

# MAINE STATE LEGISLATURE

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# RESOLVES

OF THE

EIGHTEENTH LEGISLATURE

OF THE

# STATE OF MAINE,

PASSED AT THE SESSION

WHICH COMMENCED ON THE THIRD DAY OF JANUARY, AND ENDED ON  
THE TWENTY-THIRD DAY OF MARCH, ONE THOUSAND  
EIGHT HUNDRED AND THIRTY-EIGHT.

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PUBLISHED AGREEABLY TO THE RESOLVE OF JUNE 28, 1820.

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AUGUSTA:  
LUTHER SEVERANCE, PRINTER.  
1838.

port of the Commissioners, who were appointed under the Resolve respecting the territory lying North and East of the Rivers St. John and St. Francis, passed March 3d, 1832."

EDWARD KENT.

COUNCIL CHAMBER, }  
February 27, 1838. }

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## REPORT.

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PORTLAND, January 14, 1833.

SIR:—We have the honor to enclose copies of four letters bearing date July 4, July 10, July 25 and August 21, 1832, being all the letters relating to our North Eastern Boundary, which have passed between the Secretaries of State, of the Treasury, and of the Navy on the one part, and ourselves on the other, since our return home at the close of June. The mail is also this day charged with a letter addressed to you, bearing even date with the present, and containing the provisional agreement referred to in the letter of July 25th to us, and ours of August 21st in reply. While the time and manner of laying that agreement with the letter, which accompanies and contains it, before the Legislature, rests wholly with yourself, we cannot forbear suggesting the inquiry, whether the adoption of a course, which should render the whole proceeding public, might or might not in the present stage of the negotiation operate injuriously to the interests of the State. Having made the suggestion we respectfully submit the whole matter to the wisdom of the Executive and the Legislature.

It will be perceived on reference to the provisional agreement that we have carefully abstained from entering into any stipulation whatever in regard to the rights or claims of Massachusetts. The reasons for adhering to this course are too obvious to require any allusion to them on our part. The whole territory north and east of the St. John and St. Francis claimed as lying within the true exterior limits of the State of

Maine, contains by calculation made by order of the government according to the best data in its possession, 2,195,360 acres, mountains lakes and rivers included. This fact we have thought it proper to state to you, in order that the Legislature may be the better enabled to form a satisfactory judgment in regard to the extent and value of the claim and jurisdiction proposed to be ceded, on the one part, and to the adequacy in any event of the indemnity, proposed to be pledged, on the other.

We are, Sir, very respectfully,  
Your obedient Servants,

WM. P. PREBLE,  
REUEL WILLIAMS,  
NICHOLAS EMERY.

His Excellency SAMUEL E. SMITH,  
*Governor of Maine.*

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WASHINGTON, July 4, 1832.

To William Pitt Preble, R. Williams and N. Emery, Esqrs.

*Gentlemen*—The Senate having finally acted upon the message of the President, respecting the North Eastern Boundary, it is desirable to know, and we therefore have the honor to inquire, if the Commissioners on the part of the State of Maine are now prepared to resume the conferences, which were suspended at their instance for that event.

We have the honor to be, Gentlemen,

Your obedient servants,

(Signed)

LOUIS McLANE,  
LEVI WOODBURY.

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PORTLAND, July 10, 1832.

*Gentlemen*—We have this day had the honor to receive your note of the 4th inst. In reply we repeat to you that we are ready on our part to execute the project we submitted to your consideration on the 6th ult. We shall also be ready to suggest to you, if wished, our views as to such modifications, &c.

of the line as we think desirable, in case it should be found wholly impracticable to have the true boundary run and marked, as well as to receive and consider any suggestions you may please to make to us on the subject.

We have the honor to be, respectfully,

Gentlemen, your obedient servants,

WM. P. PREBLE,  
REUEL WILLIAMS,  
NICHOLAS EMERY.

The Hon. LOUIS McCLANE,

*Secretary of the Treasury.*

LEVI WOODBURY,

*Secretary of the Navy.*

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25th July, 1832.

*Gentlemen:*—We have the honor to enclose, duly executed by us, a copy of the agreement which you had prepared, making a slight alteration, rendered necessary by the Resolution of the Senate, advising a further negotiation. You will please to send a counterpart executed by you as soon as possible, together with information at what time it will probably be placed under the consideration of your Legislature, whose action on the subject would seem to be required before the matter can be submitted to Congress.

(Signed)

EDWARD LIVINGSTON.  
LOUIS McCLANE,  
LEVI WOODBURY.

WM. P. PREBLE,

REUEL WILLIAMS, and

NICHOLAS EMERY, Esq's, *Commissioners, &c. &c.*

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PORTLAND, August 21, 1832.

*Gentlemen:*—We have had the honor to receive your note of the 25th ult., with the document which it enclosed. Agreeably to your request we now transmit a counterpart executed by us.

The Legislature of Maine will not be in session prior to next January, and the subject cannot well come under their consideration until after the organization of the government shall have

been completed. Should the state of the intended new negotiation in the opinion of the President render a postponement of the communication to our Legislature desirable, we would in that case suspend the communication on your suggestion until the first of February next.

With great respect, we have the honor to be, gentlemen,  
Your very obedient servants,

WM. P. PREBLE,  
REUEL WILLIAMS,  
NICHOLAS EMERY.

EDW. LIVINGSTON, Esq.,  
*Secretary of State.*

LOUIS McLANE, Esq.,  
*Secretary of the Treasury.*

LEVI WOODBURY, Esq.,  
*Secretary of the Navy.*

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PORTLAND, January 14, 1833.

Sir:—We have the honor to transmit to you, to be laid before the Legislature, a provisional agreement relating to our Northeastern Boundary, entered into in August last between the Secretaries of State, of the Treasury and of the Navy, in behalf of the United States on the one part, and ourselves as Commissioners in behalf of the State of Maine on the other.

After the solemn and formal establishment of the monument at the source of the river St. Croix in 1798 by the authority of the United States and Great Britain, nothing seemed to remain, but to survey and mark the line of boundary according to the plain, precise, and explicit language of the treaty of 1783. For at that day it was admitted by the official agent of the British Government, that the line *could* only be, where Maine now contends, and has ever contended, it is. Had the State of Massachusetts therefore been then so disposed, she might without serious obstacle or difficulty have marked out her exterior boundary, and afterwards and until Maine became a separate State, might without giving occasion for the slightest complaint to the adjoining British Colonies have maintained uninterrupted and exclusive jurisdiction over the whole extent of her territory. Such a course would have saved our infant State much trouble and vexation and would seem to have comported

with the usual vigilance and sagacity of the parent Commonwealth.

When however in 1820 Maine became a separate State, she found her boundaries and territory still unsurveyed and unexplored ; while far within her limits had been suffered to spring up, unnoticed by the authorities of the parent State, established and permanent settlements of several hundred souls holding their lands under grants from New Brunswick of nearly thirty years standing and yielding a reluctant, but unresisting obedience to British laws. Maine also found, that under color of those stipulations in the treaty of Ghent, which provide for surveying and marking certain boundaries in conformity to the line of demarkation prescribed by the treaty of 1783, a claim for about eleven million acres of her territory had been set up in behalf of Great Britain, and that this claim, though a gross and palpable fraud upon the stipulations of the treaty of Ghent, and demonstrably in violation of the treaty of independence, had not been promptly, and at once, repelled and rejected by the American Government, but had become a subject of grave and solemn discussion before the Commissioners of the two Governments. Again in 1827 Maine further learned that the United States and Great Britain had by convention agreed to refer to an Arbiter the questions, which had arisen out of the claim, made in behalf of Great Britain, and that the decision of the Arbiter on the questions submitted was to be final between the parties. Under such an arrangement every thing must depend upon the position and character of the person, selected to decide between the parties. If the Arbiter to be selected should think himself at liberty to advert to his own condition, or to be governed in framing a decision by motives of State policy, or by any other considerations than those of the justice of the case and the rights of the parties, it was evident one third of the territory of Maine was placed in imminent jeopardy. But fortunately for the State the Arbiter actually selected, instead of sanctioning to their full extent the pretensions of Great Britain, thought proper to restrain himself to a recommendation, advising the parties to adopt for boundary a line, described by him, leaving beyond the limits of Maine the extreme corner of her territory, containing by calculation about two millions two hundred thousand acres, and assigning to the British Government about one fifth of the territory, to which it had laid claim.

We have adverted in this place to some few of the more prominent facts in the history of our boundary controversy, in

order that, taken in connection with other facts within the recollection of all, they might enable us to perceive how forbearance has emboldened the spirit of encroachment—how procrastination on our part, instead of contributing to remove the evil, of which we have so much reason to complain, has constantly been the occasion of aggravating it—and how, at every step since taken, the question has become more and more complicated and embarrassed. Meantime new causes of trouble have begun rapidly to develop themselves. There is danger lest our border difficulties assume a serious aspect. Under these circumstances the peace of the United States, the internal tranquility of the State itself—its growing importance, its general and commercial prosperity, would seem imperiously to require, that the subject matter of this protracted and irritating dispute should be amicably arranged without farther delay, if it can be done without too great a sacrifice. In fact so grave and various were the considerations arising out of the actual state of the controversy a year since, that many who stand high in the confidence of the country, were of opinion, that it would be judicious on the part of Maine, as well as of the United States, to acquiesce in the advice of the Arbitrator. Against the acceptance and ratification of the award by the government of the United States the Legislature of Maine on mature consideration of the subject with great unanimity solemnly protested; but, apprehensive lest the award should be ratified notwithstanding such protest, if the State persisted in rejecting all advances, made towards an amicable adjustment, the Legislature in a spirit of conciliation agreed to receive and consider by means of Commissioners, whatever might be proposed on behalf of the United States with a view to bring the controversy to a speedy and final termination; with the express reservation however that the doings of such Commissioners should in no respect be obligatory on the State until ratified and confirmed by the Legislature itself.

The result of the acts of the Legislature and of the doings of the Commissioners, appointed by its authority, is the enclosed provisional agreement already mentioned, and to which we beg leave to refer. It will be perceived by that agreement that the President of the United States proposes to “open new negotiations with Great Britain for the purpose of having the line, designated by the treaty of 1783, run and marked according to that treaty;” and if that should be found impracticable, “for the establishment of such a new boundary between the dominions of the United States and Great Britain as should be



mutually convenient," and also "for making arrangements relative to the navigation of the river St. John and the adjustment of other points, that may be necessary for the convenience of the parties interested;" and, that he deems "a cession from the State of Maine of all her jurisdiction and right of soil over the territory" claimed by her, lying north and east of the rivers St. John and St. Francis "as indispensable to the success of such negotiation." However direct the interest of the State in the question at issue on the one hand, as a foreign government is urging its pretensions on the other, the government of the United States is the only constitutional and competent agent to take charge of the controversy. Still the power of that government over the subject is not unlimited. The State has its constitutional rights which she may invoke and which must be respected. If then in the progress of the contemplated negotiation it should be found, that what is demanded as her right by Maine, is now utterly unattainable, and if the State, insisting upon its extreme right, denies to the United States all power under any circumstances to make even a beneficial compromise; it is well to enquire at this stage of the proceeding, where is the controversy, and the well known state of things, and the onward course of events within the State, to lead us? Hence, in order that the President may be enabled to open such negotiation, unembarrassed by any questions of conflicting power and jurisdiction, and with a reasonable or possible prospect of bringing the controversy to an amicable close, the proposition "That the Legislature of Maine should provisionally surrender to the United States all claim to jurisdiction and right of soil over the territory lying north of the river St. John and east of the river St. Francis as heretofore described:" Maine in such case and in any event to be indemnified for any portion of the territory, thus provisionally surrendered to the United States, if ultimately lost to the State, by adjoining territory to be acquired; and, so far as that should prove inadequate, at the rate of one million of acres of land in Michigan for the claim to and over the whole territory surrendered—said lands, thus to be appropriated, to be sold by the United States at their expense, and the proceeds to be paid without deduction into the Treasury of the State." We deem it proper in connection with this subject to add, that the present minimum price of the public lands of the United States is one dollar twenty-five cents the acre, that those situated in the territory of Michigan are rapidly coming into the market, and that the demand for them, it is understood, is steady and increasing. We also take

the liberty in this place to express the opinion, that should the agreement, we have entered into in behalf of the State, be ratified by the Legislature, and should the proper authorities of the United States avail themselves of its provisions and ratify it on their part, and should the Congress of the United States by any act of legislation diminish the value of the lands, proposed to be appropriated and pledged as an indemnity to the State, the United States would be bound in good faith to further indemnify the State for such diminution in value caused by their own acts. It is with these general views of the subject, and in full and entire confidence in the good faith of the Government of the United States, and in the several branches of its high constituted authorities, that we have been induced after the most mature consideration, we have been able to give to the subject, to accede on our part to the provisional agreement, we now respectfully submit to the wisdom of the Legislature.

With great respect, we have the honor to be, sir,

Your obedient servants,

WM. P. PREBLE,  
REUEL WILLIAMS,  
NICHOLAS EMERY.

His Excellency SAMUEL E. SMITH,  
*Governor of Maine.*

The King of the Netherlands mutually selected as Arbitrator by the King of the United Kingdom of Great Britain and Ireland, and the President of the United States, and invited to investigate and make a decision upon the points of difference which had arisen under the treaty of Ghent of 1814, in ascertaining that point of the Highlands lying due north from the source of the River St. Croix, designated by the Treaty of Peace of 1783, as the northwest angle of Nova Scotia, and in surveying the boundary line between the dominions of the United States and Great Britain, from the source of the river St. Croix directly north to the above mentioned north-west angle of Nova Scotia, thence along the said Highlands, which divide those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic ocean to the north-westernmost head of Connecticut river, having officially communicated his opinion that it will be suitable to adopt for boundary between the two States (qu'il conviendra d'adopter pour

limite des Etats) a line drawn due north from the source of the river St. Croix to the point where it intersects the middle of the thalweg of the river St. John, thence the middle of the thalweg of that river ascending to the point where the river St. Francis empties itself into the river St. John, thence the middle of the thalweg of the river St. Francis ascending to the source of its south-westernmost branch designated on map A by the letter X, thence a line drawn due west to the Highlands, thence along the said Highlands which divide those rivers that empty themselves into the river St. Lawrence from those that fall into the Atlantic ocean to the north-westernmost head of Connecticut river: And the Legislature of the State of Maine having protested and continuing to protest against the adoption by the Government of the United States of the line of boundary thus described by the King of the Netherlands, as a dismemberment of her Territory, and a violation of her constitutional rights: And the President of the United States having appointed the undersigned Secretaries of the Departments of State, of the Treasury, and of the Navy to meet with such persons as might be appointed by the State of Maine for the purpose of entering into a provisional agreement as to the quantity and selection of lands of the United States, which the State of Maine might be willing to take and the President would be willing to recommend to Congress to give for a release on her part of all claim of jurisdiction to and of her interest in the lands lying north and east of the line so designated as a boundary by the King of the Netherlands: And the Governor of Maine, by virtue of the authority vested in him, having appointed the undersigned, William Pitt Preble, Reuel Williams, and Nicholas Emery, Commissioners on the part of said State, to meet and confer with the said Secretaries of State, of the Treasury, and of the Navy thus authorized as aforesaid, with a view to an amicable understanding and satisfactory arrangement and settlement of all disputes which had arisen or might arise in regard to the North Eastern Boundary of said State and of the United States: And several meetings and conferences having been had at Washington between the eighteenth day of May, and the second day of June, 1832, and the said Commissioners, on the part of the State of Maine, having distinctly declared, that said State did not withdraw her protest against the adoption of the line designated as a boundary by the King of the Netherlands, but would continue to protest against the same, and that it was the desire of the Legislature and Government of Maine, that new negotiations should be

opened for the purpose of having the line designated by the Treaty of Peace of 1783, run and marked according to that treaty, and if that should be found impracticable, for the establishment of such a new boundary between the dominions of the United States and Great Britain as should be mutually convenient, Maine in such case to be indemnified, so far as practicable, for jurisdiction and territory lost in consequence of any such new boundary, by jurisdictional and other rights to be acquired by the United States over adjacent territory and transferred to said State. And for these purposes the undersigned Commissioners were ready to enter into a provisional agreement to release to the United States the right and claim of Maine to jurisdiction over the territory lying north and east of the line designated by the Arbitrator: And her interest in the same, the said State of Maine, and the State of Massachusetts being owners of the land in equal shares, suggesting at the same time the propriety of suspending the conferences until the Senate of the United States, whose advice it had become the duty of the President to take, and before whom his message for that purpose was then under consideration, should finally act in the matter, in which suggestion the Secretaries of State, of the Treasury, and of the Navy concurred.

And the Senate of the United States did on the twenty-third day of June, 1832, pass a Resolution in the words following:

**RESOLVED**, That the Senate advise the President to open a new negotiation with his Britannic Majesty's Government, for the ascertainment of the Boundary between the possessions of the United States and those of Great Britain, on the north-east frontier of the United States, according to the treaty of Peace of 1783.

Whereupon the Secretaries of State, of the Treasury, and of the Navy did renew their communications with the Commissioners on the part of the State of Maine, and state it to be the wish and intention of the President to open a negotiation with the government of Great Britain for the purposes mentioned by the said Commissioners, and also for making arrangements relative to the navigation of the River St. John and the adjustment of other points that may be necessary for the convenience of the parties interested; but deeming a cession from the State of Maine of all her jurisdiction and right of soil over the territory heretofore described, and in the manner heretofore stated as indispensable to the success of such negotiation, the Secretaries of State, of the Treasury, and of the Navy did de-

clare and propose, that in consideration of such cession, the President will, as soon as the state of the negotiation with Great Britain may render it proper to do so, recommend to Congress to grant to the State of Maine an indemnity for the release on her part, of all right and claim to jurisdiction over and her interest in the territory beyond the line so designated by the King of the Netherlands. The said indemnity to consist of one million acres of land to be selected by the State of Maine and located in a square form as near as may be out of the unappropriated lands of the United States within the territory of Michigan—the said lands to be surveyed and sold by the United States at their expense, in the same manner, and under the same regulations which apply to the public lands—and the whole proceeds without deduction to be paid over to the State of Maine as they shall be received. But, if in the result of any negotiation as aforesaid with Great Britain, the State of Maine shall ultimately lose less of the territory claimed by her, north and east of the rivers St. John and St. Francis than she would according to the line designated by the King of the Netherlands, the aforesaid indemnity shall be proportioned to the actual loss; and if any new territory contiguous to the State of Maine, not now within her limits, shall be acquired by such negotiation from Great Britain, the same shall be annexed to and be made a part of said State. And a further proportionate deduction shall be made from the indemnity above mentioned. But, if such attempt on the part of the President to negotiate, should wholly fail, and in that case, and not otherwise, the proper authority of the United States should, on full consideration, determine to acquiesce in the line designated by the King of the Netherlands, and to establish the same as the north east boundary of the United States, the State of Maine shall be entitled to receive the proceeds of the said million of acres, without any abatement or deduction—which offer the undersigned Commissioners provisionally accede to, and on condition of the due performance of all and singular the things which by the declaration of the Secretaries of State, of the Treasury, and of the Navy, and by the proposal aforementioned are to be performed, or intended to be performed, they agree to recommend to the Legislature of the State of Maine to accept said indemnity and to release and assign to the United States all right and claim to jurisdiction, and all her interest in the territory north and east of the line designated by the King of the Netherlands. But it is distinctly understood, that until this agreement shall have been accepted and ratified by the Legis-

lature of Maine, nothing herein shall in any wise be construed, as derogating from the claims and pretensions of the said State to the whole extent of her territory as asserted by her Legislature.

Nor shall any thing herein contained be construed so as to express or imply, on the part of the President, any opinion whatever on the question of the validity of the decision of the King of the Netherlands, or of the obligation or expediency of carrying the same into effect.

EDW. LIVINGSTON,  
LOUIS McLANE,  
LEVI WOODBURY,  
WM. P. PREBLE,  
REUEL WILLIAMS,  
NICHOLAS EMERY.

*To the Speaker of the House of Representatives:*

In compliance with an Order of the House of Representatives, passed March 1, 1838, I herewith lay before you a "copy of the agreement between the Penobscot Indians and the Commissioners appointed to purchase the four Indian Townships, returned to the Governor and Council in the year 1834 ; also a copy of the Deed of the said four Townships, from the said Indians to the State."

EDWARD KENT.

COUNCIL CHAMBER, }  
March 2, 1838. }

*To the President of the Senate:*

I herewith return to the Senate, in which it originated, a "Resolve in favor of the Penobscot Tribe of Indians," with the following objections thereto.

The Resolve directs that certain sums shall be paid out of the Indian fund, for a certain specified purpose, viz : to defray the expenses of Indians attending at Augusta as agents for the tribe. I do not object to the appropriation of the money for the purpose named, or the payment of a reasonable sum yearly to defray the expenses of such agents. But my objections rest upon the position, that by the Resolves of the State, and the treaties and contracts with the Indians, the appropriation of the Indian fund referred to is exclusively within the discre-