose any subsisting doubts about the locality or identity of the River called or known by the name of the St. Croix River, but have reference, as has been fully shown to the ancient limits of the Province of Nova Scotia as established by the original grant of it to Sir William Alexander from King James the first, in the year 1621, recognized in all subsequent public documents and transactions relating thereto, and claimed by the Province of Massachusetts bay as their Eastern boundary under the Charter of King William and Queen Mary in 1691.

## EXTRACT, &amp;c.

The most accustomed and convenient rule in cases of this kind is to leave to each power respectively the sources of those Rivers that empty themselves, or whose mouths are within its Territory upon the Sea Coast, if it can be done consistently with, or in conformity with the intent of the treaty. If it can be shewn that this rule in the present case, can be adopted consistently with what has been shown to be the intent of the treaty, it will form an unanswerable argument in favor of a compliance with the rule, more especially if a different construction will involve the inconveniences intended to be avoided by so just a principle of interpretation.

Lut us in this view attend to the words made use of in the Treaty describing the first station or boundary from which all the other boundaries of the United States are to be traced, viz. From the Northwest angle of Nova Scotia, viz, That angle which is formed by a line drawn due north, from the source of St. Croix River to the highlands, which divide those Rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean. It appears from a map actually compiled in most instances from actual surveys, an authentic copy of which is now before the Board, that a line drawn due north from the source of the Cheputnatecook River, or northern branch of the River Scoudiac or St. Croix will not intersect the highlands here described, but will intersect the River Restigouche, which empties itself into the bay of Chaleurs, which falls into the Gulph of St. Lawrence, and will also intersect the Metabediac Lake which is the head or source of a River likewise falling into the bay of Chaleurs. In addition therefore to the argument drawn from the inconvenience resulting from its cutting off the sources of these Rivers, which discharge themselves within the British territory upon the sea coast; the source of this branch of the Scoudiac or St. Croix, cannot be the source intended by the treaty of peace, because in such case we cannot arrive at the Northwest angle of Nova Scotia, which is the first bound or station upon which the other boundaries depend, as they must be traced from thence, that is to say 'that angle which is found by a line drawn due north from the source of St. Croix River to the highlands which divide those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean.' For, if the fact be as above stated, should a line be traced due north from the source of the Cheputnatecook, if the high lands in such case are on this side or to the southward of the river Restigouche, they will divide the rivers that fall into the Atlantic Ocean, or bay of Fundy, from those that fall into the Gulph of St. Lawrence;



if they are between the river Restigouche and the Metabediac lake they will divide the rivers which from different sources unite and fall into the Gulph of St. Lawrence, if they are beyond this lake, they will divide the rivers which fall into the *Gulph of St. Lawrence* from those which fall into the river St. Lawrence; the requisite angle therefore will not be found upon this line. But if a line is traced due north from the source of the western or main branch of the river Scoudiac or St. Croix, it will run to the westward of the sources of all the rivers that fall into the gulph of St. Lawrence and will strike the highlands which divide the rivers that fall into the Atlantic Ocean from those which empty themselves into the river St. Lawrence and consequently give the requisite angle or first bound.

There is certainly a clear distinction in the Grant to Sir Wm. Alexander between the river Saint Lawrence and the Gulph of Saint Lawrence or rather of Canada; the boundary line by this grant, after striking that river is to follow the course of it eastward to the Gaspee, which lies to the northward of the bay of Chaleurs and afterwards the Gulph is mentioned, and the words made use of in the Grant seem to import a considerable distance Eastward, between the line where it strikes the River of Canada or Saint Lawrence and Gaspee.

It is far from being certain that the ridge of high lands which divides the Rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean, is continued to the eastward of the sources of the Rivers which fall into the Gulph of St. Lawrence, but whether thus continued or not, the inference is clear from the foregoing facts and reasoning that neither the Cheputnatecook nor consequently the Magaguadavic or any other River whose source is Eastward of the source of the Cheputnatecook can be the River intended under the name of the River St. Croix in the Treaty of peace.

But to apply these facts to the point more immediately under consideration, whether a line due north from the source of the western or main branch of the River Scoudiac or St. Croix, will leave to each of the parties to the treaty the sources of those Rivers that empty themselves, or whose mouths are within its Territory upon the Sea Coast respectively.

The effect so far as it regards the United States is completely secured by the Treaty in all events, and thence we have further reason to suppose it was intended to be reciprocal in this respect, if a just interpretation will warrant it.

A line due north from the source of the western or main branch of the Scoudiac 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.

Had the treaty intended that this north line should intersect a number of rivers which empty their waters through a British province into the sea, a right of navigation or passage down those rivers would doubtless have been secured to the United States by the treaty. That this was not the intention of the treaty, not only appears from the facts and reasoning that have already been adduced, but from a further consideration, that in most, if not all the maps of the interior country published before the year 1783, although the sources of the river Saint Croix are very inaccurately laid down, still it is very uniformly made to terminate in a lake near the eastern branch of the Penobscot, and a line drawn north from that termination upon those maps, will not intersect any of the rivers which empty themselves into the sea to the eastward of the mouth of the river Saint Croix except the river Saint John. This furnishes an unanswerable argument so far as any fair conclusions can be drawn from those maps in proof not only that the river Scoudiac, is the true ancient river Saint Croix and *consequently* intended by the Treaty of Peace under the name of Saint Croix, but that its true source, is upon that western branch in a Lake, near to an eastern branch of the River Penobscot.

If then there were any doubt remaining which is the true source of the River Saint Croix from which the line due north to the highlands is to be traced, the inconveniences above mentioned would form the strongest argument, against a decision from which they would result, and in favor of that by which they will be avoided ; much more so when the latter

decision will correspond with and be supported by so many other incontestible proofs and arguments clearly establishing the River Scoudiac to the source of the western branch, to be the river Saint Croix truly intended under that name, in the treaty of Peace and forming a part of the boundary therein described ; and the Northwest angle of Nova Scotia mentioned in the same Treaty to be formed by a line drawn due north from that source to the highlands described in the Treaty.

Whether therefore we follow the words of the grant to Sir William Alexander, by which we must be at all events concluded ; or follow the main branch of the river retaining the same name ; or are governed by the uniform decision of geographers and historians of credit upon the subject, and the rules and principles of the Law of Nations for the interpretation of Treaties, we shall be led to the same place as the source of the River from which the line due north must be traced to the northwest angle of Nova Scotia.

But even if it had not been known at the time of the grant to Sir Wm. Alexander that this river had two branches, and the grant had been expressed generally, to the furthest source of the river Saint Croix, still the main branch, or that retaining the name of the river at its mouth must have been followed to its source, not only to satisfy the words of the grant, but to give it its intended construction and operation.

It clearly appears to have been the intention of the grant to give as large a Territory to be erected into the province of Nova Scotia as the River Saint Croix could give by tracing a line due north from its source to the great river Canada, and it is expressly provided in the grant, contrary to "the general rules for the construction of the Kings grants that if any questions or doubts should thereafter arise upon the interpretation or construction, of any clause contained in the grant, that they should all be taken and interpreted in the most extensive sense and in favour of the said Sir Wm. Alexander."

Having traced the original boundaries of the province of Nova Scotia, to the farthest source or spring of the river St. Croix, upon the western branch thereof, and thereby found the utmost western limits of the Province, *it remains only to discover its utmost Northern limits in order to ascertain the Northwest angle we are in search of.*

*The Province of Nova Scotia at the time of the Treaty in 1783, was, as has already appeared, bounded to the northward by the southern boundary of the province of Quebec, which boundary was established by the Royal proclamation of the 7th October, 1763, and confirmed by the act of the 14th Geo. 3. C. 83, passed in the same year with the act of parliament already cited, by which it is enacted that all the Territories, islands and*

countries in North America, belonging to the Crown of Great Britain bounded on the South by a line from the bay of Chaleurs along the highlands which divide the rivers that empty themselves into the River St. Lawrence, from those which fall into the sea to a point in forty five degrees of Northern latitude on the eastern bank of the River Connecticut, &c. be annexed to, and made a part and parcel of the Province of Quebec.

As then at the Treaty of Peace in 1783, the northern limit of the Province of Nova Scotia, was "a line along the highlands which divide the rivers that empty themselves into the river Saint Lawrence, from those which fall into the sea," it unquestionably follows, that the northwest angle of Nova Scotia, at the time of the Treaty of Peace in 1783, was that angle which was formed by a line drawn due north from the source of the river Saint Croix to those highlands. If we now compare this angle with the northwest angle of Nova Scotia, described in the Treaty of Peace, viz: That angle which is formed by a line drawn due north from the source of Saint Croix river to the same highlands, can it be said with any degree of propriety, that "*the limits and boundaries of the province of Nova Scotia were unknown at the time of the treaty of peace in 1783, and that it therefore became necessary to give it a western boundary by the treaty itself, in these words, to wit: that angle which is formed by a line due north from the source of the river Saint Croix to the highlands?*"

Can it be believed, or for a moment imagined, that in the course of human events, so exact a coincidence could have happened between the actual boundaries of the province of Nova Scotia and the boundaries of it described in this treaty, if the latter had not been dictated and regulated by the former?

Can any man hesitate to say he is convinced that the Commissioners at Paris in 1783, in forming the 2d article of the treaty of peace, in which they have so exactly described this northwest angle, had reference to and were governed by the boundaries of Nova Scotia as described in the grant to Sir Wm. Alexander, and the subsequent alteration of the northern boundary by the erection of the province of Quebec?

Will not this conviction become irresistible, when he adverts to the reservation made to his Majesty in this article of the treaty, "of such Islands, as then were, or theretofore had been, within the limits of the said province of Nova Scotia, and to the Islands included and comprehended within those limits as described in the grant to Sir William Alexander, some of which might have belonged to the United States, as lying within the limits of those States, but for the exception of them in the treaty?"

Let us now compare the western boundaries of the province of Nova Scotia, granted to Sir William Alexander, with the corresponding eastern boundaries of the United States. As the river St. Croix, is not included in the grant to Sir William Alexander, as stated by the agent of the United States; and as it was not intended to be included, because as has been made to appear, this river St. Croix was an agreed boundary between the province of Nova Scotia erected by this grant, and the territory of New England, granted to the grand Council of Plymouth, it follows that the line of this grant to Sir William Alexander, must legally be construed to run through the middle of the river, the river not being assigned inclusively to either Territory.

Upon this principle then, this part of the western boundaries of the province of Nova Scotia, in the grant to Sir William Alexander, will be a north line, across the mouth of the Bay of Fundy, to the river commonly called by the name of the St. Croix, and through the same, to the farthest source or spring upon the western branch thereof, including and comprehending all Islands within six leagues to the westward, northward and eastward, and within forty leagues to the southward of any part of the premises described in the grant.

And the corresponding Eastern boundary of the United States, by the second article of the Treaty of Peace, is, "a line to be drawn along the middle of the river St. Croix, from its mouth in the Bay of Fundy, to its source, including such Islands as then were, or theretofore had been, within the limits of the said Province of Nova Scotia," referring to the province of Nova Scotia, of which the north-west angle before described was made the first station or boundary, from which the boundaries of the United States were traced.

As it has already been shown that the source of this river Saint Croix otherwise called Scoudiac, upon the western branch, and near to a branch of the Penobscot, to which there is a portage or carrying place from it; the same place is evidently contemplated as the source from which the line due north to the highlands, is to be drawn, both in the grant to Sir William Alexander, and in the second article of the treaty of peace; and consequently this part of the western boundary of Nova Scotia, in the grant, is precisely the same with the corresponding eastern boundary of the United States in the treaty.

Thus the first principle stated in this argument is established beyond all contradiction, 'that by the second article of the Treaty of Peace, it was intended that no part of the province of Nova Scotia should be thereby ceded to the United States, but that the province of Nova Scotia according to its ancient limits, should be and remain a part of the territories and do-

minions of his Majesty, as his Majesty had before that time held and possessed the same.'

And this principle being established, the necessity of examining into and ascertaining precisely the ancient boundaries of the province of Nova Scotia, in the manner that it has been done, is clear and obvious, and the result of that examination compared with the boundaries of the treaty of peace, thus serves in its turn to confirm the principle.

This principle being evident from the words of the Treaty of Peace itself, no explanation of the treaty, by either party, inconsistent with this true and obvious intention of it, can be received consistently with any of the rules and principles of the laws of nations, universally acknowledged and admitted obligatory in such cases, as has already been made to appear, and will be more fully shown, in a more particular reply to the arguments advanced in support of the claim of the United States.

From the foregoing facts and arguments, the under written agent feels himself warranted in concluding that the river Scoudiac, is the river truly intended under the name of the river St. Croix, in the Treaty of Peace, and forming a part of the boundary therein described ; and that the northwest angle of Nova Scotia, intended by the treaty, is that angle which is formed by a line drawn due north from the farthest source or spring of the western or main branch of the Scoudiac, to the highlands described in the treaty.

As the final declaration to be made by this honorable Board, deciding what river is the river Saint Croix intended by the Treaty of Peace, must particularize the latitude and longitude of its mouth, as well as of its source, it may be proper and perhaps necessary in this place, to say a few words respecting the mouth of the river Scoudiac, which has been so fully proved to be the river Saint Croix, intended by the treaty.

By an inspection of the plan of the surveys now before the Board, it will appear, in conformity to Champlain's authority, that its proper mouth is where it empties itself into that part of Passamaquaddy bay which was formerly called the bay of Saint Croix, and is now called St. Andrew's bay ; and this mouth is traversed by a line drawn from the north point of Saint Andrews harbor, commonly called Joe's point, across the river to the opposite point upon the western shore near to the place where Mr. Brewer now lives. In confirmation of this, the Indians produced and examined before the Board, as witnesses on the part of the United States, have testified that from Brewer's upwards, the waters are called Scoudiac ; and from thence downwards, Passamaquaddy Bay.

And the author of the history of the District of Maine, also

speaks of the proper mouth of this river as being at or near St. Andrews, where he says, "The English now possess the country as far west as the east bank of the Scoudiac at its mouth."

It being established that the river Scoudiac, under the name of the river St. Croix, made a part of the original boundaries of the province of Nova Scotia, and continued to be a part of its western boundary at the time of the treaty of peace in 1783, it may be proper now to inquire whether that province has, in fact exercised its jurisdiction agreeably to those limits; and to ascertain this fact, as far as it regards this western boundary, we can go no further back with any degree of accuracy, than the treaty of peace in 1783; for previous to the war, immediately preceding that period, this part of Nova Scotia, or Acadie, had been, with little interruption, in the hands of the French, notwithstanding the treaty of Utrecht, by which it was fully ceded to Great Britain.

The whole country coming into the possession of his Britannic Majesty, by the treaty of 1763, we are from thence to date our enquiries respecting the jurisdiction in fact exercised over this part of the country, down to the peace in the year 1783.

The boundaries of the province of Nova Scotia, as described in the commissions to the Governors of it, from his Majesty, during that period, conformed, as we have seen, to the boundaries of it, as described in the grant to Sir William Alexander, without any material variation, except the alteration of its northern limits, occasioned by the erection of the province of Quebec.

#### NO. 12.

*Copy of the Declaration executed by the Commissioners—viz :*

By Thomas Barclay, David Howell, and Egbert Benson, Commissioners appointed in pursuance of the fifth article of the Treaty of Amity, Commerce and Navigation between his Britannic Majesty and the United States of America, finally to decide the question, 'What river was truly intended under the name of the River *Saint Croix* mentioned in the Treaty of Peace between his Majesty and the United States, and forming a part of the boundary therein described.'

#### DECLARATION.

We, the said Commissioners, having been sworn impartially to examine and decide the said question according to such evidence as should respectively be laid before us on the part of the British Government and the United States, and having

heard the evidence which hath been laid before us by the agent of his Majesty and the agent of the United States, respectively appointed and authorized to manage the business on behalf of the respective governments, have decided, and hereby do decide, the river hereinafter particularly described and mentioned, to be the river truly intended under the name of the River St. Croix, in the said Treaty of Peace, and forming a part of the boundary therein described: That is to say, The mouth of the said River is in *Passamaquoddy* Bay, at a point of land called Joe's Point, about one mile northward from the northern part of St. Andrews Island, and in the latitude of forty five degrees, five minutes and five seconds north, and in the longitude of sixty seven degrees, twelve minutes and thirty seconds west from the Royal Observatory at Greenwich in Great Britain, and three degrees, fifty four minutes and fifteen seconds east from Harvard College, in the University of Cambridge, in the State of Massachusetts, and the course of the said river up from its said mouth, is northerly, to a point of land called the Devil's Head, then turning the said point, is westerly to where it divides into two streams, the one coming from the westward, and the other coming from the northward, having the Indian name of *Cheputnatecook* or *Chibniticook*, as the same may be variously spelt; then up the said stream so coming from the northward to its source, which is at a stake near a yellow birch tree, hooped with iron, and marked S. T. and J. H. 1797, by Samuel Titcomb and John Harris, the surveyors employed to survey the above mentioned stream coming from the northward. And the said river is designated on the map hereunto annexed and hereby referred to, as farther descriptive of it, by the letters A B C D E F G H I K and L, the letter A being at its said source; and the course and distance of the said source, from the island at the confluence of the above mentioned two streams is, as laid down on the said map, north five degrees and about fifteen minutes west, by the magnet, about forty eight miles and one quarter.

In testimony whereof, we have hereunto set our hands and seals, at Providence, in the State of Rhode Island, the twenty fifth day of October, in the year one thousand seven hundred and ninety eight.

(Signed)

THOMAS BARCLAY, L. s.

DAVID HOWELL, L. s.

EGBERT BENSON, L. s.

Witness, EDWARD WINSLOW, *Secretary to the Commissioners.*



## NO. 13.

*Copy of an unexecuted Declaration,*

'By the Commissioners appointed in pursuance of the fifth article of the Treaty of Amity, Commerce and Navigation, between his Britannic Majesty and the United States of America, finally to decide the question, 'What river was truly intended under the name of the River *Saint Croix* mentioned in the Treaty of Peace between his Majesty and the United States, and forming a part of the boundary therein described?'

## DECLARATION.

We, the said Commissioners, having been sworn impartially to examine and decide the said question according to such evidence as should respectively be laid before us on the part of the British Government and of the United States, and having heard the evidence which has been laid before us by the agent of his Majesty and the agent of the United States, respectively appointed and authorized to manage the business in behalf of the respective governments, have decided, and hereby do decide, that the river described as follows, viz : The source of it is where it issues from the Lake Genesagranagrusis, one of the Scoudiac Lakes, and distant about five miles and three quarters, in a direct course from where the Cheputnatecook falls into it, and about twenty miles and a half, also on a direct course from the point of land called the *Devil's Head*, and from its said source, as far at least as to the said point of land, it has the Indian name of Scoudiac, and its course for that extent is easterly, and then turning the said point and leaving Oak point bay on the north, its course is southerly to its mouth, which is where it empties itself into Passamaquaddy Bay, at a point of land called Joe's point, about one mile northerly from the northern point of the island of St. Andrews, and in the latitude of forty five degrees, five minutes and five seconds north, and in the longitude of sixty seven degrees, twelve minutes and thirty seconds west from the Royal Observatory of Greenwich in Great Britain, and three degrees, fifty four minutes and fifteen seconds east from Harvard College, in the University of Cambridge, in the State of Massachusetts, is the river truly intended under the name of the river St. Croix, mentioned in the said treaty of peace, and forming a part of the boundary therein described, and the map of it hereunto annexed, is hereby referred to as further description of it.

In testimony whereof, we have hereunto set our hands and seals, at Providence, in the State of Rhode Island, the  
day of \_\_\_\_\_ in the year one thousand seven hundred  
and ninety eight.

PROVIDENCE, October 23d, 1798.

SIR—I have considered with attention your letter of this day, and it appears to me evident that the adoption of the river Cheputnatecook as a part of the boundary between his Majesty's American dominions and those of the United States, in preference to a line drawn from the eastern most point of the Scoudiac Lakes, would be attended with considerable advantage. It would give an addition of Territory to the Province of New Brunswick, together with a greater extent of navigation, on St. John's river, and above all, a larger stretch of natural frontier calculated to prevent future difficulties and discussions between the two countries. If therefore by assenting to the proposal of the American agent, you can bring about the unanimous concurrence of the Commissioners in this measure, I am of opinion, that you will promote his Majesty's real interest, and I will take the earliest opportunity with a view to your justification of expressing these my sentiments, on the subject to his Majesty's Secretary of State.

I have the honor to be,

with great truth and regard,

Sir, Your most Obedient

Humble Servant,

(Signed)

ROBERT LISTON.

WARD CHIPMAN, Esq.

#### NO. 14.

*Letter from the Governor of Maine, to the Secretary of State of the United States.*

PORTLAND, 20th March, 1827.

SIR: Having had the honor to receive your letter of January 29th last. I transmit, in reply, the accompanying \* Report and Resolves, relative to the Northeastern boundary of the State of Maine. The attention which you have heretofore paid to the adjustment of the United States' boundary, especially in another part of the Union, assures me, that you will receive the documents, I have mentioned, with that interest to which they are entitled. With the confidence which belongs to the patriotic and paternal character of the government of the Union, and without complaining of it, in any particular, I may be permitted to say that the growing importance of the Country claimed against the United States and Maine, carries along an increasing desire to have an open or confidential developement of the material facts.

The Report and Resolves contain the evidence of the present disposition and purposes of the State, which will receive

\*See Resolves of Maine.—Page 572.

my official co-operation with the same zeal and fidelity that will cheerfully be applied, if requisite, in aiding to carry into effect any federal measure applicable to the protection of the rights in question. The anxiety of a sovereign State to possess the documents, (or copies of them,) which contain the evidence of a title to soil and of a jurisdictional authority which it will, under the United States, maintain, if it shall discharge its duty either to those States or to itself, will be duly appreciated by yourself and by the President.

While that anxiety is here entertained by all the Citizens, it is not only with reference to an important local concern, but is connected with their inclination to a harmonious action with all who consent to admit of it. In pursuance, therefore, of the Resolve of the Legislature of Maine, I have the honor to solicit such information, relative to the Northeastern boundary of that State, as the President may deem proper to consent to have communicated. It is also my duty to add, that great benefit will be derived from an early determination of a claim harassing to the State, interrupting its best pursuits, threatening to some of its best hopes, and believed to be unfounded.

## NO. 15.

*Letter from the Secretary of State of the United States, to the Governor of Maine.*

WASHINGTON, 27th March, 1827.

SIR : I have to acknowledge the receipt of the Letter which your Excellency did me the honor to address to me on the 20th instant, with a Copy of the Report of the joint select Committee of the Senate and House of Representatives of the State of Maine, enclosed, both of which I have submitted to the President. The deep interest, which is taken by the State of Maine in the settlement of our Northeastern Boundary with Great Britain, is very natural. And I assure you that it is a subject on which the President feels the most lively solicitude. Mr. Gallatin is charged with, and has actually entered on, a negotiation concerning it, but which was not brought to a close at the last dates from him, nor is it probably yet terminated. At that period, the prospect was, that there would be no other alternative than that of referring the difference between the two Governments to arbitration, according to the provisions of the Treaty of Ghent. Much difficulty was experienced even in adjusting certain preliminary points necessarily connected with the reference, and they have not yet been finally arranged.

When an application was made, during the session of Congress prior to the last, by the Senators of Maine, for copies of all the papers in this Department respecting the disputed boundary, it was not deemed expedient to furnish copies of the Reports and arguments of the Commissioners, the publication of which, it was believed, would be prejudicial. Copies of any surveys, maps, or documentary evidence, were offered. The same considerations, which then existed, are still believed to be opposed to letting copies go from this Department of those reports and arguments. With that exception, copies of any of the other papers returned by the Commissioners will be furnished whenever application is made for them.

It is stated in the Report of the joint select committee that '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.' Although the President might be disposed entirely to coincide in this opinion, with the State of Maine, it must not be forgotten, that an opposite opinion is entertained by Great Britain, with whom we are now treating. If, whilst the controversy is unsettled, and during the progress of a negotiation, each party proceeds to take possession of what he claims to belong to him, as both assert title to the same Territory, an immediate collision is unavoidable. The British Government has abstained, according the assurances given through their minister here, from the performance of any new acts which might be construed into an exercise of the rights of sovereignty or soil over the disputed Territory; and they so abstained on our representation, and at our instance. Under these circumstances, the President continues to think, that it is most advisable, that we should practice the like forbearance, as recommended in the Letters, which I had the honor of addressing to your Excellency, on the 4th January of the last, and the 29th of January of the present year. This mutual forbearance, is believed to be essential to the harmony between the two Countries, and may have a favorable tendency in the amicable adjustment of the difference between them.

It is worthy also of consideration, that, although Maine is most, she not the only State, interested in the settlement of this question.

Your Excellency may be perfectly persuaded, that every effort will be employed to obtain a satisfactory, and as speedy a decision of this matter, as may be practicable; and that not less attention will be paid to it, than has been shown on the part of the Executive of the United States in the adjustment

of their boundary in another part of the Union to which you refer, whilst it is hoped that some unpleasant incidents, which occurred there, may be avoided in the Northeast.

I transmit herewith, for the consideration of your Excellency, an extract from a despatch of Mr. Gallatin, under date the 30th October last.

## NO. 16.

*Letter from the Governor of Maine to the Secretary of State of the United States.*

PORTLAND, 18th April, 1827.

SIR,—I had the honor to receive your letter bearing date March 27th, ult. to which it is my duty, as the only organ of communication of the people of Maine, at this time, and on this occasion, to reply.

The rights to which my care will appear to you, to be now directed, are not, as I trust, jeopardized; but they are so interesting as to demand the sedulous attention of those functionaries of this State, who are placed in relations which enable them to represent, through you, to the President, the feelings and principles requiring of Maine its special regard, and which may be respectfully offered to the Country and the Administration.

Without bringing the subject to that test of deep and general anxiety, by which, in a certain contingency, it must be tried at last, I shall offer a frank and sincere reply.

The extract from Mr. Gallatin's communication, with which you favored me, being the foundation of some of your remarks, allow me to advert to a view of the subject, to which he informs you, he was led by proceedings of the Legislature of New Brunswick. I now refer to what he has said as to propositions of compromise by Agents of Maine and Massachusetts, relating to the boundary line. The danger of inferences, under such circumstances, from 'the proceedings of the Legislature of New Brunswick,' is so evident, that you will not be surprised by a denial of their correctness.

Assenting to the idea that 'propositions on our part, inconsistent with our construction of the treaty, and which would not secure to us all the waters which empty into the St. John, west of the line running north from the source of the St. Croix, would be dangerous, and being also prepared to admit that Maine would be inconsistent and unjust to herself in making such propositions, I shall satisfy you that she has not been off her guard, in the manner which called forth your friendly intervention. And first, allow me to assure you, that there is no occasion for alarm on the part of the Administration or its

Minister in England, that Maine will jeopardize the common welfare, by failing to insist on the justice and indefeasible character of its claim, or by shrinking from a firm assertion in any alternative.

The Agents whose supposed acts 'would seem from certain proceedings of the Legislature of New Brunswick, to have been as incautious as is represented, had no authority to propose any compromise as to our boundary, and if any was offered, it was officious and unwarrantable, but I am enabled to inform you that the affair has been misrepresented to Mr. Gallatin, and I should offer the proofs of the correctness of this assurance in detail, if I did not believe it improper to pursue the consideration of inofficial acts, and of statements illfounded or if otherwise, inconsequential. Grateful, therefore, for the attention evinced by the caution he has given, however unnecessary, we will receive it as the pledge of his vigilance and ability.

In concluding, as to this point, let me fortify you against any apprehension that Maine will yield too much, by declaring to you plainly, that it is not believed that either the treaty making or executive power of the United States extends to the cession or exchange of the territory of any State, without its consent; and that for a stronger reason, no State can barter that domain in which the Union has also an interest, and that jurisdiction which the highest political duty requires it to exercise. Maine will, surely, I believe, so far maintain these principles, as to warrant a reliance against indiscreet and unconstitutional concessions, and a confidence in the application of her means to the repulsion of aggression. I have full reliance upon her disposition and ability to render the President all the aid which can be desired against the unfounded and presumptuous claims made equally against her and the Union to promote an object suggested and supported only by an ambition and cupidity, which, although natural, is, nevertheless, on our part, altogether objectionable. If these views shall not satisfy the President of the confidence to which Maine is entitled, as to the assertion and defence of her rights, I shall, with pleasure, offer those further proofs which I omit at present, only from the desire of engaging your indulgence for a few additional observations.

It was with much regret, not unmingled with mortification, that I considered your denial of the use of the Reports and Arguments of the Commissioners under the treaty of Ghent. From the want of that information which it was hoped the United States would yield to a party having the same interests with themselves, and only desirous to sustain them, it is assumed

that there are reasons for your decision, through which that respect will be commanded, now, from great deference, proffered in anticipation. Wishing to act in full coincidence with the views entertained by the federal administration, the State must be bound to believe in a mutual regard, and to endeavor to avoid any embarrassing applications on her own part, but it may not be unsuitable for her to expect a degree of confidence in return.

All that forbearance, which the occasion requires, will, as I may safely assure you, be exhibited by this State. While her extensive and valuable tracts of wild land, which might otherwise soon be improved, remain unsettled; while her progress in wealth and power is checked in a most disastrous manner, at the period most favorable to giving an impulse to her prosperity:—while many important resources are left dormant during the pendency of the dispute as to her property and jurisdiction:—while a frontier, which might soon be made strong, remains unfortified by the freemen anxious to occupy it, she will, I doubt not, forbear on the request of the General Government, until the imperious call of duty shall summon her to occupy her inheritance. Seeking to promote, by all suitable concessions, the amicable adjustment you refer to, she will only withdraw her deference and submission when a claim, unjust in itself, may seem to expose a portion of her territory to incorporation with a province. With this spirit of forbearance, she has sought information only as to an interest vital to herself, as well as important to the country, without any purpose calculated to excite distrust, with only such patriotic views as have rendered the refusal to comply with her request a subject of that species of surprise, which a friend predetermined to take no offence, feels, when he is not treated with correspondent confidence.

Maine, Sir, was with great difficulty introduced into the Union; but, if I recollect rightly, the arguments which were used, she was introduced as a sovereign and independent State.

As a free, sovereign, and independent republic, may we not be permitted to have communication with the authorities of the Union, or do they mean that we shall submit implicitly to their direction, however wise it may be, at the same time that they declare their conviction of the propriety of withholding information? The general concerns of the Union, are, of course, communicated only to the whole, but that which relates to a particular community, where its daily intercourse demands information, seems to warrant the request I have made, and which I am reluctantly impelled to renew, with this modification, that any communication made in return,

will be received, if so required, subject to a restriction on publicity, beyond a communication to the Legislature, in the usual terms of confidential communications. If the President will not consent to this, we must yield, with the deference we owe to the station he holds, to the claims he has on our affections and confidence, to the information he possesses, and the prudence he displays, to any extent within which the absolute and indefeasible rights of Maine may not be compromised. Will you permit me to add that, as to all beyond that, this State may probably claim the right to use her moral and physical energies, as she may be directed by the future emergencies; and I am sure, if her good will shall impel her, with power enough to sustain her right to soil and jurisdiction, wherever she may properly claim them, against any probable foreign and arrogant assumption; especially with the aid of the general government.

I do not wish to weary your patience by urging the particular arguments which might sustain my propositions. It is true, Sir, that Maine is not the only State interested. The Union is interested, and each State is severally interested in having a powerful community on our Northeastern Boundary, which may, like New York, in the last, be the pride and defence of the nation in the next war. Whenever again there shall be a struggle between the navies and armies of this Republic and Great Britain, the position of Maine will require activity, strength, and confidence. She will be exposed to a large portion of danger and suffering, and will be, I hope and believe, resolute to acquire the glory to which such exposure, with unimpaired means, will invite her.

Politically peninsulated, with three foreign governments pressing upon her borders, with the high ambition inspired, and the high responsibility created by her destination, can it be believed that she will relinquish her resources, suffer her land marks to be removed, and yield to a most presumptuous arrogation by a foreign power. I trust you will more highly appreciate her intelligence and spirit than to imagine that so degrading and pernicious a surrender can be consented to by her.

But is she authorized even to consider this question, and to determine the extent of her municipal jurisdiction, and that of the Territorial limits within which she will exercise it? If a mandate of the Executive of the United States, under an act of the treaty making power, is, upon principle, imperative, she ought to be silent and passive; but if not, however confidently she may rely upon her safety, as guarded by wisdom and patriotism, she ought to announce her wishes and her principles.



While under treaties with Great Britain, the boundary in dispute has been settled, the difficulty has occurred only as to the application of the rule in those treaties contained, to the surface of the ground. The right, to the full extent of the first treaty is perfect. It was not created by that treaty, but its existence was prior to it, and no surrender could have then been made without the consent of the proprietor and the sovereign. No surrender was made, and there is not a moral or political, in other words, a governmental force, sufficient to change the true, honest determination of the landmark. And there is nothing but sophistry, and that ignoble spirit of compromise, which exists not in this republic, which will consent to the obvious and monstrous falsehoods to which ambitious and artful pretensions have led the enemies of Maine.

In regard to the sentence which you have extracted from the Report of the Joint Select Committee, as it contains a sentiment approved by the Legislature, and acquiesced in by the people, I shall trouble you with a brief comment in regard to it. It rests upon the idea before suggested that Maine, with Massachusetts, has a perfect title in the disputed territory, and that the former State has a vested, indefeasible jurisdictional control over it, the exercise of which it may irresponsibly apply. It is a proposition which has been demonstrated by yourself so clearly, as to have commanded general respect, that the abstraction of the territory of the United States, cannot be made by the treaty making or executive power. Much more than must the domain of a State within its acknowledged limits be sacred, and much more and more is it evident, that neither department of the federal government, nor all, can be the exclusive and final arbiter as to the ascertainment of a boundary already established in description ; because, if one department, or all, have this power, they may ascertain the line falsely, indirectly cede our State, converting it into a British dependency, and thus by the arguments I had the invaluable satisfaction of hearing applied in another case, violate the constitution. If, therefore, the committee have fallen into error, it has not been in the principle of their judgment as to the rights of this State abstractly considered ; but in their view of the extent of our territory and of the application of our authority over it. They in fact substantially assert that the treaty of 1783, in connexion with original grants, and subsequent and correlative circumstances, established and defined our bounds, so as to preclude just complaint of our public acts within the scope of those legitimate powers, which at the discretion of the State, it may, within those bounds, any where apply. The doctrine of the committee can only be refuted by proving that

the national authority is exclusive as to the adjustment of our exterior boundary ; but let it be recollected that the present case only admits the ascertainment of a line by a rule prescribed, and not the creation of one arbitrarily, or in other words, by arbitrament. A right was vested in a third party before the Union existed, and has been confirmed by it since. In short, the committee, it is believed, may be considered as claiming such respect as may be attached to those who have truly exhibited the sentiments of this community.

Anxious, as in my situation, I cannot avoid being, for the preservation, during my continuance in office, and always after, of the rights of the State, I must express my alarm at a portion of Mr. Gallatin's letter. He says, 'an umpire, whether a king or farmer, rarely decides on strict principles of law ;—he has always a bias to try, if possible, to split the difference,' &c. ; and yet I am informed that there has been in progress an arrangement of the preliminary points, for constituting such an umpire. I cannot but hope that no arrangement will be effected, which will endanger the half from the mere circumstance of a wrongful claim to the whole, under the pitiful weakness which is liable to split the difference between right and wrong.

Let me add, in this particular part of my letter, most respectfully, but solemnly, the sentiment, that Maine is bound to claim at the hands of the federal government, the protection of the integrity of her territory, the defence of her sovereignty, and the guardianship of her State rights. She is called upon to urge this that she may be rather permitted to rest on the parental care of the Union than driven to any independent agency, in any form, in relation to this concern.

That you may not be surprised that the State, after having fruitlessly sought information should have determined on its course without it, give me leave to say that while she cannot be presumed to be informed in all particulars, as to the relations of a deeply interesting character in which she is placed, she is called upon to judge as to others, and is not without the premises necessary to correct conclusions.

Whatever intelligence she might have been permitted to receive as to her relative situation, she would, as she will hereafter, cheerfully co-operate with the general government to prevent an assumption of our territory, to whatever extent, by the King of Great Britain.

In executing the Resolve of the Legislature it will be convenient to me to possess a schedule of those documents which may be communicated. I will, therefore, hope the favor of being furnished with such an index for the direction of my inquiries.

## NO. 17.

*Letter from the Secretary of State of the United States, to the Governor of Maine.*

WASHINGTON, 7th May, 1827.

SIR : I have the honor to acknowledge the receipt of your Excellency's letter of the 18th ultimo, and to inform you that I have submitted it to the President. The solicitude which is felt by your Excellency and the Legislature of Maine, in regard to the settlement of our north eastern boundary, so interesting to that State, and so important to the whole Union, is perfectly natural, and justly appreciated by the President. And he is entirely disposed to communicate any information in the possession of the Executive of the United States on that subject, which can, in his opinion, be communicated without the danger of public detriment. Accordingly, when at the session of Congress before the last, an application was made at this Department, by the Senators from Maine, for copies of all the papers, maps, and other documents reported by the Commissioners, who were appointed under the fifth article of the Treaty of Ghent, it was stated to those gentlemen, that the copies would be furnished whenever requested, with the exception of the reports and arguments of the Commissioners, transcripts from which, considering their peculiar character, in the then state of the question, the President did not think it expedient to allow to be taken. The Senators from Maine availed themselves of the permission, and obtained copies of some of the maps. Copies of all the papers reported by the Commissioners, which are very voluminous, would require the services of two or three copyists for many weeks ; but the labor of preparing them would be cheerfully encountered for the accommodation of the State of Maine.

The negotiation with Great Britain is still pending, but there is reason to expect that it will soon be brought to some conclusion ; perhaps in a shorter time than would be requisite to copy and transmit the papers reported by the Commissioners, to your Excellency. The President continues to think, that the public interest requires, that the communication of transcripts of the reports and arguments of the Commissioners, even under the limitation proposed by your Excellency, should be postponed for the present, and until it can be made without the risk of any injurious effect upon the state of the negotiation. Your Excellency's experience in public affairs, will enable you to make a just estimate of the reserve and delicacy which ought to be observed in all negotiations with foreign powers, involving subjects of deep national interest. This

consideration has such weight, that it is the uniform practice of Congress, as no one knows better than your Excellency, to annex a qualification to the calls which are from time to time made, for papers relating to the Foreign negotiations of the Government. There would not be the smallest objection to an exhibition to the inspection of your Excellency, or confidentially, to any person that you might think proper to designate, of all the papers, without exception, reported by the Commissioners. I abstain from a particular notice of many of the topics of your Excellency's letter, not from the least want of respect, (on the contrary I entertain the highest, personally and officially,) for your Excellency, but from a persuasion that the discussion of them is without utility. It has been thought most profitable to limit my answer to the specific requests contained in your letter.

I transmit, herewith, in conformity with your wish, a list of the papers reported by the Commissioners, copies of any of which may be procured, for the use of the State of Maine, whenever desired, with the exception which has been stated.

#### NO. 13.

*A List of Books, Papers, &c. relative to the 5th article of the Treaty of Ghent.*

#### BOOKS.

Vol. I. *Journal of Commission.*

Vol. II. *Claims of Agents.....Contains*

Claim of the Agent of the United States. First. Memorial concerning the Northwest angle of Nova Scotia, and the north-westernmost head of Connecticut River, &c. By the Agent of H. B. Majesty. Second. Memorial concerning the same. By the same.

Vol. III. *Answers of Agents....Contains*

A reply to the Memorial of the Agent of the United States, filed 8th June, 1821, exhibiting the line of the boundary of the United States from the source of the river St. Croix, to the Iroquois or Cataraguy. Answer of the Agent of United States to the claim and opening argument of the Agent of H. B. Majesty. Read August 10th, 1821.

Vol. IV. *Replies of the Agents.....Contains*

The reply of the Agent of the United States to the Answer of the Agent of H. B. Majesty to the claim and opening argument of the Agent of the United States, &c. Read Sept. 27th, 1821. Observations upon the answers of the Agent of the United States to the claim and opening argument of the Agent of H. B. Majesty, &c. By the Agent of H. B. Majesty.

Vol. V. *General Appendix*.....Contains

Reports of the Surveyors and Astronomers, and Documents referred to, in the argument of the Agent.

*Appendix to British Agent's Reply.*

(Duplicate) Report of Commissioner, C. P. Van Ness. Report of the Commissioner of H. B. Majesty, addressed to the Government of the United States. Appendix to the Report of H. B. Majesty's Commissioners.

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- H. Extract from Mr. Odell's plan of the due north line explored in 1818.
- I. General extract from Mitchell's Map.
- K. Corrected copy of same extract. Filed Aug. 14, 1821.  
(Signed) S. HALE, Secretary.

*Title of the British Copy.*

This Atlas (containing the copies of Maps and parts of Maps and Plans with the exception of the last Mitchell's Map which

was filed as thereon stated) accompanied the answering argument of the Agent of H. B. Majesty filed on the 14th of August last.

## NO. 20.

*Letter from the Governor of Maine, to the President of the United States.*

PORTLAND, May 29, 1827.

SIR,—The situation in which this State is placed, in consequence of the unexecuted provision of the Treaty of Ghent relative to its northeastern boundary, imposes upon me a duty which I am not permitted to compromise by my feelings of respect for yourself, and the high authority with which you are invested. However discouraging may have been the correspondence I have had with the Secretary of State, I cannot decline a course deliberately determined upon, or admit the belief that a representation relating to the welfare of Maine, can be unwelcome. It is not the comparatively light concern of a passing favor, or the import of a transient measure, that I am about to urge; but it is that of making a memorial for consideration and record as to the demesne and jurisdiction of this member of the Union.

Obliged to depend principally for information upon rumor, the tenacity of knowledge, which is power, has not, however, concealed the fact that the British government has made a claim embracing a large tract of country adjacent to the Province of New Brunswick. Information from various sources cannot fail to have produced on your mind a just impression of the importance communicated to that territory in reference to value and jurisdiction, by its qualities of soil, its variety of native productions, its streams, its situation, and all those properties calculated to render it not only a strong interior barrier to invasion, but fruitful of the means of prosperity to our maritime frontier. The State of Maine claims the propriety in an undivided moiety, and the entire jurisdiction, as far as consistent with the paramount power of the United States, in relation to that extensive tract. Having learned that the title thereto is involved in the details of a diplomatic arrangement conducted under the sanction of the executive department of the federal government, Maine, although not consulted, yet bound from deference, to pay a due respect to reasons, the nature and force of which she is, from a studious and mysterious reserve, rendered unable to comprehend, believes that she ought to present her expostulations in regard to any measures threatening her with injury.

The Secretary of State has informed me that the disputed claims to land along our northeastern boundary are to be sub-

mitted to arbitration. By arbitration, I understand a submission to some foreign Sovereign or State, who will decide at pleasure on the whole subject, who will be under no absolute obligations or effectual restraint by virtue of the treaty of 1783, whose conscience will not be bound to impartiality and justice by the solemn sanction of an oath, and whose feelings may naturally be biassed against a Republic accused of inordinate ambition, and in whose peace and prosperity there is an interesting lesson and example for nations.

The treaty making power of the United States on one side, and his Britanic Majesty on the other engage to consider the decision of the Arbitrator final and conclusive. Let me say that to a surrender of territory involved as a possibility, it will I trust, be made evident that there is another party, not to be an indifferent spectator of its own delaceration. The mind in contemplating our prospects is carried to the Courts of Europe, and led to scan the tribunals to which you may refer this subject. It would be unsuitable for me to comment on the dispositions or talents of foreign Sovereigns or States, but it is not in cold blood that I can anticipate the committing the destinies of Maine to an irresponsible arbiter to be found in a distant land, and necessarily unqualified to act in the case. The character of this arbitership has been portentously exhibited by Mr. Gallatin in that letter, in which, on the authority of intelligence from New Brunswick, he most erroneously ascribed an interposition by the Agents of Massachusetts and Maine as to a compromise of our boundary. Suffice it to say that the proposed arbitration will jeopardize, without her consent and against her will, the rights of Maine; and allow me to add, that if called upon to make the required sacrifice, she will be compelled to deliberate on an alternative, which will test the strictness of her principles, and the firmness of her temper.

The acknowledgement of the mother country and the exercise of the inherent power of the people, formed Massachusetts into a body politic, originally independent of the present Union and of every foreign government. All the territorial and jurisdictional rights which she could acquire were absolutely her own and remain so to this day, excepting so far as she has granted them to the United States or to Maine. The Treaty of 1783, containing the acknowledgment of her emancipation, and exaltation to self-government, was not with the States, exclusively as a federal body, but partially at least as independent communities, that is to say, if in some points of view they appeared as forming a national, in other, they were regarded as being an allied association. Hence the acknowledgment of independence applied distinctly to



each State, as did also the relinquishment by the King of Great Britain of 'the propriety and territorial rights of the same and every part thereof.' It is necessary to notice, that at the period of the negotiation of the Treaty of Peace, the confederation to a slight extent and in reference to a few objects drew the States into concert and gave them a unity of character ; but the most superficial examination shows that the confederacy had not a common interest in territory or territorial rights, and that the recognition of these bore upon the ancient colonies only as they held under their charters, or as the fruits of their wisdom and valor, in fee simple and absolute sovereignty.

When by the ratification of the Conventions of the States, Massachusetts surrendered to a superintending agency a portion of her power, she yielded no right to dispose of her soil, or to abstract any part of it from her jurisdiction. She imparted no authority to enter into new engagements, or what may be equivalent, to modify the means of enforcing an existing provision of an original compact made in part with herself, nor to expose without her own consent or that of her successor and representative to the fate of foreign arbitrament her dearly purchased and sacred rights. On the contrary, Maine now standing in the place of her parent republic, may deem the fifth article of the Treaty of Ghent, as having led to a course endangering her rights, and rendered more painful and alarming by her exclusion from a proper intercommunication and legitimate consideration as a party in the case.

Whatever character appertained to the confederation or to those who entered into that holy league, it is manifest that the States were not identified and confounded with the Union in relation to the question here presented, under the original treaty of peace and limits. I must therefore, respectfully urge that however the policy and principles of the executive department of the federal government may dictate the imposition upon Maine of silence and forbearance, and however plainly may be indicated the disposition to treat the subject as if merely national, she will not observe any procedure by the United States and Great Britain for the severance of her territory and the abrogation of her authority, without a sensibility too serious to be passive. She holds that her domain is not the subject of partition.

I pause to render more obvious the relevancy of these remarks. Of two principles on which it depends, it may be sufficient to state but one. The power of subjecting to arbitration, with an absolute right in the arbiter to form and establish a territorial limit is equivalent to the power of ceding

territory. The arbiter is the legal substitute and mutual agent of the parties, in this case assumed to be the United States and Great Britain, his acts are their acts, and there is a positive pledge to an unconditional obedience to his behest. It is the delegation of the sovereignty of a despot. The effect may be the cession of all Maine or of only a part, but if of any, the government of the United States will participate by an unauthorized submission, in the injustice of the umpire.

It is not controverted that the control of our foreign relations belongs to the United States as to objects which have arisen under the Constitution or existing laws ; but, in regard to rights acquired by an independent party and interests in property vested by acts anterior to the existence of that compact, the interposition by the federal executive without an express grant of power, seems to be gratuitous. No statesman will assert, that the treaty making power is competent to an act transcending the scope of the combined trusts of the government.

I advert to principles familiar to your mind, because it is my duty to present the opinions here entertained. What then is the authority or agency which it may be assumed, would produce no remonstrances from the State the most deeply concerned? Not, surely, that which admits of what is termed by Mr. Gallatin, splitting the difference, nor of conceding property which does not belong to the United States, and curtailing a jurisdiction above their rightful control. Whatever may be urged to the contrary, it is confidently asserted not only that the provision of the treaty of 1783 is imperative, but that it describes our boundary with a precision which shames the British claim, and, connected with the making of that claim, casts a shade over the lustre of the British character. By negotiations we may sometimes arrive at an affirmative. I say then that the boundary on the surface of the earth, does not rest along the Penobscot, which the British, then perhaps contemplating that vast empire they anticipated in North America, insidiously and surreptitiously seized during the late war. That boundary cannot be established there. It does not rest where the British Minister has presumed to place it. The making the claim does not determine its justice, nor the obstinacy of persisting in it create, with this powerful nation, the necessity of a concession, which will as surely be followed by a more enormous one, as it is certain that the Roman Empire was ignominiously subjugated, through the base spirit of submission to incipient wrong. Enough has been said to meet the obvious and natural enquiry, what is expected of the government, or, may I not say, what is demanded of it. It knows

the demerit of the British claim; it is conscious of the rights of Maine; and hereafter it cannot be said that her views have not been exhibited. She might, therefore, be forever justified in the exercise of her jurisdiction and sovereign State rights over the disputed ground. Her faith is not pledged, nor is that of the Union, to permit any reduction of her actual territory, and there is no artifice of construction or force of authority to break off that great component part of her domain now assailed, and to bind her judgment to acquiescence. The cession would be nugatory, and if, for a time, she should be compelled to submit to it, the abeyance produced by power will not preclude the right of resumption which justice may at some period award.

It has been urged that this concern is so exclusively national that Maine is obtrusive in presenting her views to the consideration of the executive. It is, nevertheless, believed that she is under high obligations vigilantly to supervise her interests, freely to assert her rights, and not to yield readily to the discouraging but perfectly natural inclination to see in her conduct, the humblest deference and an entire, unquestioning, improvident obedience. She commits no intentional error, and communes, with the frankness which belongs to her independence, her character and her station, with her sister Republics and with the Union. In doing so she evinces her respect for their integrity, intelligence and patriotism, and she avoids by a prudent forecast, that danger of collision bred from present distrust and that querulous and exasperated temper usually exhibited when the evils of measures are experienced and when causes are appreciated by their effects.

Repeating to you the expression of my regret that you have been pleased to refuse that information contemplated by a resolution of the State, I shall nevertheless continue to hope for the preservation, under the protecting care of government, of that now exposed Territory, destined under any proprietor to be soon occupied by a numerous population engaged in all the pursuits which sustain human life and adorn human nature.

## NO. 21.

*Letter from the Governor of Maine, to the Secretary of State of the United States.*

PORTLAND, 29th May, 1827.

SIR : I am induced by considerations which I deem important, to avail myself of your obliging offer, to obtain copies of all the papers in your office, relative to the boundary between this State and New Brunswick, which the President may per-

mit to be transmitted. This request applies to maps, with the exception of the map already furnished of the Country explored in the years 1817, 1818, 1819, and 1820, by order of the Commissioners under the fifth article of the Treaty of Ghent, by Hiram Burnham, U. S. Surveyor.

I have the honor also to solicit transcripts of the arguments of Mr. Chipman and Mr. Sullivan, as Agents under the Commission for determining the true St. Croix ; and of the arguments of Mr. Austin and Mr. Chipman, under the fourth article of the Treaty of Ghent together with the report of the Commissioners in both cases.

Excuse me for adverting to the punctillio of expense, which I shall wish to see liquidated.

I have made a communication to the President on the subject of our Northeastern Boundary, which you will perceive from its nature was necessarily directed immediately to him.

#### NO. 22.

*Letter from the Secretary of State of the United States, to the Governor of Maine.*

WASHINGTON, 9th June, 1827.

SIR : The President has received the letter which your Excellency addressed to him, under date the 29th ultimo ; and I am charged by him to convey to you his assurances that your observations on the interesting subject of our Northeastern boundary shall receive attentive and respectful consideration. I beg leave to add that in no contingency is any arbitration of the difference between the United States and Great Britain, relative to that boundary, contemplated, but that for which provision has been solemnly made by treaty. It would afford great satisfaction to the President, if a resort to that alternative for quieting the dispute could be avoided, by obtaining from Great Britain an explicit acknowledgment of the territorial claims of Maine, in their whole extent. Candor, however compels me to state, that the prospects of such an acknowledgment, at the present time, are not encouraging.

#### NO. 23.

*Letter from Daniel Brent, Esq. of the Department of State of the United States, to the Governor of Maine.*

WASHINGTON, June 15, 1727.

SIR : I was directed by the Secretary, before his departure from this City, a few days ago, on a visit to Kentucky, to have copies prepared of the Books, &c. &c. requested in your Let-

ter to him of the 29th of May, and to transmit them to your Excellency, with all possible dispatch ; and I have just collected together the manuscript Books containing the arguments of Mr. Chipman and Mr. Sullivan, Agents under the commission for determining the true St. Croix, and those containing the arguments of Mr. Austin and Mr. Chipman, Agents under the 4th Article of the Treaty of Ghent, together with the Reports of the Commissioners in both cases, fourteen in number, and averaging, each about two hundred and fifty pages of close writing on foolscap paper ; transcripts of these being particularly noticed by you as wanting. Added to those, the arguments, reports and papers, including the Maps, under the 5th article of the Treaty of Ghent, which come, it would seem to me, within the scope of your request, embrace a mass of writing nearly as voluminous as that of these Books. I take the liberty, under these circumstances, of troubling your Excellency with this communication, to apprise you of the extent of the transcripts which appear to be thus required, and of the delay which must, of consequence, attend the execution of your Excellency's commission, as it is, at present, understood by me.

I beg leave, however, to state that the subject is involved in so much obscurity from the prolix and complicated arguments, reports and replies of the several Commissioners, Agents, Astronomers and Surveyors, that I do not like to venture upon making a selection for the copyists, though I feel fully persuaded that this might be advantageously done, to the great abridgement of their work, and to the expediting of the fulfilment of your wish. The Senators from your State, Messrs. Holmes and Chandler, have seen the Books, and, as well I recollect, were furnished with copious extracts from them ; and perhaps, they might favor this Department, through your Excellency, with some suggestion leading to a convenient curtailment, which should, nevertheless, be entirely compatible with your Excellency's object, in reference to the copies required by you.

## NO. 24.

*Letter from the Governor of Maine, to Daniel Brent, Esq. of the Department of State, of the United States.*

PORTLAND, July 14, 1827.

SIR : I had the honor to receive your letter, referring me to the Hon. Messrs. Holmes and Chandler, as to reducing the amount of the draught I had made on the proffered kindness of the Secretary of State. I have availed myself of all possi-

ble benefit from your suggestion ; but am still disposed to accept, without reservation, the favor he so politely tendered, which is done with the greater sense of obligation, because that favor cannot embrace the principal objects first contemplated, and is therefore rendered more valuable as to the residue. It is also believed that Maine ought not to lose the opportunity of placing among her archives all those documents which she can obtain relating to a concern so important as that of a third of her territory.

*Extract of a letter from the Governor of Massachusetts to the Governor of Maine, dated, Executive Department of Massachusetts,*

Boston, July 2d, 1827.

‘ I beg also to avail myself of this opportunity to acknowledge the receipt of several interesting communications from your Excellency in reference to the Northeastern Boundary, which will receive the most respectful and faithful consideration. My own opinion of the importance of the general views which you have in detail, and with great force, presented, on this subject, has been heretofore expressed in official communications to the Legislature of this Commonwealth, and in a correspondence had with the Department of State of the United States.’

NO. 25.

*Letter from the Governor of Maine to the Secretary of State of the United States.*

PORTLAND, September 3d, 1827.

SIR : Since I had the honor of addressing you on the subject of the northeastern boundary of this State, facts have been placed within my knowledge which more imperatively than any other, urge me to solicit the attention of the President to the situation in which we are placed. It is now rendered evident that the representation made to you and communicated in your letter of the 27th of March last, that the British government has abstained from the performance of any new acts which might be construed into an exercise of the rights of sovereignty or soil over the disputed territory, was entirely incorrect. That representation, connected with the recommendation by the President, has undoubtedly had much influence with Maine in producing a forbearance, which will probably be objected against her, in comparison with the opposite course by Great Britain, as containing an implied acknowledgment of the rightfulness of the jurisdiction which has been exercised for years, by a foreign Power in the man-

ner and to an extent which I beg leave now to exhibit, as presented to me by credible testimony. Along the St. Johns river following it up westwardly from the junction of the Matawascah, is a very flourishing settlement containing a considerable number of peaceably disposed and industrious inhabitants. Among these is a proportion of American emigrants, some of whom hold their land under deeds from Massachusetts and Maine, and the others, or nearly all of them are anxious to obtain titles in the same way. The latter at present occupy as tenants at sufferance, and neither recognize the land as being Crown lands, nor do they voluntarily submit to British authority. These persons, the government of New Brunswick treats in all respects as aliens, denies their right to hold real estate, assesses upon them the alien tax, and refuses to permit to them the transmission of their produce as American. I forbear to speak of many acts of violence and petty vexation of which they also complain. The other inhabitants are uniformly treated as British subjects, and new acts of jurisdiction, even to requirement of military duty, are as frequently exercised, as the ordinary operations of a municipal control require. Before expressing to you the sentiments which should be connected with the exhibition of these facts, allow me to ask your attention to the sacrifice to which Maine is submitting while her formidable, indefatigable adversary is thus industriously fortifying his positions. She owns, as it is believed, as clearly as she owns any other portion of property, a tract not less than six millions of acres, which, with the exception of about a million and an half situated northeastward of the St. John and Matawascah, is generally valuable for soil and timber, so that the latter along one river has been estimated to be worth \$180,000 00, which is only equal to an average of \$150 00 per square mile. The use of these vast resources is forbidden to her by the circumstance, that a claim is made upon it by a foreign power, and by the respect she entertains for the President's recommendation of a mutual forbearance; yet that Power is in the mean time applying its jurisdiction in the same manner as if the representations of its minister created no pledge and no obligations to sustain their correctness. While it is natural that the same power should seek to render the Province of New Brunswick wealthy and powerful, by the prize it hopes to win, it might have been expected that there should be no repugnance between its acts and declarations. The case which will be presented, must, as you perceive, necessarily require of Maine, a consideration of the duties she owes to her citizens, not left in the condition of neutral subjects without government, as has been supposed, but actually subjugated.

To allow our lands to remain uncultivated, and our public improvements to be postponed through a State necessity, is a sacrifice capable of being endured, compared with that of seeing dominion usurped over those who owe us allegiance, and to whom protection is due. It has been the doctrine of the Government, and of a great portion of the people of the United States, at times when Great Britain was heretofore prosecuting claims against this country, more extensive, but not less unjust than the present, that an injury to a single citizen inflicted a wound upon the body politic, and that an evil inflicted upon a part, demanded the making a common cause for its remedy.

In such a sentiment, believed to be now as fully as ever entertained, I find my apology for this renewed appeal for protection of the interests of Maine against the reduction of its territory and the oppression of its citizens through foreign interposition.

Availing myself of the present opportunity to offer the President a further view of this subject, which I omitted purposely on former occasions, it is flattering to be able to bring in aid the analogy of the opinions understood by the nation to have been uniformly entertained by our statesmen and jurists in the case of the Mississippi. It being assumed that the protection solicited will be yielded, and that the property demanded cannot be surrendered in any form, or under any mode of procedure, except as superior force may compel submission to a cession of State territory, it is natural to advert to the value of the property at stake. That value is so enhanced as to place it beyond calculation when we apply the doctrine applied to the navigation of the Mississippi, that the ownership of the head waters of rivers gives the right of free navigation to their sources. The doctrine, subject to some modification of a political and fiscal character, has the same application under the laws of nature and of nations, in reference to our right of navigation through the St. John, as this nation always demanded for it in connection with the great question with Spain, which called it into view. Let me intreat you, then, to look at once to the exciting cause of the cupidity of Great Britain, and the anxiety of Maine as to this profligate claim. The materials for ship building on the disputed territory, may be called inexhaustible, and the soil is so fertile, that the Matawascash settlement exports many thousand bushels of grain. The towns near the Bay of Fundy, both on the Scodisc and St. John, under the exclusive policy of Great Britain, derive immense annual profits from ship building, and they look with an unholy interest and intent on the extensive forests of Maine:



If the merits of the case admitted more measured terms, I should use them. But believing that all posterity would reprobate the weakness of yielding what is once so rightfully ours, and so important, I use the freedom which the occasion demands. Beyond what I have urged, let me add, that there will be, if you shall defeat the claim upon our territory, a facility of artificial water communication, which, regarding its extent is unparalleled in the geography of this country. It will embrace all the waters of the St. John, Penobscot, Kennebec and St. Lawrence.

If the General Government will employ an Agent of this State, it will, I am sure, be responsible for proving to him the correctness of all I have stated, to his entire satisfaction, and in the most authentic forms.

I cannot close without assuring you of my confirmed belief, that Maine will never assent to the result of an arbitration unfavorable to her interests in the great concern in reference to which my duty has compelled me to trouble you with my repeated communications.

## NO. 26.

*Letter from the Secretary of State of the United States, to the Governor of Maine.*

WASHINGTON, 14th Sept. 1827.

SIR : I have received the letter which your Excellency did me the honor to address to me on the third instant, and I have lost no time in transmitting a copy of it to the President of the United States, who will no doubt give to it the most respectful and deliberate examination. In the mean time, I have also transmitted an extract from it to the British Minister, accompanied by the expression of a confident expectation that the necessary orders will be given, on the part of the British Government, to enforce that mutual forbearance from any new acts tending to strengthen the claims of either party to the disputed territory, which it has been understood in the correspondence between Mr. Vaughan and myself, would be observed on both sides.

## NO. 27.

*Letter from the Governor of Maine, to the Lieutenant Governor of New Brunswick.*

PORTLAND, Oct. 22, 1827.

SIR : It has been represented to me, as Governor of the State of Maine, that one of its citizens, of the name of John Baker, while residing on its territory, has been arrested and is detained in gaol at Fredericton. A circumstance so inte-

resting to the peace and character of the State and Country, compels me to solicit information, which I do with the respect and amicable disposition due the authorities of a neighboring government. It is hoped that you will be pleased to communicate all the facts in the case, and that the result will be to allay the anxiety produced by the impression that the privileges of an American citizen and the jurisdiction of a sovereign power have been invaded. Maine has not only a wish to be amicably connected with New Brunswick, but her interests impel her to seek a friendly intercommunication; yet you must be aware that honor and justice demand of her the utmost respect and devotion on her part to the rights of every citizen.

The attempt to extend the jurisdiction of New Brunswick over the disputed territory, will compel counteraction from Maine.—The result must be productive of so much evil that it is not deemed indelicate or disrespectful to advert to it. The arrest of our citizens on what we believe to be a part of our State will demand its utmost energies for resistance.

## NO. 28.

*Mr. Daveis's Appointment.*

## STATE OF MAINE.

*Secretary of State's Office, }  
Portland, November 5, 1827. }*

CHARLES STUART DAVEIS, Esq. Portland,

SIR: I am directed to inform you, that you have this day been appointed by the Governor of this State, an Agent, with authority to act in behalf of the State of Maine, in obtaining information, either informally, or by authenticated statements, as to all objects relating to rights of property and jurisdiction between the governments of the said State, and the Province of New Brunswick.

I have the honor to be, with great respect,

Your most obedient servant,

AMOS NICHOLS, *Secretary of State.*

## NO. 29.

*Letter from the Governor of the State of Maine to the Lieutenant Governor of New Brunswick.*

PORTLAND, Nov. 5th, 1827.

SIR: I have the honor to solicit your friendly reception of Charles S. Daveis, Esquire, appointed to obtain information relative to our border difficulties. It has been considered due to yourself to select, for this Agency, a gentleman of

high character, and who in the most acceptable manner, may inquire into concerns calculated to produce a war between the United States and Great Britain, unless by the forbearance of injuries by New Brunswick and Maine, it may be prevented.

In whatever point of view you may regard this subject, I have full confidence that you will permit Mr. Daveis, if only in the capacity of a stranger and a gentleman, to pass, with your countenance, through the territory over which you preside, to the different portions of country he may wish to visit, for the purpose of ascertaining the facts relative to complaints of violence and injustice committed on the citizens of Maine.

This measure has been adapted, not to interrupt, but to cherish, the most respectful sentiments, and amicable disposition, between all those who may be concerned.

Mr. Daveis' authority does not specially designate his object; but you are requested to consider him as fully empowered to demand the release of John Baker, a citizen of Maine, said to be confined in the Gaol at Fredericton, and that the persons, who arrested him and conveyed him there, may be delivered up, to be tried by the laws of this State, and dealt with as justice may require.

#### NO. 30.

*Letter from the Secretary of State of the United States, to the Governor of Maine.*

WASHINGTON, 30th October, 1827.

SIR: I have committed to the charge of Mr. William Prentiss, who will have the honor to deliver them and this letter to your Excellency, and who is employed for that purpose, twenty-four manuscript volumes of books, according to the accompanying list, on the subject of the North and Northeastern Boundary lines of the United States, prepared at this office, for the State of Maine, conformably with the suggestions and desire expressed by your Excellency. From the extent of these manuscripts, it is more than probable that they embrace copies of a great deal more in documents, discussion, and argument, than was in the contemplation of your Excellency, or than was desired for the use of your State; but to secure a full compliance with your Excellency's views, and to guard against any deficiency, I gave directions to have a transcript made of every thing which might, by possibility, be useful or interesting upon the occasion, having the remotest bearing upon the subject, with the limitation stated in my previous correspondence; and as the selection was necessarily commit-

ted to others, who may not have had a very accurate view of the extent of the commission entrusted to them, it is not improbable that it may comprise much which may be found superfluous.

I send also, forty-two copies of maps, likewise prepared with the same views, and under the same circumstances, which Mr. Prentis will also have the honor to deliver to your Excellency.

NO. 31.

*Letter from the Governor of Maine to the Secretary of State of the United States.*

PORTLAND, 16th November, 1827.

SIR: I have received the documents you caused to be transmitted with the satisfaction naturally excited by so valuable a testimonial of regard for the wishes of this State. An attention which has occasioned so much trouble, cannot fail to produce a strong sentiment of respect, and to call into action a proper sensibility in acknowledgment of a burdensome service, from those very deeply interested in obtaining it.

I have also this day received your communication of the date of the 10th inst. From its contents, I am made sensible that the objections I have had the honor to urge against the submission to a foreign umpire, of the territorial and jurisdictional rights of Maine, without consulting or advising her as to the conditions, have not been deemed available. If any injury shall result to her, the appeal will be made to the people of this country and to posterity. It has not seemed arrogant or presumptuous to have expected a recognition of her rights, and to have asked that, if she is to be made a sacrifice, she might not be devoted without some consideration on her part of the terms.

It is not probable that your various important engagements can have allowed to my former communications more than the cursory glance, which enables the officer in most cases to dispatch business, especially in those cases in regard to which he has marked out his course; but to save repetition, I must ask your indulgence to refer to those communications as containing statements and principles near to the hearts and interests of this community. When you cautioned us against suggestions of compromise and acts of precaution, it was not believed that it was that you might the more easily throw us within the power of an umpire, but that you intended to intimate that the powerful arm of the federal government was holding its ample shield before us. At last, we learn that our strength, security and wealth are to be subjected to the mercy of a fo-

reign individual, who, it has been said by your minister, "rarely decides upon strict principles of law," and "has always a bias to try, if possible, to split the difference." I cannot but yield to the impulse of saying, most respectfully, that Maine has not been treated as she has endeavored to deserve.

The painful duty of laying before you the testimony to prove the aggressions committed upon citizens of this State, by inhabitants of New Brunswick, was seasonably discharged. It is feared that the violence committed, has been but the commencement of a system. The President will surely bestow his attention upon the case of John Baker, who is stated to have been arrested on land conveyed to him, in fee simple, in the year 1825, by the Commonwealth of Massachusetts and the State of Maine. The conveyance was virtually a certificate of citizenship, and a pledge for protection. It was also an act of State policy, a deliberate political measure, and the "Old Commonwealth" and this Republic may well call upon the President and Secretary of State to be their protectors. All those who have contended against the impressment of the sailor in our ships, will resent the arrest of the yeoman on the frontier. Connecting this injury with others, which have been suffered and threatened, it has been deemed proper to appoint an Agent of the State to inquire, in a friendly and respectful manner, into the facts, whose report will enable me to answer fully and correctly, the questions you have proposed. It is with great deference submitted that every investigation of this subject, will satisfy the federal government that the representations I have had the honor to present, might have been worthy a serious consideration, which I doubt not, they have received, although possibly too late. The communications to the Lieutenant Governor of New Brunswick, and other documents, will accompany this letter.

#### NO. 32.

### STATE OF MAINE.

BY THE GOVERNOR OF THE STATE OF MAINE.

#### A PROCLAMATION :

Whereas it has been made known to this State, that one of its citizens has been conveyed from it, by a Foreign Power, to a gaol in the Province of New Brunswick; and that many trespasses have been committed by inhabitants of the same Province on the sovereignty of Maine and the rights of those she is bound to protect.

Be it also known, that, relying on the government and people of the Union, the proper exertion will be applied to obtain reparation and security.

Those, therefore, suffering wrong, or threatened with it, and those interested by sympathy and principle, on account of the violation of our territory and immunities, are exhorted to forbearance and peace, so that the preparations for preventing the removal of our land marks, and guarding the sacred and inestimable rights of American citizens may not be embarrassed by any unauthorized acts.

ENOCH LINCOLN.

BY THE GOVERNOR :

AMOS NICHOLS, *Secretary of State.*

COUNCIL CHAMBER, }  
Portland, November 9, 1827. }

NO. 33.

*Extract of a Letter from the Secretary of State of the United States, to the Governor of Maine.*

WASHINGTON, 27th Nov. 1827.

SIR : I have to acknowledge the receipt of the letter which your Excellency did me the honor to address to me on the 16th instant, with its accompaniments, all of which have been laid before the President. He sees with great regret the expression of the sentiment of your Excellency, that "Maine has not been treated as she has endeavored to deserve." Without engaging, at this time, in a discussion of the whole subject of our dispute with Great Britain about the Northeastern Boundary of the United States, in which the State of Maine is so deeply interested, which would be altogether unprofitable, I am sure I shall obtain your Excellency's indulgence for one or two general observations which seem called for by the above sentiment.

By the Treaty of Ghent, in the contingency which unhappily occurred, of a non-concurrence between the British and American Commissioners in fixing that boundary, they were directed respectively to report to their Governments, and the difference thus left unadjusted was to be referred to a Sovereign Arbitrator. Your Excellency, in the course of the correspondence which has passed between you and this Department, has protested against this reference, and your objections to it have received the most respectful consideration. The fulfilment of solemn obligations imposed upon the United States by the faith of treaties ; and the duty with which the President is charged by the constitution, of taking care that the laws (of which our treaties with foreign powers form part,) be faithfully executed, did not appear to leave him at liberty to decline the stipulated reference. If any other practical mode of settling the differences had occurred, or been sug-

gested by your Excellency, to the President, it would have received friendly and deliberate consideration.

It is certainly most desirable that nations should arrange all differences between them, by direct negotiation, rather than through the friendly agency of third powers. This has been attempted and has failed. The Government of the United States is fully convinced that the right to the territory in dispute is with us and not with Great Britain. The convictions of Maine are not stronger in respect to the validity of our title than those which are entertained by the President. But Great Britain professes to believe the contrary. The parties cannot come to the same conclusion. In this state of things what ought to be done? National disputes can be settled only amicably or by an appeal to the sword. All will agree that before resorting to the latter dreadful alternative, every friendly and peaceful measure should be tried and have failed. It is a happy expedient, where nations cannot themselves adjust their differences, to avail themselves of the umpirage of a friendly and impartial power. It multiplies the chances of avoiding the greatest of human calamities. It is true that it is a mode not free from all objection, and Mr. Gallatin has adverted to one, in the extract which you give from one of his despatches. But objectionable as it may be, it is better and not more uncertain than the events of war. Your Excellency seems to think that the clearness of our right should prevent the submission of the controversy to an Arbitrator. But the other party professes to be equally convinced of the indisputable nature of his claim; and if that consideration were to operate on the one side, it would equally influence the other.—The consequence will be at once perceived. Besides, the clearness of our title will attend it before the Arbitrator, and if we are not deceived in it, his favorable decision is inevitable.

The President regrets, therefore, that in conducting the negotiation with Great Britain, he could not conform to the views of your Excellency, by refusing to carry into effect a treaty, to the execution of which the good faith of the Nation stood pledged, and which was moreover enjoined by the express terms of the constitution.

But, if he could have brought himself to disregard this double obligation under which he is placed, how could the interests of Maine have been advanced? Both parties stand pledged to each other to practice forbearance, and to abstain from further acts of sovereignty on the unoccupied waste, until the question of right is settled. If that question cannot be settled by the parties themselves, and may not be settled by arbitration, how is it to be determined? The remaining alter-

native has been suggested. Whether the time has arrived for the use of that does not belong to the President but to another branch of the Government to decide.

I cannot but hope that your Excellency, upon a review of the whole subject, in a spirit of candor, will be disposed to think, that the Executive of the United States has been endeavoring, with the utmost zeal, in regard to our Northeastern boundary, to promote the true interests of the United States and of the State of Maine; and that this respectable State has been treated neither with neglect nor injustice.

NO. 34.

*Letter from the Lieutenant Governor of New Brunswick to the Governor of Maine.*

FREDERICTON, New Brunswick, 15th Nov. 1827.

SIR: I have the honor to acknowledge the receipt of your Excellency's letter of the 22d October, requesting me to communicate all the circumstances respecting the arrest of the individual named in your Excellency's letter.

It is not for me to question the propriety of your Excellency's opening a correspondence with the Government of this Province, on a question now pending in negotiation between his Majesty's Government and the Government of the United States, as contracted under the treaty of Ghent; but it would neither be consistent with my sense of duty, nor in conformity with my instructions, to give the explanations your Excellency requests, to any persons excepting those with whom I am directed to correspond, or under whose orders I am placed.

Should any reference be made by the General Government of the United States, to his Majesty's Minister, upon this, or any other matter connected with the Government of this Province, it will be my duty to afford his Excellency the fullest information to enable him to give whatever explanation he may deem proper.

Although for these reasons I must decline any further correspondence with your Excellency, on this subject, yet it is in entire unison with the sentiments and disposition which I know to animate his Majesty's Government, that I take this occasion to assure your Excellency, of my sincere and cordial desire to do all in my power, so far as I personally am at liberty to use any discretion in the duties with which I am imperatively charged, to meet with respect and consideration the amicable disposition which your Excellency professes. I trust my conduct will be found to evince a just and manifest solicitude to repress and punish any acts on the disputed territory,



which might lead to the interruption of a good understanding between the two countries, and to keep the question in a state propitious for a speedy and amicable adjustment.

*In the Supreme Court. . . Exchequer side.*

YORK, TO WIT. Be it remembered, that Thomas Wetmore, Esquire, Attorney General of our Sovereign Lord the King, for this his Majesty's Province of New Brunswick, who prosecutes for our said Lord the King, comes in his own proper person, into the Court of our said Lord the King, before the Justices of our said Lord the King, at Fredericton, on the seventeenth day of September, in the eighth year of the reign of our sovereign Lord the now King, and for our said Lord the King, gives the Court here to understand and be informed,— That Whereas a certain tract or parcel of Land situate in the Parish of Kent, in the county of York, in the said Province, and lying on both sides of the river St. John, between the mouth of the Madawaska River and the River Saint Francis, and containing in the whole fifty thousand acres, in the hands and possession of our said Lord the King, on the first day of February, in the first year of his Reign, and before and continually after, was, and of right ought to be, and yet ought to be, in the right of his Imperial Crown of the United Kingdom of Great Britain and Ireland, and as part of the Dominions of our said Lord the King, in this province: and for so long a time as there is no remembrance of any man to the contrary, has been in the possession of the said Lord the King, and his Predecessors, the Kings and Queens of Great Britain and Ireland, and a part of the Dominions of said Crown: Nevertheless, one John Baker, of the Parish aforesaid, in the county aforesaid, Farmer, the Laws of the said Lord the King in no wise regarding, but intending the disherison of the said Lord the King, in the premises, on the first day of February, in the second year of the reign of our said present Sovereign Lord the King, and on divers days and times, before and since, with force and arms and without any lawful authority, in and upon the possession of the said Lord the King, of a part of his said lands, to wit, one hundred acres thereof, lying on the westerly side of the Land Turtle, or Mariumpiccook River, a branch of the said River St. John, at the Parish aforesaid, in the county aforesaid, intruded and entered, and erected and built thereon a certain House, and other edifices, and cut and felled divers, to wit, five hundred timber and other trees thereon standing and growing, of the value together of one hundred pounds, and took and carried away the timber and wood arising from the said trees, and of his own will disposed thereof, and the issues

and profits of the same lands accruing, received and had, and yet doth receive and have to his own use, and still holds and keeps possession of the lands; and the said trespass aforesaid, hitherto and yet continuing to the great annoyance of our said Lord the King, in contempt of our said Lord the King, and contrary to the Laws and against the peace of our said Lord the King.

Whereupon the said Attorney General of our said Lord the King, for the said Lord the King, prays the advice of the Court here in the premises, and that the aforesaid John Baker come here to answer the said Lord the King in the premises.

(Signed,) T. WETMORE, *Attorney General*.

Indorsed, J. M. BLISS.

Examined by me and certified to be a true Copy.

T. R. WETMORE, *Clerk to the Attorney General*.

28th November, 1827.

## CHAPTER XXXI.

A Resolve relating to the Northeastern Boundary.

*Resolved*, That the Governor be, and he hereby is requested to transmit a copy of the Report of the Committee, to whom was referred so much of his communication, made to the Legislature, as relates to the Northeastern Boundary of this State, to the President of the United States, to the Governor of each State in the Union, and two copies to each of our Senators and Representatives in Congress, and each of our foreign Ambassadors; and that one hundred and fifty copies be at the disposal of the Governor.

[*Approved by the Governor, February 18, 1828.*]

## MESSAGE OF THE GOVERNOR.

*To the Senate and House of Representatives :*

I transmit, for the information of the Legislature, the Report of Charles S. Daveis, Esq., the Agent appointed by the Executive of this State to inquire into and report upon certain facts relating to aggressions upon the rights of the State of Maine, and of individual citizens thereof, by inhabitants of the Province of New Brunswick.

ENOCH LINCOLN.

COUNCIL CHAMBER,  
Portland, February 2, 1828. }