

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

RESOLVES

OF THE

TWELFTH LEGISLATURE

OF THE

STATE OF MAINE,

PASSED AT THE SESSION

WHICH COMMENCED ON THE FOURTH DAY OF JANUARY, AND ENDED ON
THE NINTH DAY OF MARCH, ONE THOUSAND EIGHT
HUNDRED AND THIRTY-TWO.

PUBLISHED AGREEABLY TO THE RESOLVE OF JUNE 28, 1820.

AUGUSTA:

I. BERRY & CO., PRINTERS TO THE STATE.

1832.

DOCUMENTS

ACCOMPANYING THE GOVERNOR'S MESSAGE OF JANUARY 9, 1832.

Mr. Campbell to Mr. Smith.

ST. JOHNS, NEW BRUNSWICK, }
4th September, 1831. }

SIR,

I avail myself of the very earliest opportunity of acquainting your Excellency with my arrival here (yesterday) for the purpose of assuming the Government of this, your neighboring Province, in virtue of a Commission from his Britannic Majesty to that effect.

In entering on the performance of the important duties committed to my charge, I should do injustice to my feelings, were I to omit conveying to your Excellency the assurance, that it will ever be my most earnest object and desire to strengthen and cement, by every means within my power, the friendship and cordiality which so happily exists between our respective Governments.

With sentiments of the utmost respect and consideration,

I have the honor to be, Sir,

Your Excellency's most obedient

Humble Servant,

ARCH'D CAMPBELL,

Major General.

His Excellency

The GOVERNOR of the
State of Maine.

Mr. Smith to Mr. Campbell.

EXECUTIVE DEPARTMENT OF MAINE, }
 Portland September 29, 1831. }

To his Excellency Sir ARCH'D CAMPBELL,
 Major General &c. &c. Lieut. Governor
 of the Province of New Brunswick.

SIR,

I am happy to have the honor to acknowledge the receipt of the letter of your Excellency of the 4th instant, communicating the information of your arrival in New Brunswick, for the purpose of assuming the government of that Province, in virtue of a Commission from his Britannic Majesty to that effect.

Ever feeling interested in the welfare of our friendly neighbors of New Brunswick, the people of this State cannot but be gratified with the information of an appointment, so calculated to contribute to the happiness and prosperity of that Province.

In behalf of the State of Maine, whose agent I am, I sincerely reciprocate the sentiments of your Excellency; and in the discharge of my official duties, it will ever be my anxious endeavour to prevent the occurrence of any event, that can give cause for the interruption of the friendship and good understanding which I hope and trust will long continue to exist between our respective Governments and Nations.

I avail myself of this occasion to tender
 to your Excellency, the assurance of my
 high respect and consideration.

SAMUEL E. SMITH.

Mr. Campbell to Mr. Smith.

FREDERICTON, NEW BRUNSWICK, }
 13th September, 1831. }

SIR,

I have just learnt with equal surprise and regret, that some people from the State over which your Excellency presides, have crossed the Boundary line actually existing between the two Countries, and taken possession of a part of the territory still in dispute between our respective Governments.

I cannot believe that measures of so fatal a tendency, and likely to prove so ruinous in their consequences to the true interests of both Countries, can have been undertaken under your Excellency's sanction or authority, and I confidently therefore rely upon your immediately recalling the aggressors and subjecting their conduct to such judicial inquiry as is demanded by so serious an offence, as that of creating agitation and alarm among the peaceful inhabitants of a neighboring and friendly Country, and endeavoring to embroil the two Governments in a most serious dispute.

Your Excellency is well aware of the undoubted right vested in me by the Law of Nations, to seize the persons of the offenders and deal with them according to the Laws of this Province; and you will, I feel convinced, consider my forbearance in refraining from doing so, only as a proof of my anxious desire to cultivate the friendly relations now existing between our respective Governments.

It is perhaps unnecessary to remind your Excellency in conclusion, that until this unfortunate boundary question is definitively settled, it is my imperative duty to maintain inviolate the existing boundaries of the Province committed to my charge.

I have the honor to be, Sir,

Your Excellency's most obedient

Humble Servant,

ARCH'D CAMPBELL.

Lieut. Governor.

His Excellency
the GOVERNOR of the
State of Maine.

Mr. Smith to Mr. Campbell,

EXECUTIVE DEPARTMENT OF MAINE, }
Portland, October 10th, 1831. }

SIR,

I have had the honor to receive the letter which your Excellency directed to me on the 13th of September last, by which I am informed that some people from this State have crossed the Boundary Line actually existing between the two Countries and taken possession of part of the territory still in dispute between our respective governments, and am requested by your Excellency immedi-

ately to recall the aggressors and to subject their conduct to such judicial inquiry as is demanded by so serious an offence as creating agitation and alarm among the peaceful inhabitants of a friendly country and endeavoring to embroil the two Governments in a most serious dispute.

The letter of your Excellency has communicated to me the only authentic information I have yet received of a transaction of this nature, and I regret equally with your Excellency, that any people from this State should have committed the acts of the kind described, and created agitation and alarm among the peaceful inhabitants of a friendly country. But as the names of the aggressors, and the particular nature and circumstances of the transaction are not made known to me, it is out of my power with my present information to account for or explain the acts, which, had I been apprized of the intention to have committed them, my object would have been, if possible, to have prevented.

Two gentlemen were appointed by this Department, in virtue of a Resolve of the Legislature of this State, "to ascertain the number of persons settled on the Public Lands, north of the line running west from the Monument, the manner in which they respectively hold the same, and to report all the facts, which will be for the interest of the State, to enable them to adopt some mode of quieting the settlers in their possessions." To gain this information was the extent of their authority. I am informed that they have peaceably performed the duties of their appointment, though a formal report of their proceedings has not been received. It is not to be presumed, that they are the persons to whom allusion is made in your Excellency's letter.

With regard to the suggestion of your Excellency that until this unfortunate Boundary question is definitively settled, it is your imperative duty to maintain inviolate the existing boundaries of the Province committed to your charge, I would reply, that, if by "the existing boundaries of the Province," your Excellency intends the boundaries as fixed and established by the definitive treaty of Peace of 1783, and as recognized and described in successive acts and documents of the Government of Great Britain for many years before as well as after that treaty, it is not, and never has been the intention of the Government of this State to assert any claim or jurisdiction beyond that line. If on the other hand, a line recently designated, commencing at Mars Hill, southward of the St. John's river, and running through the lands that divide the

head waters of the branches of the St. John's, from those of the Penobscot, is intended as "the existing boundaries," your Excellency, I trust, is aware, that this line is not, and never has been recognized by this Government as the limits of their territory and jurisdiction. The Country beyond that line for a long course of time has been within the actual limits and jurisdiction of this State, and of the State of Massachusetts, to whose rights and sovereignty over this territory Maine succeeded by the Act forming them into a separate State.

As this important question is now pending between the Government of the United States, and that of Great Britain, which alone have the power definitively to settle it, I shall forward your communications to the President of the United States. In the mean time it will be my endeavor, as I am assured it will that of your Excellency, to prevent the occurrence of any event that may embarrass the negotiation, or interrupt the harmony and good understanding which happily exist between our respective governments.

With high consideration,

I have the honor to be,

Sir, your obedient Servant,

SAMUEL E. SMITH.

To His Excellency, Sir ARCHIBALD CAMPBELL,
Major General &c. &c. Lieut. Governor of
the Province of New-Brunswick.

Mr. Livingston to Mr. Smith.

DEPARTMENT OF STATE, }
Washington, 5th October, 1831. }

SIR,

I have the honor to transmit to your Excellency the copy of a note just received from the Charge d'affaires of his Britannic Majesty. In directing me to make this communication, the President has instructed me to ask for such information on the subject as you may possess, and to add the expression of his earnest wish that no measures may be taken by the State authorities that will change the existing state of things before the whole subject can be acted upon at the ensuing session of Congress. Your Excellency and the people of your State must be fully aware of the

embarrassment which will be created by any act tending to produce irritation between the two Countries, and, at the same time, the inutility of extending jurisdiction where it was not exercised before, and where it may be contested, or provoke a like extension on the other side, and that too at a so short a period before the meeting of Congress, when, it cannot be doubted that such measures will be taken, as may comport with justice, the peace of the Nation, and the rights of the State.

The President directs me to say, that he relies on your Excellency's prudence to avoid any unnecessary exertion of authority over the contested ground, and to repress, as far as lies in your power, all such acts as may endanger the quiet of the bordering territory.

Congress will meet in the course of a few weeks, and it will be a source of deep regret if the moderation and forbearance which have hitherto characterized the government and people of Maine, should cease to guide them, when its further continuance for so short a period is of such consequence to the Nation. The President has instructed me to make these reflections, more from a feeling that it was his duty to communicate them, than from any fear that they would not suggest themselves to your Excellency, and have their proper influence.

I have the honor to be,

very respectfully,

your Obedient Servant,

EDWARD LIVINGSTON.

His Excellency,

SAMUEL E. SMITH,

Governor of the State of Maine.

Mr. Smith to Mr. Livingston.

EXECUTIVE DEPARTMENT OF MAINE, }
Portland, October 12, 1831. }

HON. EDWARD LIVINGSTON,

Secretary of State,

of the United States,

Washington.

SIR,

I have the honor to acknowledge the receipt of your letter of the 5th instant transmitting a copy of a note

received from the Charge d'affaires of his Britannic Majesty.

In compliance with the request to be furnished with such information on the subject referred to in your letter, as may be in my possession, I have the honor herewith to transmit a copy of a Resolve of the Legislature of this State in relation to the persons settled on the Public Lands without title, in virtue of which two gentlemen, Messrs. John G. Deane and Edward Kavanagh, were appointed, and the extent of their authority was to obtain the information specified in the Resolve. I am advised by their letter of the 26th of August last, a copy of which is herewith transmitted, that they have peaceably executed the duties of their appointment, but a full report of their proceedings has not been received. This is the only measure adopted by this Department, that is known to have any relation to the disputed territory.

I also transmit copies of two letters directed to me by the Lieut. Governor of New Brunswick, together with my answers to the same.

An Act was passed by the Legislature of this State, at their last session, to incorporate the town of Madawaska, which is bounded in part by the line of the State. By this Act, and by some others, I considered that it was intended by the Legislature to assert the claim of this State to jurisdiction over that portion of territory which they knew to be within the limits of Maine; and, that it was not to be carried into effect until circumstances should render it proper and expedient. The measure that is said to have been adopted by the inhabitants of that territory, of voluntarily organizing themselves into a corporation, was unexpected by me, and done without my knowledge.

The only information received at this department in relation to this last mentioned transaction, is contained in a letter purporting to be signed by Jesse Wheelock and Daniel Savage, who are personally unknown to me, but as their statement is also corroborated by a letter from a gentleman at Houlton, it is believed to be substantially correct. A copy of this letter from Messrs. Wheelock and Savage is herewith transmitted, by which it further appears that they, together with several other citizens of this State have been arrested by the British authorities, and transported towards Fredericton, for the purpose of being there imprisoned. They were arrested within the territory of this State, and of the United States; and, as citizens of the United States, now claim the aid and protection of their Government and Country.

After the measures heretofore adopted by Maine for the purpose of communicating to the General Government a knowledge of the views and sentiments of the people of this State upon the question of our Northeastern Boundary, it is unnecessary for me to add any further suggestions as to the public feeling which exists in relation to this subject. But in conformity with the recommendation and desire of the President, as heretofore as well as at present expressed, it has been, and will continue to be, my earnest endeavor to prevent the occurrence of any event that may embarrass the pending negotiation, or give any occasion for collision with the British authorities. The facts and information, that are within my possession, I have endeavored to communicate ; and I have full confidence that such measures will be adopted by the Government of the United States, as the urgency of the occasion, the protection of our citizens, and the rights and honor of this State, and the United States, seem imperiously to require.

With high respect and consideration,

I am, Sir, your obedient servant,

SAMUEL E. SMITH.

P. S. Two gentlemen, inhabitants of the disputed territory, have just arrived in town, with additional information ; whose depositions, when taken, will be forwarded to the Department of State.

SAMUEL E. SMITH.

Letter from Jesse Wheelock and Daniel Savage.

TO ROSCOE G. GREENE,
Secretary of State—Maine.

SIR,

We commence this date at Capt. Simeon Herbert's, Madawaska, September the 28th, where we are held prisoners by the British Authority, for acting under a warrant from Wm. D. Williamson, Justice of the Peace for County of Penobscot, in the State of Maine, to call a town meeting and act on Town affairs agreeably to an act of the Legislature of Maine, incorporating this place into a Town by the name of Madawaska, which Warrant we have com-

plied with according to law. The manner of our arrest is as follows—His Excellency Sir Archibald Campbell, Lieutenant Governor and Commander in Chief of the Province of New Brunswick arrived here on the 23d inst. with one Colonel, one Captain of the militia, the Attorney General of the Province and Mr. Magloihlan and the Sheriff of the County of York in said Province—on the 24th directed Warrants to be issued against all those who acted at said meetings by giving in their votes, we the undersigned was arrested in this neighborhood on the 25th—on the 26th the Sheriff and Capt. Coombs with some militia ascended the river to Mr. Baker's to arrest those in that neighborhood, from thence to the St. Francois settlement, expected to return to day—then we are to be immediately sent to Frederickton Jail—when the rest of our unfortunate Countrymen arrive we will enlist those names and numbers together with what other information shall come to our knowledge. The families of them will be left in a deplorable situation unless their Country will immediately relieve them. Our intention is to forward this by the way of Houlton as we pass through Woodstock.

With high consideration,

your humble Servants,

JESSE WHEELOCK,
DANIEL SAVAGE.

28th—The Sheriff returned last night with Captain Coombs and militia with about 30 French Prisoners—and 2 Americans—Barnabas Hunnewell and Daniel Bean—the rest of the Americans fled to the woods. We are now descending [the] river—stop to-night 20 miles above Woodstock—the 30th.

Yours,

JESSE WHEELOCK.

N. B.—The French all gave bonds—some for trial, and some for good behaviour.

Mr. Smith to Mr. Livingston.

EXECUTIVE DEPARTMENT OF MAINE, }
Portland, October 13th, 1831. }

To the Hon. EDWARD LIVINGSTON,
Secretary of State,
of the United States,
Washington.

SIR,

I have the honor herewith to transmit to you the accompanying Depositions of John Baker and Phinehas R. Harford, referred to in my letter of yesterday, and, also, a copy of a letter from John Harford and six others, inhabitants of the disputed territory, near the St. John's river.

By these documents it is proved that a number of the citizens of this State assembled at a place southward of the St. John's River, and on the territory claimed and known to be within the limits of this State, and proceeded to organize themselves, and to transact other business, as authorized by the laws and constitution of this State. It also appears, that Jesse Wheelock, Daniel Savage, Barnabas Hunnewell, Daniel Bean and a number of others, have been arrested by a military force, accompanied by the Lieut. Governor and other authorities of the Province of N. Brunswick, and have been transported out of the State; and are now probably imprisoned in the jail at Fredericton. Others of the inhabitants have been compelled to abandon their homes, and to conceal themselves in the woods, to escape the violence of their invaders. These persons as citizens of this State and of the United States, now claim the aid and protection of their Government and their Country.

However unexpected and regretted by me are these transactions, it becomes my official duty to make known the facts to the President of the United States, and to appeal to the General Government of the Union, to adopt the necessary measures to procure the release of our citizens from imprisonment and to protect our State from foreign invasion.

I have full confidence that every measure will be seasonably adopted by the General Government, which the injuries inflicted and the urgency of the occasion require. I shall await the direction of the President, and in the mean time it will be my endeavor that this State may be prepared to exert the means within her power, which may be

necessary for the protection of her territory, and the security of her citizens.

I have the honor to be,
with the highest respect and
consideration, your obedient servant,
SAMUEL E. SMITH.

Depositions of John Baker and Phinehas R. Harford.

I John Baker, of lawful age depose and say, that I am a resident on the north side of the river St. John, about twelve miles above the mouth of the Madawaska river, and within the territory incorporated by the name of the town of Madawaska, in the State of Maine—that I was present at a meeting of the Inhabitants of said territory, holden in the latter part of August last past, in the year of our Lord one thousand eight hundred and thirty-one, at the dwelling house of Peter Lezart, on the south side of the river St. John, and within the limits of said territory. Said meeting was holden pursuant to a warrant from William D. Williamson, Esquire, one of the Justices of the Peace throughout the State, directed to Walter Powers, one of the inhabitants of said territory, to notify said inhabitants to meet as aforesaid, for the purpose of organizing the government of said town, by the choice of a Moderator, Town Clerk and Selectmen. Said inhabitants, so assembled, proceeded to the choice of the officers mentioned. After said Powers had called the meeting to order, one Leonard R. Coombs, a Captain in the Militia at Madawaska, objected and protested against all further proceedings of the meeting, and threatened the inhabitants aforesaid with imprisonment if they voted or took any part in the further proceedings contemplated by the warrant calling the meeting. One Francis Rice, a resident at Madawaska, and a Justice of the Peace under the Provincial Government of New Brunswick also protested against the meeting, and used many opprobrious and threatening terms against the government, and the authorities of the government of the State of Maine, and against all persons who were taking part or participating in the organization of the town aforesaid. Mr. Powers, however, eventually succeeded in regaining order in the meeting, and the inhabitants, to the number of fifty or sixty, who were present, proceeded to the choice of Barnabas Hunnewell, as Moderator, Jesse Wheelock for Town Clerk,

and Daniel Savage, John Harford and Amos Maddocks for Selectmen. But, because of the threatening language and tenor used by Mr. Coombs and Mr. Rice, all of the persons present aforesaid, did not vote in the choice of the before mentioned officers.

After these proceedings the town meeting was adjourned without day. About twelve or fifteen persons voted in said meeting. Another town meeting was holden for the choice of a Representative, on the second Monday of September, A. D. 1831, pursuant to the provisions of the Constitution of the State of Maine. This meeting was holden at [the] house of Raphael Martin, in said town of Madawaska, on the south side of the river St. John. Mr. Rice, the same mentioned above, was present, and opposed the proceedings protesting against the right of the inhabitants to hold the meeting, and again used menacing language towards them for participating in and countenancing it. But the Selectmen called him to order; and were allowed eventually to proceed to the business of the meeting. There were about eighty inhabitants present. Peter Lezart, a resident on the southern side of the river St. John, was elected Representative. For the supposed purpose of intimidating the voters, Mr. Rice noted in writing the proceedings and the names of all persons who voted. On the twenty-fifth day of the same September, A. D. 1831, it being on Sunday, I received information at my house, that a military force was collecting at the Madawaska Chapel, on the north side of the river St. John, and about eighteen miles below me. On the same day, orders were circulated among the inhabitants on the south side of the river, and up as far as my house, directing the inhabitants to assemble that same day at the Chapel aforesaid. I understood that one — Mishud, a French settler, carried these orders, and made them known. On the same Sunday afternoon, information was also brought me, that fire arms to the number of one hundred and one had already been collected at the dwelling house of one Simon Hebert, which is between my house and the Chapel, and about fifteen miles below my house on the south side of the river St. John. Said Hebert is a Captain of the Provincial Militia of New Brunswick.

The Governor of New Brunswick was also said to be present at said Hebert's house. Reports brought me on the evening of the same day, and confirmed on the next morning, informed me that the armed force at Hebert's house had made prisoners of, and were then detaining, Mr.

Daniel Savage and Mr. Wheelock, one of the Selectmen, and the Town Clerk before named, on account of their participation in the proceedings of the Town Meetings already mentioned. Each of these persons reside on the south side of the river St. John. And it was the declared determination of these forces, to take as prisoners all other persons, who voted in said meetings. About twelve o'clock, or at noon, on Monday, the 26th day of September aforesaid, I discovered about twenty canoes coming up the St. John, apparently in great haste, with one or more men in each. These landed on the north shore, at my mills, and at a neighbor's landing just below my mills. I retreated to a distance, and watched their movements. —After examining my mills, they proceeded to my dwelling house, where they posted sentinels armed with muskets—A part proceeded to other houses and searched them also, and thence returned to my house. While I remained in the woods, Mrs. Baker, my wife, came to me, and informed me that Barnabas Hunnewell, Daniel Bean and several French settlers were held as prisoners by the soldiers then at my house—that Mr. Miller, the High Sheriff of the Province of New Brunswick had searched the house throughout, and afterwards directed her to advise me to surrender myself to the British Authorities—and that if I would go to Simon Hebert's house, where the Governor and Attorney General of the Province then were, and give bail for my appearance at the Court in Fredericton, I should be released ;—that it was in vain for me to think of keeping out of the way, as they intended to keep up a garrison through the territory, and force me into a compliance to the British Authorities.

While I was holding this conversation with my wife, on Monday afternoon, I discovered a horse-boat coming up the river with about fifty armed men on board—These landed at my house—and I was informed that a detachment of them were to proceed up the river, to the upper settlements, for the purpose of arresting all other persons, who had taken part in the town meetings before mentioned. Upon this information I set off, about sunset, for the upper settlements—and after proceeding through the woods a distance of two miles, I came to the river St. John, and then heard the discharge of muskets below, and supposed the soldiers to be drilling—I reached the upper settlements about three of the clock on Tuesday morning, gave notice of the approaching danger, and all the male inhabitants but six, who subsequently fled, retreated into the woods with

me. In the afternoon of that day, we saw the armed party come up the river. On finding ourselves pursued, we retreated further into the woods. This party, as I was informed afterwards by the females who remained at the houses, was divided into detachments which severally scoured the banks of the river on both the north and south side, in search of us. On Wednesday morning following, we came back to one of the houses, and saw the armed force returning down the river—But apprehending that an ambush might be laid for us, we retreated again that night farther into the woods, and on Thursday ventured back to the river. We then met one Mrs. Bartlett, whom we had sent from the upper settlement on the preceding Tuesday, and was informed by her that she had been at my house where the British soldiers were on Wednesday, having four American prisoners, and some French settlers;—that the officers of the armed force declared their determination to garrison the settlements, and take us prisoners whenever we should make our appearance; and instructed the French settlers to disregard every thing done by the American officers. I have not been at my house nor with my family since, apprehending that I should be forthwith imprisoned if taken by our pursuers. Under this state of affairs, I proceeded forthwith on Thursday, on my way to Portland, where I arrived this twelfth day of October, A. D. 1831—The inhabitants generally are under very great and continued alarm, within the town—Many of them are afraid to return to their ordinary labors—The harvesting of many settlers is interrupted and left unfinished in consequence of the proceedings of the British Authorities; and several families are from the same cause in a very distressed condition—Further deponent saith not.

JOHN BAKER.

STATE OF MAINE.

CUMBERLAND, ss. *Portland, October 12th, 1831.*

Then personally appeared the above named John Baker, and made solemn oath that the above deposition by him signed, is true—before me,

FRANCIS O. J. SMITH, *Justice Peace.*

I Phinehas R. Harford, of lawful age on oath depose and say, that I am a resident of the town of Madawaska, in what are called the upper settlements of Madawaska—I was present at each of the town meetings described in the deposition of John Baker, and know and testify that the deposition of said Baker concerning said meetings, what transpired in them, and the conduct of Mr. Coombs and of Mr. Rice in them, is in all respects true—I further depose and say, that I saw the landing of the men from the canoes as described in said Baker's deposition, and also the movements of said men while on shore. On the Monday when said men landed, and immediately after they landed, I went up the river St. John to the upper settlements before mentioned—On the Tuesday morning following, about three of the clock, Mr. John Baker arrived at the upper settlements, as testified in his deposition, and I retreated with him into the woods, and continued with him, at all times, since then, and until his arrival in the town of Portland—and know and testify that his deposition relative to our doings and proceedings from the time of our said retreat, and also concerning the condition and distress of the inhabitants of Madawaska, to be in all respects true.

PHINEHAS R. HARFORD.

STATE OF MAINE.

CUMBERLAND, ss. *Portland, October 12th, 1831.*

Then personally appeared the above named Phinehas R. Harford, and made solemn oath that the above deposition by him subscribed, is true—before me,

FRANCIS O. J. SMITH, *Justice Peace.*

TO HIS EXCELLENCY OF THE STATE OF MAINE.

HON. SIR,

We think it our duty to make known to you the late occurrences, and the difficult situation we are placed in, &c. That is, the Governor of New Brunswick, the High Sheriff and their attendants have come to Madawaska, and have ordered out the Militia *en masse*, from which they have selected and armed about seventy, and have declared that it is their intention to take every man prisoner that voted at the town meeting. They have taken many, and among

the prisoners are four Americans. They pursued the remainder of us to the Head of the Settlement into the woods and declared they intend to keep garrison at Mr. Baker's in order to starve us to a compliance. We have now slept in the woods three nights without fire or covering, and by stratagem have obtained Potatoes from the fields for subsistence. For further particulars we shall refer you to Mr. John Baker and Mr. Phineas R. Harford, who are the bearers of this Express.

JOHN HARFORD,
AMOS MADDOCKS,
NATHANIEL BARTLETT,
WALTER POWERS,
JOSEPH WILEY,
AUGUSTIN WEBSTER,
CHARLES McPHERSON.

September 29, 1831.

Mr. Livingston to Mr. Smith.

DEPARTMENT OF STATE. }
Washington, 21st October, 1831. }

His Excellency

SAMUEL E. SMITH,

Governor of the State of Maine,
Portland.

SIR,

As soon as I had received your Excellency's letter of the 12th instant, I, by direction of the President, wrote to the Charge d'affaires of his Britannic Majesty, a note of which the inclosed is a copy, by which you will observe the extreme desire of the Executive of the United States, to conform with scrupulous good faith, to the arrangement made with the Minister of Great Britain for preserving the state of things, as it then existed on both sides, until a final disposition could be made of the question. This arrangement between the two nations was communicated to your Excellency, and it was distinctly understood that no exertion of the State authority in the parts of the disputed territory, which were actually held by the British, should interfere with this agreement. The first extract from your letter, which I communicated in mine, to Mr. Bankhead, gave the President reason to believe, as I ex-

pressed myself, that the election meetings at Madawaska were unauthorized, as they were clearly a breach of the arrangement with the British Minister. Your Excellency's letter, however, of the 13th instant, has given to the President much concern. The call for his protection to the citizens of your State, who have been arrested in consequence of those proceedings, and for repelling what you consider as an invasion of the State, would have called for very different measures, if the first departure from the understanding between the two governments, had not proceeded from the persons who have been arrested; and if the authority exercised recently by the Government of New Brunswick, had been in a settlement which, at the time of the arrangement, was not *de facto* in the occupation of the British. As the case is, however, the President cannot consider the continuance of the occupation, by the officers, civil or military, of the British Province, as an invasion; but will take all proper measures to procure the release of the ill-advised persons who have been the cause of the disturbance. The President desires me to reiterate to you, his anxious desire that you would use your authority and influence to prevent any further collision with the British authorities, in the firm persuasion that the wisdom of Congress will direct such ultimate measures, as will bring the controversy to a close, consistent with the interest and dignity of the United States, and particularly, of the States interested in the question. He receives the strongest assurances from the Representative of the British government, that no innovation will be countenanced on the part of its provincial functionaries; and, on our part, good faith as well as the protection of the frontier, from unauthorized mutual inroads, require the same course of conduct.

I have the honor to be,

with great respect,

Your Excellency's

Obedient Servant,

EDWARD LIVINGSTON.

Mr. Smith to Mr. Livingston.

EXECUTIVE DEPARTMENT OF MAINE, }
Portland, November 10th 1831. }

THE HON. EDWARD LIVINGSTON,
 Secretary of State,
 of the United States.

SIR,

Since I had the honor to receive your letter of the 21st of Oct. a meeting of the Executive Council has been held, and measures adopted to prevent, if possible, any further collision between our citizens and the authorities of New Brunswick, until the meeting of Congress, when it is expected that the controversy respecting the Northeastern Boundary will be brought to a close, consistently with the rights and dignity of the United States and of this State.

Information has been received, that Barnabas Hunnewell, Jesse Wheelock and Daniel Savage, three of the citizens of this State, mentioned in my last letter, have been arraigned before the Supreme Court of New Brunswick, and sentenced to pay a fine of fifty pounds, and to be imprisoned for three months, and are now in jail at Fredericton in execution of the sentence. These persons renew their call for the aid and protection of their Government; and should not the application, which has been made for their release, prove effectual, it becomes my duty in behalf of this State, respectfully to present the subject to the consideration of the President, in full confidence that every proper measure will be adopted to procure their release from an imprisonment to which they are subjected by a foreign power in violation of the sovereignty of this State.

Application has been made on behalf of our citizens who have been compelled to leave their homes at Madawaska, for fear of being arrested by the British authorities, to know if they could with safety return to their families. The Government of this State would readily afford them the necessary protection, conceiving it to be their duty, provided measures for that purpose would be in accordance with the views of the General Government. I am informed that warrants have been issued by the British Magistrates against all who took part in the town meetings, though some of them live beyond the limits to which the actual jurisdiction of the British ever extended. Should those persons return to their homes, and more of our peaceable and defenceless citizens be imprisoned in a British

jail, for obeying the laws and constitution of the State which claims their allegiance, it would in that event, I apprehend, be impossible longer to restrain the just indignation of their fellow citizens throughout this State.

In your last letter I am informed that an arrangement was made with the Minister of Great Britain for preserving the state of things as it then existed on both sides, until a final disposition could be made of the question, and that this arrangement was communicated to me. I can only state, in reply, that until your late letter, no notice of such an arrangement was communicated to me, and no copy of it can be found among the Archives of this State. Though allusion is made to such an arrangement in the correspondence between Mr. Clay, former Secretary of State, and my predecessor, the late Governor Lincoln, it was there stated to have been violated on the part of the British authorities.

It is hoped that it will not be considered irrelevant to the present occasion to suggest, that the position relied upon by the British authorities, that they had, at the time of the Convention for submitting to Arbitration, or now have, the jurisdiction and possession *de facto* of the disputed territory, is totally denied by this State, with the exception of a small settlement near the mouth of the Madawaska river.

In order to show the limited and uncertain nature of the actual possession of the Provincial Government at that place, and the manner in which they have continued to multiply and extend their acts of jurisdiction, since Mars Hill was first claimed as the Boundary, and since the Convention for submitting the question to Arbitration, I beg leave to refer to the accompanying copy of a letter of John G. Deane, an Agent, appointed by this State to gain information relating to this territory.

By the facts there stated, it appears that the actual possession and jurisdiction of Massachusetts, since 1792, and of Maine since her separation, has been greatly more extensive and continued than that of the Provincial Government. After the true St. Croix and its sources were ascertained in 1798, the British ceased to exercise any acts of jurisdiction over the settlement at Madawaska or other parts of the territory since disputed; and for twenty years, and until the commencement of the controversy respecting the boundaries, their jurisdiction was not resumed. But since that time, and subsequently to 1827, when it is supposed the arrangement before alluded to was made,

the British for the first time appointed Magistrates in this territory, who acted as such, granted timber licenses, and organized militia companies, issued legal process against American citizens, have interfered with the settlers on the Aroostook, and in their last excursion proceeded to the settlement to arrest the people there, many miles above the Madawaska, and further than they had before extended their jurisdiction.

The facts referred to are believed sufficient to make it manifest that the arrangement to preserve the existing state of things, has been often violated on the part of the British authorities. They also show the necessity of exertion on the part of this State to resist the progress of these continued encroachments, and thus to prevent their being afterwards relied upon by our opponents as evidence of a claim to the *actual* possession of the territory.

Though it would seem that the recent conduct of the Government of New Brunswick on this side of the line designated by the King of the Netherlands as in his opinion a suitable boundary, was a practical rejection of the award, it has, nevertheless, been ascertained by our Agents who have been at Madawaska, that the line designated by the Umpire had been previously surveyed by the British, and that in September, 1830, a company consisting of several English gentlemen, and among them an officer in the Naval service, devoted much time in reconnoissances on the line running North from the source of the river St. Croix, and on the river St. John, to the mouth of the St. Francis, and were occupied two or three weeks in exploring the St. Francis alone.

The interest which Maine feels in the result of this controversy, arises not more from the value of the territory in dispute, than from a desire that her rights as guarantied by the Constitution of the U. States might be preserved inviolate. A great portion of the territory Northward and Eastward of the rivers St. John and St. Francis is extremely well watered, has a fertile soil, and is covered with valuable timber. It is still more important when considered as a military frontier. Numbers of our enterprising citizens have settled upon it, and if the present controversy were favorably settled, it would soon become a flourishing and populous part of the State.

It is from a sense of duty, as the official agent of this State, that I am induced at this time to refer to subjects which have so often been presented to the consideration of the General Government. But I trust this State has

never departed from the deep respect and constitutional deference which are always due from each member of this Confederation to the paternal authority of the Government of the United States. During the whole progress of this negotiation, Maine has continued respectfully but decidedly to remonstrate against proceedings directly involving her rights and interest as a State, and to which her assent was never requested; she contends that the United States have not the power by the Federal Constitution to alienate, by negotiation or otherwise, any portion of the territory of a State, without the consent of such State; she opposed the submission of the question to arbitration; she has communicated to the President her conviction that the award of the Arbitrator was not binding upon this State, or upon the United States, and has protested against its acceptance. She has exerted all the means in her power for the preservation of her rights and territory; and, if, after all, the wisdom of Congress shall decide, that the interests of the Nation require the extraordinary opinion and advice of the King of the Netherlands to be carried into effect, from necessity alone will the people of this State be compelled to submit.

With the highest respect,

I have the honor to be,

Sir, your obedient Servant,

SAMUEL E. SMITH.

Mr. Deane to Mr. Smith.

ELLSWORTH, 2d November, 1831.

SAMUEL E. SMITH, Esq. Governor of Maine.

SIR,

The situations in which I have been placed, have caused me to become acquainted with the history of the Northern part of this State, including the Madawaska settlement.

In 1782, Pierre Lizotte, a boy of fourteen years of age, strayed from his home in Canada, and found his way to the Indian settlement at the mouth of the Madawaska river, where he continued during the following winter. On his return to his friends, his representations were such as induced his half brother, Pierre Duperre to accompany him

to the same place, for the purpose of trade with the Indians. The year following they commenced their business on the south side of the St. John, from two to three miles below the mouth of Madawaska river. They were the first persons who commenced their residence at Madawaska.

Two or three years afterwards, say in 1786, the Acadian or neutral French, whose ancestors had been settled at the head of the bay of Fundy, or in the country which is now called Nova Scotia, and had been driven from thence, and had established themselves at St. Anns (now Fredericton) and in that neighborhood, being disturbed by the introduction of the refugees, and the Acts of the government of New Brunswick, which dispossessed them of their farms, fled up the St. John in search of places of residence out of the reach of British laws and oppression.—Twenty or more families moved and settled themselves on the St. John, below the trading establishment which Pierre Duperre had made a few years before. Here they continued in the unmolested enjoyment of their property for some years.

Pierre Duperre, being a man of some learning, had great influence with his neighbors; and the British authorities of the Province of New Brunswick seeing his consequence in the settlement, began early to caress and flatter him, and some time in the year 1790 induced him to receive from them a grant of the land he possessed. Influenced as well by Pierre Duperre, as with the hope of not being again disturbed and driven from their possessions, as they and their ancestors more than once had been by the British, this large body of Frenchmen were all induced to receive grants from New Brunswick of the land they possessed, for which some paid ten shillings and others nothing.

About this period, 1790, another body of the descendants of the Acadian or neutral French, who had sought a refuge on the Kennebeckasis river, were there disturbed in their possessions by the refugees and the Acts of the government of New Brunswick; they also quit their possessions, and in like manner sought a refuge from oppression with their countrymen at Madawaska. After having resided at Madawaska some years, they were induced, as their countrymen had been, to receive grants of the land they had taken into possession from the government of New Brunswick.

Single families afterwards added themselves to the settlement. A few families established themselves in 1807, a few miles above the mouth of Madawaska river. They all lived in mutual good fellowship, recognizing and practising

the duties [of] Morality and Religion, and governed solely by the laws of honor and common sense. They continued to live in this manner to as late a period as 1818, and the British had made no grant higher up the St. John than Pierre Duperre's, and had exercised no other Acts of jurisdiction than those above mentioned, unless the transportation of the mail through to Canada, and the granting [of] a Commission to Pierre Duperre in 1798 as a Captain of Militia, there being no military organization until twenty-eight years afterwards, may be called acts of jurisdiction.

In 1798, the river St. Croix was determined, and its source ascertained, under the treaty called Jay's treaty. At this period terminate all Acts and pretences of Acts of jurisdiction in the Madawaska settlement by the British; and for a period of twenty years, and until it was discovered by them that Mars Hill was the North West angle of Nova Scotia, there is not an attempt to exercise jurisdiction. The course of circumstances now became such as to excite the spirit of encroachment, and they issued legal processes against two citizens of the U. States, who had settled in the wilderness many miles beyond where the British had ever exercised any acts of jurisdiction before, but these were not prosecuted.

In 1824, Sir Howard Douglass arrived, and took upon himself the Government of New Brunswick as its Lieut. Governor. In December of that year, he appointed four military Captains and a competent number of subalterns at Madawaska, but the persons appointed did not accept their Commissions until July 1826, subsequently to which time the militia were fully organized.

Licenses to cut timber were also granted by New Brunswick.

In May 1825, Governor Douglass granted a tract of land to Simon Hebert, at the mouth of Madawaska river. In May 1826 he made another grant to Francois Violette, of a tract at the mouth of Grand river. He also appointed and Commissioned many other military officers. In 1827, several processes were issued against citizens of the U. States, only one of which, that against John Baker, was ever prosecuted; but many of our citizens were driven away by them. In 1829 or 1830, for the first time, a civil magistrate was appointed in the Madawaska settlement, and commenced acting as such. In 1830 or 1831, for the first time, they granted tavern licenses, and prosecuted such as sold without license; in a word, from the period Governor Douglass entered upon the duties of his office, they have been

continually extending and multiplying their acts of jurisdiction.

The French inhabitants say, they are satisfied that the Madawaska settlement is within the limits of the U. States, and that they should like to live under their laws, but the British come and enforce their laws upon them; they are not able to resist, and have been obliged to submit to their jurisdiction.

In 1820 or 1821, three or four persons went up and established themselves on the banks of the Aroostook—several from the provinces of New Brunswick and the State of Maine in the following years joined them. After the commencement of Sir Howard Douglass' administration, licences were granted to cut timber in this region also, and civil processes were served upon the inhabitants. On this river they had not, prior to his administration, exercised any act of jurisdiction whatever, that region adjoining the line, having in fact been surveyed and granted by Massachusetts, seventeen years before, to the town of Plymouth and Gen. Eaton.

In 1792, the government of Massachusetts contracted to sell a tract of land between the waters of the Schoodic and Penobscot, extending back to the Highlands of the treaty. This tract was surveyed under the orders of the government; the surveyor running and marking his lines to highlands North of the St. John, supposed at the time to be those described in the treaty of 1783.

In 1801, she granted the township of Mars hill to the soldiers of the revolution. In 1806, she granted the township adjoining Mars hill to Deerfield and Westfield academies. In 1807, she granted a township of land to the town of Plymouth, lying on both sides of the Aroostook, and bounded East by the line due north from the source of the St. Croix river to the highlands. In 1808, she conveyed ten thousand acres to Gen. Eaton, bounded east by the last aforesaid grant. All the aforesaid grants were made pursuant to actual surveys, which had been previously made under her authority. In 1808, or before, the line due north from the source of the St. Croix, was run under the authority of Massachusetts as far as the river St. John. In 1820, an examination and reconnoissance was made of the whole country on the Alligash river; and on the St. John from the mouth of the Alligash to the place where the line due north from the source of the St. Croix intersects it, under the authority of Maine. The same year, the census was taken under the laws and authority of the United States.

In 1824, the Land Agent of Maine seized the timber which had been cut by trespassers on the Aroostook. In 1825, the Land Agents of Maine and Massachusetts conveyed two lots, one to John Baker and the other to James Bacon, lying on the St. John about twelve miles above the Madawaska.

In 1825, the surveyors of Maine and Massachusetts completed the survey of two ranges of townships, extending north from the Monument at the source of the river St. Croix to within less than half a mile of the river St. John, and the states divided, according to the Act of separation of Maine from Massachusetts, the townships in these ranges which had not been previously granted.

In 1826, Maine and Massachusetts surveyed and divided five additional ranges of townships, lying west of the two ranges aforesaid, and extending nearly to the St. John; and there never has been a moment, during which Massachusetts prior to 1820, and Maine since that period, have ceased to assert their jurisdiction over the whole country.

I have the honor to be,

Sir, very respectfully,

your Humble Servant,

JOHN G. DEANE.

Mr. Livingston to Mr. Smith.

DEPARTMENT OF STATE, }
Washington, November 16, 1831. }

His Excellency,

SAMUEL E. SMITH,

Governor of the State of Maine.

SIR,

I had the honor this morning to receive your Excellency's Letter of the 10th instant, with its enclosures, all which were immediately submitted to the President, who directs me to say that he learns with great satisfaction that "a meeting of the Executive Council has been held, and measures adopted to prevent, if possible, any further collision between our citizens and the authorities of New Brunswick until the meeting of Congress."

This disposition justifies the confidence he felt in the moderation and wisdom of the Government and People of Maine, and he instructs me to add the expression of his

belief that by a perseverance in the same course, the end so desirable to all, may by the intervention of Congress be attained ; that of bringing the controversy with respect to the Northeastern boundary to such a close as may consist with the interest of the United States and the rights of the State of Maine.

In the mean time measures have been taken which it is expected will procure the release of the persons confined at Fredericton.

I have the honor to be,
respectfully,
your Excellency's
Obedient Servant,
EDWARD LIVINGSTON.

Copy of a letter from the Secretary of State, relative to the arrest of persons in Madawaska.

CHARLES BANKHEAD, Esq.

Charge' d'Affaires of His Britannic Majesty,

DEPARTMENT OF STATE 15th Oct. 1831.

SIR,

Immediately after receiving your note of the 1st instant, I wrote to the Governor of the State of Maine for information on the subject of it.

I have just received his answer, of which I have the honor to enclose two extracts.

By the first, you will perceive that the elections of town officers in the settlement of Madawaska, of which complaint was made in the papers enclosed in your letter, were made under color of a general law, which was not intended by either the Executive or Legislative authority of that State, to be executed in that settlement, and that the whole was the work of inconsiderate individuals.

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

The innovation on the existing state of things in the disputed territory, being distinctly disavowed by the Executive authority of the State, no act of authority, or exercise of jurisdiction having followed the election, I

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

On the part of the Americans, some individuals in contravention of this understanding, have proceeded to do acts which if followed out, would change the political state of part of the disputed land ; but it has not been so followed out, it is disavowed by the Powers whose assent is necessary to carry it into execution. It is therefore of no avail, and can have no more effect, than if the same number of men had met at Madawaska, and declared themselves duly elected members of the British Parliament. The act interferes with no right, it comes in actual collision with no established Powers. Not so the punishment of the individuals concerned ; this is at once a practical decision of the question ; may lead to retaliatory legal measures, or what is worse, to illegal violence ; for if the Governor of New Brunswick feels himself obliged to enforce the authority of the laws within what he thinks the boundaries of his Province, will not the same feeling excite the Governor of Maine, under the same sense of duty, to pursue the like measures ? and thus the fruits of moderation and mutual for-

bearance, during so long a period, will be lost for want of perseverance in them, for the short time that is now wanting, to bring the controversy to an amicable close. It is therefore Sir, that I invite your interposition with His Excellency the Lieut. Governor of New Brunswick, to induce him to set at liberty the persons arrested, on their engagement to make no change in the state of things, until the business shall be finally decided between the two Governments. On our part, the desire of the General Government to avoid any measures tending to a change in the existing state of things, on our northeastern Boundary, has been fully and it is believed efficaciously expressed to the Executive of the State of Maine, so that the actual relations of the State with the neighboring Province, will not in future suffer any change.

I have great pleasure, Sir, in renewing on this occasion the assurances of my high consideration.

EDWARD LIVINGSTON.

MR. BANKHEAD.

Mr. Bankhead to Mr. Livingston.

The undersigned, His Britannic Majesty's Charge d'Affaires, has the honor to acquaint Mr. Livingston, Secretary of State of the United States, that he has received a communication from his Majesty's Lieut. Governor of New Brunswick, stating that the authorities of Maine have endeavored to exercise a jurisdiction over part of the territory at present in dispute between His Majesty and the United States; and farther, that an order has been issued by a Justice of the Peace for the County of Penobscot, to the inhabitants of the town of Madawaska, to assemble for the purpose of choosing municipal officers.

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

The undersigned begs leave to submit to the Secretary of State several documents which he has received from

Sir Archibald Campbell, in support of his complaint of a violation of territory, and the undersigned entertains a confident hope that such measures will be adopted as shall prevent a recurrence of acts on the part of the authorities of the State of Maine, which are productive of so much inconvenience, and which tend to disturb that harmony and good will so necessary to be preserved between the two countries.

The undersigned has the honor to renew to Mr. Livingston the assurances of his distinguished consideration.

(Signed) CHARLES BANKHEAD.

WASHINGTON, October 1, 1831.

The Hon. EDWARD LIVINGSTON, &c. &c. &c.