

# MAINE STATE LEGISLATURE

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# RESOLVES

OF THE

## NINETEENTH LEGISLATURE

OF THE

# STATE OF MAINE,

PASSED AT ITS SESSION

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

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PUBLISHED AGREEABLY TO THE RESOLVE OF JUNE 23, 1820.

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AUGUSTA:  
SMITH & ROBINSON, PRINTERS TO THE STATE.

1839.

## Messages of Governor Kent.

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### *To the Senate and House of Representatives:*

It being by the Constitution made the duty of the Governor, "to give the Legislature from time to time information of the condition of the State," I deem it proper to avail myself of this occasion, to lay before you, at the close of the year, a succinct account of the proceedings of the Executive, and copies of the various documents which have been prepared and received during the year, in relation to the preeminently interesting and important question, the North Eastern Boundary of our State. Such an exposition is due equally to the people and their representatives, who have a right to know in detail the action of their public servants, and to the Executive, who has been entrusted with an important duty and a direct agency in carrying into effect the declared will of the Legislature, and who may justly feel a natural desire, that the people whom he has served in a responsible station, and in whose judgment and justice he reposes his confidence, should fully understand his acts and the reason upon which they were founded.

I expressed to the Legislature and the people my views of the rights and duties of this State and of the General Government, in relation to this subject, at the commencement of the year. At that time a citizen of our State was imprisoned in a foreign jail for attempting to execute a law within the limits of this State and the disputed territory. Before any proceedings on the subject by the Legislature or the Executive, after the organization of the Civil Government, Mr. GREELY was released, without trial or explanation, and returned to his place of residence in this State.

The aspect of the general question, at the commencement of the year, in reference to the diplomatic intercourse between Great Britain and the United States, and the apparent want of interest, in relation to its speedy and satisfactory termination, exhibited in the lingering correspondence which had then come to light, the apathy and indifference with which other States, except those directly interested, seemed to regard it, and the general ignorance which prevailed abroad of the grounds of our claim and the justice of our cause, all conspired to throw a cloud over our rights and an uncertainty over our prospects.

No communication of any progress in the negotiation had been made for several years, and no reply to the last American proposition, made in February 1836, had been made public. And when, after nearly two years delay, an answer to that proposition was received, the result of the discussion was such a complete failure, and the negotiation between the two governments had come to such an absolute termination, that the President of the United States thought "it due to the State of Maine, and necessary to the intelligent action of the General Government to take the sense of this State, in regard to the expediency of opening a direct negotiation for the establishment of a *conventional line*." This proposition was accordingly made through the Executive of this State, and resulted in a decided expression of the Legislature against the proposal and a determination to abide by the treaty line. The only proceeding which had been had in Congress was the appropriation of \$20,000, in 1837, to enable the President to run and locate the treaty line, which he had declined to do on the ground that the law was not imperative in its terms, and he did not deem it expedient in the state of the then pending negotiation. At the time of the deliberations of the last Legislature of this State upon this subject, another bill providing directly for the survey and establishment of the treaty line was pending before Congress. After declining to accede to the proposition in relation to a conventional line, the Legislature, in a subsequent resolve, requested our constitutional agents at Washington to urge the passage of that bill, as one demanded both by policy and justice, and believing, doubtless, that if that bill failed, and no decisive movement was made by the General Government, either alone or in conjunction with Great Britain, as therein expressed, that the time would then have arrived for Maine to assume an independent attitude and to commence the work of ascertaining, running and locating the North Eastern Boundary line. And in that contingency, it was made the imperative duty of the Governor to appoint forthwith Commissioners for that purpose and "cause the same to be carried into operation."

The same Legislature by a resolve allowed to Ebenezer S. Greely the sum of five hundred dollars, for his sufferings and losses, and requested the Governor to ask and receive of the government of the United States a reimbursement of said sum; and also, by a subsequent resolve, allowed the sum of six hundred and seventy-five dollars to John Baker and others, for sufferings and losses in consequence of organizing the town of Madawaska, and in full for all claims, and authorized the Governor to make a similar request for re-payment. In another resolve a strong anxiety was manifested for some immediate action by the General Government, in relation to the establishment of Military Posts, and the erection of Fortifications, within the limits of our State.

It was evident from these various proceedings, that the will and wishes of Maine were clearly in favor of strong representations and active efforts to bring the controversy to a conclusion, and I felt bound to use every legitimate mode, within my power, to second and secure the desired objects. Therefore, at the time when, in compliance with the requests of the Legislature, I forwarded to our delegation in Congress copies of the several resolves and documents in relation to this subject, I addressed a letter to them collectively, urging upon them the necessity of active exertion in favor of the pending bill, and explaining what I conceived to be the true intentions and views of Maine, in assuming the attitude and directing the future course, specified in the resolves. A copy of that letter is herewith communicated, dated April 18, 1838.

The Adjutant General having made a communication to me in reference to our military defences, in order to enforce our claims to protection, and in furtherance of the objects of the resolve, I addressed a letter to the Secretary of War, under date of April 5, 1838, enclosing a copy of the Adjutant General's communication, and urging the importance of prompt consideration. The result of the application was the designation of Brig. Gen. Wool, of the Army, to make a reconnoissance and to report a plan of defence. This duty was performed by that officer, with promptitude and fidelity. A copy of his report, made to the Executive of this State, and also copies of other documents upon this subject, are herewith submitted. I have received no other information of any action by the General Government on the subject, although I had strong hopes that at least some additional posts would have been established before the present time. The documents communicated will exhibit the grounds of the request and the details of the progress and present state of this matter.

In considering the condition of the whole subject, and the attitude to be assumed by Maine, in the event of the failure of the specified action on the part of the General Government, the advantage of obtaining prompt remuneration for the money paid Baker, Greely and others, (not so much on account of the amount as the principle involved,) and the importance of awakening an interest in the question, by explanation and information given to those in authority at Washington, of the true merits of the controversy and the fixed determination of Maine to insist upon some definite proceedings to bring the matter to a close, and the manifest wish of this State to induce, if possible, the authorities of the United States to relieve Maine from the necessity of independent action, it occurred to the Executive, that the crisis called for extraordinary exertions and the adoption of some more efficient measure, than the mere transmission of the documents to Washington. The time seemed propitious for an unusual effort, for the strong

language and the expressed determination of this State had begun to awaken an interest abroad, and men's minds were turned to the subject, with a manifest desire to know the truth. By an order in Council, a copy of which is communicated, it was resolved to send a Special Agent to Washington, to cooperate with our Delegation in forwarding the views of the Legislature and the People, and in urging our claims and our determination upon the attention of the Government at that place. It was thought, that such a proceeding, in addition to the direct assistance which might be rendered to the Delegation, who were pressed with other public duties towards the close of the session, would evince the sense of Maine in relation to the importance of the crisis and the necessity of national interposition. It was my anxious wish, that if the measure failed, it should not meet that fate by reason of any want of interest or effort on our part. By advice of the Council, CHARLES S. DAVIES, Esq. of Portland was appointed to perform the duties of Special Agent. A copy of his instructions and also of a letter which he bore to the Delegation from this State, herewith communicated, will more fully explain the nature, and the objects of his appointment. Mr. Davies immediately repaired to Washington and performed the duties required, with great zeal, discretion and ability, and to my entire satisfaction, with equal honor to himself and benefit to the cause. His able Report, now transmitted to you, contains a full account of his proceedings and success, with many important suggestions in reference to the subject matter in controversy; forming altogether a strong document in support of our important interests.

Mr. DAVIES was also clothed with full power, to ask and receive remuneration for the money paid Baker and others. He succeeded, in conjunction with the Delegation, in obtaining from Congress the repayment in full, thus securing a recognition of the lawfulness of our proceedings, and the justice of our claim for protection in the assertion and maintenance of our undoubted right of possession. Although, in the final result, his efforts, with those of others, were not effectual in securing the passage of the pending bill, yet in many respects the effect of the various means employed was visible in the deliberations and action of Congress. The question was rescued from the death like stupor in which it had so long rested. A new impulse was given to the cause. For the first time, the whole subject was made the foundation of a Congressional report, and enlisted in investigation and debate the talents and eloquence of some of our ablest statesmen. The question became respected, and from obscurity and neglect it rose to the first rank in interest and importance. Instead of being regarded as a question involving a few acres of uninhabitable land in the far off regions of the north, and a border trouble

affecting only this frontier State, it was assumed and treated as a national matter, which involved the vital interests of one member of the confederacy, and the plighted faith and constitutional obligations of the Union to make the controversy its own. A feeling of sympathy was manifested in various parts of the country and an expression of conviction, that Maine had a just cause too long neglected, accompanied with the gratifying assurance, that our rights must be vindicated and would be sustained by the nation. The able and decided Report upon the question of right, made to the Senate of the United States by the Chairman of the Committee of Foreign Relations, (Mr. Buchanan,) and the discussions in the Senate and House gave satisfactory evidence of increasing interest and the apprehension of the true grounds of our claim. The Resolves, finally adopted in both branches, without a dissenting vote, fully assert the unquestionable justice of our cause and the validity of our title. The postponement of the bill, providing for a survey and marking and placing monuments on the line, was unsatisfactory, and in view of the whole matter, to my mind inexpedient and a denial of our manifest rights. But it would be unjust to deny that an important advance was made in the general condition of the question, by the progress of information and conviction at Washington and in all parts of the Union. Where, as in this country, public opinion, in relation to political action is so strong in its power, it is all important to the success of any cause, that it should be enlightened and satisfied of the justice and equity of an asserted claim.

MR. DAVIES was also the bearer of a letter from the Governor of Maine, to the President of the United States, dated April 23, 1838, asking remuneration for the money paid and urging the importance and expediency of definite and prompt proceedings, and explaining the position which Maine had assumed, and the anxious desire which was felt, to be relieved from the necessity of independent action. No reply to this communication has been received, but it was transmitted by the President to Congress and has heretofore been published. A copy is now laid before you.

I also herewith submit a copy of a letter from the Secretary of State to the Governor of Maine, dated May 8th, 1838, in reply to the communication enclosing a copy of the Resolves, &c. of the Legislature. From this it appeared, that the President, "in consideration of the result of the application of the General Government to the State of Maine, in relation to a conventional line, and in accordance with the expressed wishes of the Legislature, had ordered a new proposition to be made to the Government of Great Britain, for the establishment of a joint commission of survey and exploration, upon the basis

of the original American proposition, and the modifications offered by her Majesty's Government."

The contents of this note were deemed by me of the highest importance, and I considered it my duty, the Legislature having adjourned, to express fully and frankly to the Secretary of State, in reply, my views of the wishes and intentions of Maine, and to protest, in decided language, against what I understood to be the purport and meaning of the language used by him, and to assure him, that after a lapse of more than half a century of negotiation, Maine asked for something more than a mere commission of exploration, without power to settle any thing, and most solemnly remonstrated against the vital modifications of her Majesty's Government. A copy of that reply, dated June 9th, 1838, is submitted to you, that you may be enabled to express your own views and correct any misconception of the wishes and opinions of the people, which you may discover therein.

I invite your attention more particularly to this document, as it appears by the recent Message of the President, that no reply has yet been made by Great Britain, to the proposition offered last April, although the President, in what appears to me a spirit of almost unexampled patience, expresses a belief, that the British Minister will receive powers to conclude the arrangement without *needless* delay.

An opportunity is thus afforded, by the patience of one government, and the obvious procrastination of the other, for the Legislature of Maine to express its own views of the character of the proposed Convention, and the expediency of assenting to it. I have communicated my objections. They were presented as my deliberate protest, and it is for you to confirm, to modify or retract it.

A copy of the answer to this communication from the Secretary of State, dated June 28, 1838, enclosing a copy of his letter to the Hon. Mr. Williams; as explanatory of the nature of the proposition, is now communicated to you. It is for you to judge, whether any beneficial effects, equal to the inconvenience and injury by the great delay which must be occasioned, are likely to result from a mere commission of exploration and survey only, of the whole extent of the line, from the head of the St. Croix to the northwesternmost head of Connecticut river, especially since the examination and survey, which have been made during the past season by Maine, of the most important part, which had not been sufficiently examined before. My own views upon this point are fully expressed in the note which I had the honor to address to the Secretary of State, that, "after fifty-five years of procrastination, it is reasonable to ask, that whatever movement is made should have a direct and unavoidable tendency towards a final settlement, and not, when ended,



leave the parties upon the same spot from which they started." With these explanations and documents, the whole matter is submitted to your consideration, that you may give such an expression of opinion on the subject, as to you may seem proper, and such as the honor and rights of Maine may, in your view, demand.

The assumption of a right to exclusive and absolute jurisdiction, by the Government of New Brunswick, over the whole territory north of the sources of the Aroostook and St. John rivers, and the establishment of a Wardenship over the same, by the concurrence, as it is asserted, of the President of the United States, and the exercise of authority within the same limits, have been the subject of frequent objection, and loud remonstrance on the part of this State. I have not considered that the honor or faith of the State required of any of its officers to acknowledge the existence of such a right to exclusive jurisdiction, or the authority of such a Warden. Under the very judicious and liberal law of last winter, in relation to the settlement of the public lands, it was deemed expedient that several townships should be surveyed into lots for settlers. Several of those townships are north of the line that has been claimed by Great Britain, and also of a line due west from the latitude of Mars Hill, which has been sometimes assumed, (upon what ground I am at a loss to understand) as the true divisional line.

Under the direction of the Land Agent and Governor and Council, townships No. 10 and 12 in the 5th Range west of the east line of the State, upon the Aroostook waters, have been surveyed into lots by the Surveyor General and his assistants, and fifty-two lots have been sold and conveyed in No. 10, and three in No. 12, and thirty-five in No. 4, all in the said 5th Range. Many other lots have been applied for in that section, a strong interest has been excited, and emigration has been turned in that direction.

The public curiosity, awakened in part doubtless by the contradictory reports, or rather assertions in relation to the Aroostook territory, seemed to demand a correct exploration, and Dr. Ezekiel Holmes, well known as a scientific agriculturist and geologist, was employed by the Board of Internal Improvement in that service. An account of the character of this section will be found in the full and satisfactory report made by him, which will be laid before you, and which I think will clearly show, that this virgin soil is unsurpassed in fruitfulness and capacity of production by any other section of our State.

I refer you to the lucid report of the Land Agent for particular information relative to the progress of the sale and settlement of the land in this region.

In that document will also be found an account of the active

and efficient measures, adopted by that vigilant officer to break up the parties, who had made their preparations and commenced trespassing on the Aroostook lands, belonging to this State. It is encouraging and satisfactory, that this first attempt to interfere directly with such unlawful acts resulted in so great success; and there can be no doubt, that hereafter, as the means of communication are increased by vigilance and determination on the part of the State authorities, this system of unauthorized and lawless plundering can be prevented.

Although the Legislature at its last session, by the non-concurrence of the Senate, declined making any appropriation for the continuation of the Aroostook Road, the Land Agents of the two States, under the authority vested in them, have caused the road to be perfectly made to the 30 mile tree, and to be prepared for a winter road to the Aroostook River. I refer you to the Land Agent's report for the particulars.

These various steps of locating lots and giving deeds to actual settlers, preventing trespasses and continuing this very important road, have confirmed and established our possession and jurisdiction of this valuable territory, and opened for our young men a field of enterprise, where industry and economy can realize their appropriate rewards. I cannot doubt that every citizen of the State will concur in the expediency of immediately taking measures to continue the survey of townships into lots and the sale to actual settlers, and to continue, also, the road to the St. John river. Reasonable encouragement to new settlers, which should always be the policy of the State, and a firm determination to protect them, will soon fill this fertile region with hardy and intelligent men, who are the true strength and defence of our State.

During the progress of the Surveys, a person, assuming to be "Warden of the disputed territory," delivered to the Surveyor General of this State a written protest, a copy of which is herewith transmitted, together with a copy of the reply of the Surveyor General, denying his right and asserting his own determination to fulfil his instructions. No other interference was attempted.

The contingencies named in the Resolve in relation to the Boundary not having occurred, and no action on the part of the General Government having been had as therein contemplated, on or before the first day of September last, it became my duty "to appoint forthwith suitable Commissioners and Surveyors, for ascertaining, running and locating the North Eastern Boundary line of this State, and to cause the same to be carried into operation." I accordingly, on the third of September last, appointed and commissioned John G. Deane, Milford P. Norton and James Irish, Esqs. Commissioners, and Wm. P. Parrott, Esq. Surveyor. In considering the proper instructions and deciding upon the most expedient course to be pursued in

commencing the work required, and the most useful mode of operation during the short time remaining of the season, I was led into an investigation of the actual facts in relation to former surveys and explorations. A condensed account of those surveys, contained in the various documents to which access has been had, will probably be interesting, as bringing to light facts but little known, except to those who have deeply investigated the subject, and bearing directly upon the question of the correctness of the course finally adopted by the Executive.

In 1817, when the Commissioners of the two Governments, appointed under the 5th article of the Treaty of Ghent, viz: Thomas Barclay on the part of Great Britain and C. P. Van Ness of Vermont on the part of the United States, met to proceed upon the business before them, it was mutually agreed by the Agents of the two governments and ordered by the Commissioners, that "an *actual* survey of the due north line from the source of the St. Croix, and an *exploring* survey of said line and of the highlands, which divide those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean," should be commenced and completed. Accordingly instructions were given to the Surveyors of both governments to repair to the Monument, at the source of the St. Croix, and select one party from each company to commence the *actual* survey of said boundary line from the Monument, and run the same due north upon a meridional line to *proceed until further orders*, the survey to be made by them separately and the line to be agreed upon by both. This survey was under the direction of Charles Turner, Jr. on the part of the United States and Colin Campbell on the part of the British Government.

Another party under the direction of the principal Surveyors, viz: Col. Bouchette on the part of Great Britain and John Johnson on the part of the United States was directed, whilst the *actual* survey was in progress, "for the purpose," as the instructions say, "of obtaining such information concerning the probable extent of the meridional line as also the courses and distances of the line along the highlands to the northwesternmost head of Connecticut River, to proceed upon an exploring survey, upon a line due north from the Stake already mentioned, (the monument,) *until they arrived at some one of the streams or waters which are connected with the river St. Lawrence*, and explore the different highlands which lie between the last mentioned line and the northwesternmost head of Connecticut River, and also to explore and ascertain as near as practicable the sources of the various streams which rise between the line last mentioned (the due North line) and the northwesternmost head of Connecticut River and empty themselves into the St. Lawrence or the Atlantic Ocean, and also

the elevations and prominent features of the land which divide said streams or waters."

It may be noticed, in passing, that the language of these instructions very plainly indicates, that at that time, no doubt was entertained that the due North line extended to the waters of the St. Lawrence, as the language is not that of the treaty even—but the instructions distinctly speak of the waters of the St. Lawrence being found in a *North line*.

Under these instructions the *actual* survey was commenced from the Monument in 1817, and proceeded about twenty miles. The surveyors, however, at times differing, and probably at last ascertaining that they had made some mistakes, abandoned the work.

The Surveyors made separate reports in 1818, as appears by the Journal of the Commissioners, which were ordered to be filed.

After the reports were made to the Commissioners, of the actual survey, they did, on the 20th May, 1818, order, that the actual survey and marking of the due North line be suspended "until the astronomers can revise, and if necessary, correct the same." I have not been able to find that either astronomers or surveyors ever went on again to this line, designated as the *actual* line, or that anything more has been done in relation to it.

Col. Bouchette and Mr. Johnson proceeded with the *exploring* line in 1817 across the St. John to 99 miles from the Monument, and made separate reports of their doings. At the meeting of the Commissioners in 1818, apparently for the first time, the British agent suggests doubts whether the due North line of the treaty will extend to the St. Lawrence waters, and proposes to return to the region of Mars Hill, and explore from thence westwardly, by the sources of the Aroostook and Des Chutes, and thence towards the sources of the Chaudiere and the Kennebec, where the agent alleges, he has good cause to believe that the highlands contemplated in the treaty will be found. This new proposition was resisted by the American agent, he alleging that the highlands of the treaty would be found at the extremity of the due North line, if run, as first agreed upon, and that a survey *from thence along the highlands* would demonstrate it. Although the request of the British agent was not in terms granted, yet the result was nearly the same, as the surveyors were ordered to finish the exploring survey of the due North line, and not to proceed at all westwardly along the highlands, but to return immediately to the region of Mars Hill, and commence the exploration of the highlands at that point, according to the suggestion of the British agent. Accordingly, in 1818, Mr. Johnson and Mr. Odell (who had been substituted for Col. Bouchette,) pro-

ceeded to run the exploring line from the point where it was left the former year, to Beaver or Metis River, which empties into Lake Metis and from thence into the St. Lawrence, and having arrived at that stream, without exploring or running along the highlands from that point, according to the first instructions and the terms of the treaty, they returned to Mars Hill. And it is a singular fact, that after that time, no American surveyor or authorized agent, has ever examined or traced the height of land, or given any account of the character of the country about the northwest angle of Nova Scotia. It seems as if both parties most studiously avoided that point, which was the most important of all, and the subsequent surveys continued through 1819 and '20, were almost entirely confined to the examination of isolated hills and imaginary ranges south of the St. John.

The Surveyors who run the exploring line are very brief in their descriptions of the country at and about the northwest angle. Mr. Odell, the British surveyor says—"that on the borders of Beaver Stream, where the line intersects it, is a piece of low, wild meadow. At a short distance from the stream, on both sides, the ground rises moderately, but the elevation is very small and there is no appearance of highlands."

Mr. Johnson, in his report, says, "proceeding North (from 132 miles) the land continues very high and not very uneven to 144 miles 26 chains, where the land is nearly as high as at 132 miles, and is the ridge which divides the waters emptying into the River St. Lawrence from those which fall into the Atlantic Ocean. On the top of this ridge is a large yellow birch tree. From this point to Beaver Creek (Stream) there is a general and very considerable descent, interrupted by a few places of rising ground for short distances."

It is true, that near the close of the surveys, the American agent obtained an order for some explorations North of the St. John, but they resulted in a rapid visit by Mr. Burnham and Dr. Tiarks to Beaver Stream and Lake Metis, and two or three other spots at the portages, where of course the land was the lowest. Mr. Burnham in his report says, that he adopted that course of visiting distinct and separate places, by going directly to them and returning, being under the impression that he "could not trace the division of waters from Beaver Stream to the Grand Portage in season to report before the meeting of the Board. There were some other slight examinations of the portages, by Mr. Johnson and Capt. Partridge, but no exploration along the highlands from the northwest angle towards the head of Connecticut River.

Thus with imperfect and unfinished surveys on our part, the question was submitted to the Commissioners, who disagreed, and afterwards to the Umpire, who was not satisfied

with the evidence, and who, as Mr. McLane says, "is not understood to have found it impracticable, at least to his own satisfaction, to find highlands answering the description of the highlands of the treaty, but his embarrassment arose from not being able to find them in a direction due north from the monument."

It is a fact worthy of notice, that this State and the Commonwealth of Massachusetts, by their Land Agents, have surveyed and examined the whole line as claimed by Great Britain from Mars Hill to our western boundary, but have never, until the present year, attempted any examination of the true line, as claimed by us.

Although our claim does not depend upon the height of the hills or land, and an elevation sufficient to turn the waters flowing in different directions satisfies the terms of the treaty, yet it is not to be disguised, that from the want of actual information of the facts, the assertion has been made and repeated, that the treaty line is *impracticable*, and that the character of the land is such that no dividing range can be found. It is remarkable, in looking back upon the diplomatic correspondence, that we find so much evidence that the objections to our claim rest so materially upon the obscurity and contradictions, and allegations without proof, relative to the face of the country, at and near the northwest angle.

The very extraordinary suggestion made by Mr. Livingston in 1832, to seek the highlands *west* of the due north line, if not found in that line, was apparently founded on want of accurate information of the true character of the country. The British Minister (Mr. Vaughan,) as might have been expected, in reply, speaks of "the obscurity, which after all the endeavors of the two governments, still rests upon the position of the highlands." Mr. McLane, our Minister, in again urging the views of Mr. Livingston, after alluding to the claim of Great Britain, that the highlands should be sought for exclusively *south* of the St. John, and the American claim that they should be sought *north* of that river, makes the following remarkable declaration: "It is the difficulty of reconciling these conflicting pretensions which has hitherto prevented the settlement of the boundary question, *arising chiefly however from the impracticability of finding a point of highlands answering the description in the treaty, to which a line due north from the Monument could be drawn.*"

Mr. Vaughan in reply again alludes to this point of the impracticability of the due north line, and he broadly asserts, that "every thing which is known of the geography of the country tends to show that no such highlands can be found in that particular meridian," and he says, "the American Government, *almost admitting the fact*, suggests that the required highlands should be sought for in a northwesterly direction

from the ascertained spot." He also adds, "that to carry the treaty strictly and literally into execution is physically and geographically impossible."

Mr. McLane again urges the idea of a departure from the true north, and says :

"The proposition of the President is to find the highlands answering the description of those called for by the treaty of 1783, and to them, from the monument, to run a direct line, and the President does not doubt, that with the aid of more accurate surveys, by skilful persons on the ground, and *freed from the restraint hitherto imposed by a due north line*, such highlands may be found."

Other expressions of similar import, in relation to the asserted impracticability of the treaty line, may be found in other parts of the correspondence in 1835 and 1836.

In the recent renewal of the correspondence between our Government and that of Great Britain, Mr. Fox, the British Minister, in his letter of January 10th, 1838, says : "The British Government, despairing of the possibility of drawing a line which shall be in literal conformity with the words of the treaty of 1783, has suggested that a conventional boundary should be substituted for the line described by the treaty." This is but a repetition of the idea, contained in Mr. Vaughan's note of May 8th, 1833, that the description of boundary contained in the treaty is *defective* and should be abandoned.

Finally—in the note of Mr. Forsyth to Mr. Williams, one of our Senators in Congress, before referred to, he (Mr. Forsyth) states, that the object of the President in offering to make the last proposition for an exploring survey "is to test the correctness of the opinion of the State of Maine, that the line described in the treaty of 1783 can be found and traced, whenever the Governments of the United States and Great Britain shall proceed to make the requisite investigations, with a predisposition to effect the desired object."

In deciding upon the course to be pursued, and the instructions to be given to the Commissioners, it seemed to the Executive, considering the shortness of the time remaining after the appointment of the Commissioners and the preparations for the expedition, the want of suitable instruments for accurate and exact surveys, and the small part of the actual line which could be run and located, during the past season, and more especially considering the mystery and uncertainty, which diplomacy and management had thrown over the character of the country about the often named angle, and the importance which has been given to this want of information, both by our General Government and that of Great Britain, the anxiety manifested by the Legislature of Maine in 1837, and the high probability that an examination of that section would dissipate all doubts and remove all uncertainty, and would

supersede the necessity of any further explorations by either Government, which would delay the settlement of the question, that it was advisable, to act, in the first instance, upon that part of the resolve which requires the Commissioners "to ascertain" the true line, and to direct an examination of the country about the northwest angle of Nova Scotia, particularly the height of land west therefrom. Instructions to the Commissioners were accordingly prepared to that effect, a copy of which is herewith submitted, and to which I refer for particulars, in relation to the acts to be performed, and the course of conduct to be pursued, in discharging their duties.

I was strengthened in my belief, that this course would meet the wishes of the Legislature and people, and be productive of the most benefit, by the decided expression of nearly similar views in the report accepted by a former Legislature in 1837. I would refer to the whole report, and will quote but a single paragraph. After saying that: "In all our inquiries and examinations of this subject there has been great negligence in regard to this northwest angle," the report continues: "It is indeed time for us to begin to search, and in the right place too, in order to put a stop to these perpetual encroachments upon our territory and rights. Our first object should be to ascertain and trace the *north boundary of Nova Scotia*, which is the south boundary of the Province of Quebec, and see if Canada comes as far down as Mars Hill. And we should proceed to finish taking the elevations on the due north line, to some point where the waters divide. The General Government should be immediately called on to execute the work, with the co-operation of Massachusetts and Maine. Notice should be given to the British authorities to unite in the undertaking, and if they refuse, our government ought to proceed *ex parte*. The act would be entirely pacific, as the object would be to *ascertain facts*, much more pacific than the survey. *without notice*, of the St. Andrews and Quebec railroad through our territory—not for the purpose of ascertaining a boundary, but to assume jurisdiction."

In connection with the instructions to the Commissioners, I also transmit a copy of a letter from the Governor of Maine to the Lt. Governor of New Brunswick, containing the substance of the instructions, relative to the exploring survey, and the answer of Sir John Harvey. The Legislature, not having provided for any joint action by Maine and New Brunswick, no suggestion of that kind was made by me. And as we claimed an undoubted right, without concurrence or assent, to ascertain facts and run the line, no such assent or concurrence was asked, but a plain and simple statement of what was intended to be done by the Commissioners, under the then "present instructions," was given. It seemed to me, that



such a course was equally consistent with the honor and best interests of the State.

As I have elsewhere said, I believe that "on this subject we have no ulterior views and no concealed objects. Our plans and our policy are open and exposed to the view of all men. Maine has nothing in either to conceal or disguise." I confess myself to be one of those, who have little faith in the importance of formal observances, or in the mysteries of diplomacy. I believe that in transactions between States, as well as individuals, much ill blood and many unfortunate disagreements, and irreconcilable quarrels, ending in open war, might have been prevented by frank disclosures of intentions and motives, and the simple course of plain dealing with each other, and the faithful observance of that golden rule, which, although perhaps it is not found in the codes of national law, or the rules of diplomatists, is yet worth them all—"Do unto others as you would that others should do unto you."

I was also anxious that, if any difficulty or collision should arise between the Commissioners, clothed with authority by this State, and the officers of the Province of New Brunswick, there should not be afterwards any occasion to complain of want of information of our real intentions, and the actual instructions, or any such assumed justification for proceedings based upon imaginary facts.

The answer of Sir John Harvey, although couched in courteous language, according with the well known high and honorable character of that officer, will yet doubtless command your attention and deliberate consideration, as expressing in frank and decided language, the character and extent of his instructions, relative to maintaining the jurisdiction of the disputed territory.

The Commissioners and Surveyor, having received their instructions, and made preparations for the expedition, immediately repaired to the point designated, and with zeal and fidelity continued in the performance of the duties assigned them, until the severity of the weather compelled them to return. Their report, which I have the pleasure to transmit to you, will be read with interest and satisfaction. By that it appears, that the exploring line was found marked too near the northwest angle; that the base of country rises constantly and regularly from the monument at the head of the St. Croix to the angle, which is from two to three thousand feet above the level of the sea, and more than five hundred feet higher than the Kedgwick, one of the streams running into the Bay of Chaleur near the said angle and the St. Lawrence waters; that the due north line, if continued to the valley below the northwest angle, actually strikes the St. Lawrence waters, and that the country is high, and even mountainous about this spot. And there is no difficulty in tracing a line westwardly along distinct and

well defined highlands, dividing waters according to the words of the treaty. The extensive and correct map of the north part of our State and the southern portion of Canada, and the vertical section, as prepared by Mr. Parrott, the Surveyor, with neatness and accuracy, which accompany the report, add much to its value and interest. Taken together, they exhibit the true character of the country, and leave little or nothing to be desired illustrative of it.

I had at one time intended to give further and final instructions to the Commissioners in relation to their future operations. But as the Resolve is in full force, and will be, until repealed, and as no further operations could have been carried on the past year, I have not thought it expedient, and it might have been deemed improper for me, to anticipate the action of the Legislature or Executive of the present year. The Commission is in existence and the Commissioners subject to future direction.

A part of the expenses of the survey has been paid out of the contingent fund, by the Governor and Council, but as no specific appropriation was made to meet these expenses, the charges will be subject to your determination. It will be seen by the instructions to the Commissioners, that all compensation for service, was made to depend upon your decision.

In this communication, I have confined myself to the single purpose of information and explanation relative to the acts of the Executive. In my present position it may not belong to me to assume, according to the provision of the Constitution, to recommend to your consideration such measures as I may judge expedient, or to advise in relation to the future action of the State. I will however venture to remark, that it is evident that Maine must maintain her own interests and rights, by urgent appeals and a determined course, and cause her claims to be respected, by unremitting vigilance and unyielding perseverance. The time for mere abstract disquisitions, upon the question of right, has passed. If facts and arguments can ever establish any position, our right is established, to the satisfaction of all unprejudiced and disinterested men. It now remains only to assert and enforce it, practically and efficiently, to demand that justice and protection which is due from the General Government to a member of the Union, and to maintain, inflexibly, our right to the possession and jurisdiction of our whole State, according to the treaty of 1783.

I have thus finished the exposition which I intended, and performed what seemed to me a duty, but which may by some be regarded as uncalled for and unusual. In retiring from responsibilities, which I did not seek, and most cheerfully surrender, although I may not be at liberty to infer that my course and policy upon this subject have met the entire concurrence and approbation of the people of this State, yet I cannot but

feel an assurance that something will be allowed to the difficulties of my position and to the anxious desire, which I have felt to maintain and advance the rights of the State involved in this great question. Whatever may be the final issue of events, in relation to our claim, I trust I may indulge the belief, that during the short time I have been connected with the Government, in this matter, at least, "the Republic has received no detriment."

COUNCIL CHAMBER, }  
 January 2d, 1839. }

EDWARD KENT,

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*To the Senate and House of Representatives :*

I herewith lay before you the Report and account of the Land Agent, and the Documents referred to therein.

COUNCIL CHAMBER, }  
 January 2, 1839. }

EDWARD KENT.

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*To the Senate and House of Representatives :*

I herewith transmit to you a copy of the Report of the Bank Commissioners, made to the Governor and Council.

COUNCIL CHAMBER, }  
 January 2d, 1839. }

EDWARD KENT.

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*To the Senate and House of Representatives :*

In compliance with the request of the Governor of the State of Georgia, I herewith lay before you a copy of a report and sundry resolutions adopted by the Legislature of that State in relation to a demand made upon the Executive of this State, for the delivery of Daniel Philbrook and Edward Kelleran, as fugitives from justice. In order to put you in possession of all the proceedings and facts in this case, I also transmit to you copies of all the documents on file in the Executive Department, having reference to this subject. The views of the Executives of the two States appear in their several communications, and I have nothing to add, except the expression of a conviction, that events which have transpired in other States, since the date of this correspondence, seem to me to sustain the correctness of my construction of the Constitution.

COUNCIL CHAMBER, }  
 January 2d, 1839. }

EDWARD KENT.

*To the Senate and House of Representatives:*

In order to facilitate the business before the Legislature, and in pursuance of a "Resolve directing the printing of certain documents," approved March 23d, 1836, I have directed the Secretary of State, prior to the commencement of this session of the Legislature, to cause to be printed the following number of the documents, which I have laid before you, viz:

Land Agent's Report, twelve hundred copies—North Eastern Boundary Documents, three thousand copies—Bank Commissioners' Report, one thousand copies—Documents in relation to the demand made by the Governor of Georgia, one thousand copies.

COUNCIL CHAMBER, }  
January 2d, 1839. }

EDWARD KENT.

*To the Senate and House of Representatives:*

I herewith communicate to you, a Report in Council, containing an account of the progress of the Geological Survey, together with the expenditures in prosecuting the same, made in pursuance of the Resolve approved March 23, 1838.

COUNCIL CHAMBER, }  
January 2, 1839. }

EDWARD KENT.